

STATE OF KANSAS

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May 5, 1977

ATTORNEY GENERAL OPINION NO. 77-155

The Honorable Ronald R. Hein
State Senator
714 Capitol Federal Building
Topeka, Kansas 66603

Re: Schools--Proprietary Schools--Academic Degrees

Synopsis: The State Board of Education is authorized to endorse its approval to confer academic or honorary degrees upon the articles of incorporation or amendments thereto of a school which is licensed under the Kansas Proprietary School Act provided the Board determines that such applicant satisfies the criteria of the Board respecting the conduct of a bona fide institution of higher learning, giving instructions in arts, letters, sciences or the professions.

* * *

Dear Senator Hein:

K.S.A. 17-6105 provides that no corporation shall be authorized to confer academic or honorary degrees unless the articles of incorporation or amendments thereto shall so provide, and shall have the approval of the State Board of Education endorsed thereon. It further states thus:

"Approval shall be granted only when it appears to the reasonable satisfaction of the state board of education that the corporation is engaged in conducting a bona fide institution

The Honorable Ronald R. Hein
Page Two
May 5, 1977

of higher learning, giving instructions in arts and letters, science or the professions or that the corporation proposes, in good faith, to engage in that field and has or will have the resources, including personnel, required for the conduct of an institution of higher learning."

In Opinion No. 76-70, we considered the question whether a corporation licensed under the Kansas Proprietary School Act to operate a proprietary school was eligible to apply to the State Board of Education for approval to award academic or honorary degrees pursuant to K.S.A. 17-6105. In that opinion, we concluded that a proprietary school licensed under the cited act was not eligible for such approval, reasoning that the purpose of a bona fide institution of higher learning giving instructions in "the arts and letters, sciences or professions" was fundamentally incompatible and inconsistent with a school licensed under the proprietary school act, whose purpose is the "training and preparing [of a] person for a field of endeavor in a business, trade, technical or industrial occupation, or for avocational or personal improvement" We stated that "the latter, although arguably a 'bona fide institution of higher learning,' does not provide the type or nature of instruction which is a requisite for degree conferring power."

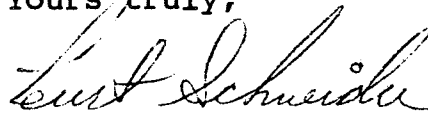
Upon reconsideration, I am persuaded that this conclusion is in error. Whether an applicant to the State Board of Education for authority to confer academic or honorary degrees is in fact a "bona fide institution of higher learning, giving instructions in arts and letters, science or the professions" is a question of fact, to be determined by the Board. Certainly, the course of study prescribed by a proprietary school licensed under the Kansas Proprietary School Act will not ordinarily satisfy the requirements for academic degree authority. However, nothing in K.S.A. 17-6105 disqualifies a proprietary school corporation as a matter of law from eligibility for approval by the State Board under that section. A corporation operating a licensed proprietary school might, in addition to its business, trade, technical and industrial curricula, offer an educational program in the "arts and letters, science or the professions" which would qualify the applicant as "conducting a bona fide institution of higher learning." The earlier opinion created a conclusive presumption, as it were, that the offering of a proprietary school might never meet the enriched standards of traditional academic institutions of higher learning. There is no basis for this presumption, for it operates to disqualify from consideration an applicant which might indeed be qualified to confer academic

The Honorable Ronald R. Hein
Page Three
May 5, 1977

or honorary degrees under criteria administered by the State Board of Education in the exercise of its authority under K.S.A. 17-6105. There is no statutory provision or inference therefrom, or consideration of public policy, which warrants a construction of the proprietary school act as disqualifying licensees thereunder from developing and offering a bona fide program of higher education in the arts, letters, sciences or professions, and obtaining approval of degree-granting authority therefor under K.S.A. 17-6105.

Accordingly, Opinion Nos. 76-70 and 77-15 are withdrawn, and I conclude that the State Board of Education is authorized to endorse its approval to confer academic or honorary degrees upon the article of incorporation or amendments thereto of a school which is licensed under the Kansas Proprietary School Act.

Yours truly,



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