



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

CURT T. SCHNEIDER
ATTORNEY GENERAL

September 18, 1978

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

ATTORNEY GENERAL OPINION NO. 78- 295

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--Courses--State Board of
Education

Synopsis: A community junior college may offer courses which have not been approved by the State Board of Education, so long as no tuition is charged therefor, and no credit hour state aid, out-district state aid and out-district tuition is charged therefor. Such courses may not be computed in determining the "budget per pupil" under K.S.A. 1977 Supp. 71-611.

* * *

Dear Mr. Francis:

You inquire whether a community junior college may grant credit hour to students for a class or course of study which is not approved by the State Board of Education, so long as it does not request credit hour state aid, out-district state aid or out-district tuition thereform.

The term "credit hour" is defined by K.S.A. 1977 Supp. 71-601 as amended by ch. 278, § 2, L. 1978, to include one hour's instruction per week for eighteen weeks or its equivalent in subjects or courses "which subject or course is approved by the state board." This definition limits the courses or classes for which credit hour state aid may be claimed to only those approved by the State Board. K.S.A. 1977 Supp. 71-602. Moreover, the college may charge and collect student tuition only for "credit hours," as defined above, K.S.A. 1977 Supp. 71-301(a). Likewise, out-district state aid and out-district tuition may be based only

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upon "credit hours" so defined. Clearly, every class or course for which the college may charge and collect tuition from a student, or for which the college may collect credit hour state aid, out-district state aid or out-district tuition, must have been approved by the State Board.

K.S.A. 71-201(b) prescribes the general powers of the board of trustees. Under (b)(3), the board is authorized to "determine the educational program of the college *subject to prior approval thereof as provided in this act* and to grant certificates of completion of courses or curriculum." [Emphasis supplied.] It may be argued that the "prior approval" which is provided by law is approval of credit hours as a basis for the collection of tuition, credit hour state aid, out-district state aid and out-district tuition, and that any class offering for which no tuition is charged and for which no aid or tuition of any kind is collected is not required to be approved by the State Board. The approval of credit hours by the State Board is a prerequisite for the charging of tuition therefor, and for the receipt of credit hour state aid, out-district state aid and out-district tuition. Indeed, it is the approval of the State Board which permits the approved credit hours to be considered for these various financial purposes, and that appears to be the only purpose of such approval, albeit, of course, a very important one. However, State Board approval appears to be necessary for no other purpose, and I find no language in the act which compels the conclusion that the State Board has authority to approve or disapprove courses so long as no tuition is charged therefor, and the various forms of state aid are not claimed for them. Accordingly, it is my judgment, that a community junior college may indeed offer credit hours to its students without the approval of the State Board of such hours, so long as no tuition is charged and collected therefor, and no credit hour state aid or out-district state aid is claimed therefor.

You inquire, secondly, whether such hours are eligible for budget limitation purposes under K.S.A. 1977 Supp. 71-611. Subparagraph (c) therefrom defines the "budget per student" as

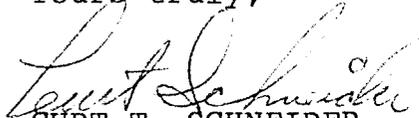
"the legally adopted budget of operating expenses of a district divided by the quotient of the total of all *credit hour* enrollments on September 15 plus the total full-time equivalent enrollment for courses taught in the summer term and the full-time equivalent enrollment *for courses approved to be conducted*

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as of September 15, the beginning dates of
which courses are after September 15 but prior
to December 1, divided by fifteen (15)."
[Emphasis supplied.]

The term "credit hour" as defined in K.S.A. 1977 Supp. 71-601
governs the meaning of the term as it appears elsewhere in article
6, chapter 71. The credit hours which may be considered for
purposes of computing the budget per pupil are only those which
meet the statutory definition, *i.e.*, those which are approved
by the State Board of Education.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj