

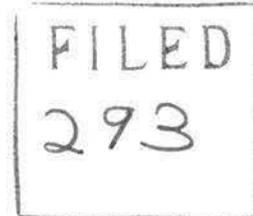
CONSTITUTIONAL LAW:
APPROPRIATIONS:
SCHOOLS:
STATE UNIVERSITY:
STATE COLLEGES:

The term "public education" as used in Article III, Section 36 of the Missouri Constitution includes within its meaning and refers to appropriations for state colleges, universities, public schools and junior college districts.

OPINION NO. 293

June 1, 1970

Honorable John J. Johnson
State Senator - 15th District
11001 Patrina Court
Affton, Missouri 63123



Honorable Richard M. Webster
State Senator - 32nd District
1725 South Garrison
Carthage, Missouri 64836

Dear Sirs:

This letter is in response to your request for an opinion on the following question:

Do state colleges, universities, public schools and junior college districts fall within the term "Public Education" as it is used in Article III, Section 36 of the Missouri Constitution?

Article III, Section 36 of the Missouri Constitution provides in part:

"All appropriations of money by successive general assemblies shall be made in the following order:

Second: For the purpose of public education."

Article III, Section 36 was taken from the Constitution of 1875, Article IV, Section 43. Such section provided in pertinent part:

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"All appropriations of money by the successive General Assemblies shall be made in the following order:

Third, For free public school purposes."

As can be seen from comparing the two provisions, the wording relating to appropriations for "public education" was changed from the wording of the Constitution of 1875 relating to appropriations for "free public school purposes." The reason for this change was described in the debates of the Constitutional Convention of 1945, page 5056:

"MR. MC REYNOLDS: Mr. President, the first paragraph of that section is a copy of the present Constitution. The eight subdivisions or allotments for the appropriations of funds represents some change and some additions from the present section. The present section contains seven sections. This one as rewritten contains eight and is changed from the original one by the addition of, I think, public health and public welfare. There was some question in the Committee as to the wisdom and propriety of this particular section or the necessity of it. However, the majority of the members of the Committee thought it represented an excellent safeguard and since a provision of that kind was in the present Constitution they were inclined to retain it, and for that reason, with the re-writing of the classifications to conform to the present conditions, the old section has been retained. I move its approval." (Emphasis added).

From the above cited motive for changing the wording of Article III, Section 36, supra, it appears that it was the intent of the drafters of the aforementioned provision to broaden the scope of the priority concerning public education. This is supported by the fact that the phrase "free public schools" is used repeatedly in Article IX of the Missouri Constitution and relates only to the gratuitous instruction of all persons in the State of Missouri who are less than twenty-one years old as prescribed by law. However, in Article IX (Article IX, Section 9 (b), Missouri Constitution) the following provision is found:

"The general assembly shall adequately maintain the State University and such other educational institutions as it may deem necessary."

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Thus, it is clear that the term "free public schools" does not include the state university and other state educational institutions established by the legislature. Therefore, the priorities listed in Article III, Section 36 of the Missouri Constitution and relating to the "public education" are broader in scope than the former provisions of the Constitution of 1875, relating to the priorities for "free public school purposes." As the drafters of the Constitution made provisions for the state university and other educational institutions established by the legislature in the same section that provisions is made for the free public schools of this state, it is clear that the drafters of the Constitution considered the term "public education" to include not just the "free public schools," but also the state university and any other educational institution established by the legislature.

Given this background, the institutions described in your opinion request all fall within the term "public education."

CONCLUSION

Therefore, it is the opinion of this office that the term "public education" as used in Article III, Section 36 of the Missouri Constitution includes within its meaning and refers to appropriations for state colleges, universities, public schools and junior college districts.

The foregoing opinion, which I hereby approve, was prepared for me by my assistant, Thomas L. Patten.

Very truly yours,



JOHN C. DANFORTH
Attorney General