



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

CURT T. SCHNEIDER  
ATTORNEY GENERAL

September 13, 1978

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 78- 293

Mr. Erle W. Francis  
Attorney for State Board of Education  
Suite 719 Capitol Federal Building  
700 Kansas Avenue  
Topeka, Kansas 66603

Re: Community Junior Colleges--Course Approval--State Board  
of Education

Synopsis: Nothing in 1978 Senate Bill No. 657, found at ch. 278, L. 1978, operates to restrict the approval and disapproval of the State Board of Education of offerings by community junior colleges to only subject areas of instruction. The power of review and approval extends to individual class offerings comprising the program areas of instruction offered by such colleges.

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Dear Mr. Francis:

On behalf of Dr. Bolton, Commissioner of Education, you inquire concerning 1978 Senate Bill No. 657, found at ch. 278, L. 1978. The question arises concerning section 2 thereof, amending K.S.A. 1977 Supp. 71-601, which now provides thus:

"(a) 'Credit hour' shall mean one hour's instruction per week for eighteen (18) weeks or its equivalent in a subject or course . . . which subject or course is approved by the state board. Credit hour shall not include . . . any subject or course taken by a student enrolled for audit or any subject or course not approved by the state board.

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The state board, in consultation with the state board of regents, shall determine whether the subjects and courses offered in the community junior colleges are at the level of freshmen and sophomore subjects and courses offered in the state institutions of post-secondary education and shall not approve any subject or course offered at a higher level."

Prior to amendment, this section referred to credit hours in a "subject or course which is part of the course of study approved by the state board . . . ." Each "credit hour" so defined, as amended, is the basis for distribution of credit hour state aid, to be administered by the State Board of Education.

Apparently, the 1978 amendment has given rise to questions whether it operates to restrict the State Board approval or disapproval of junior college offerings to only areas of study, rather than to permitting approval and disapproval of specific classes. I do not find in this amendment any legislative purpose, either express or implied, to alter the scope of review of the State Board over junior college programs. Prior to amendment, the provision referred to subjects and courses which were "part of the course of study" approved by the State Board. Now, it refers to approval of subjects and courses. I recognize that this question is of very great concern to the community junior colleges of the state, and I appreciate their concern for maximum program flexibility, freed to the extent possible from the constraints of detailed class-by-class review by the State Board.

At the same time, I am constrained to construe the language, to the extent possible, as I believe that it reflects a clear expression of the legislative purpose. I can find absolutely nothing in the language of this amended section to suggest that the terms "subject or course" which are subject to approval by the State Board were used purposefully to refer specifically only to subject areas of instruction, rather than to the individual courses and subjects which comprise the program offering of a community junior college in a given area. To refer to your question which is posed for illustrative purposes, you ask whether the terms course and subject have a narrow meaning such as NRN 8846, Concepts of Health, or do they have a broad meaning such as Associate Degree in Nursing. In my judgment, the terms course and subject were used in their ordinary and common acceptation, to refer to the offerings of community junior college both by subject areas and in terms of specific class offerings.

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Indeed, in amending this section, an entire new paragraph was added, directing the State Board to determine that the "subjects and courses" offered in the community junior colleges are at the freshmen and sophomore level subjects and courses. This additional responsibility necessarily must entail at least as detailed review of the junior college offerings as formerly authorized, if not more detailed scrutiny. I can find nothing in the section to support the conclusion that the amendment operates to restrict the approval and disapproval of the State Board of Education to only subject areas of instruction, and to prevent it from reviewing individual class offerings comprising the programs of instruction offered by the colleges.

Yours truly,

  
CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj