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June 18, 2026

ATTORNEY GENERAL OPINION NO. 2026-9

Douglas G. Ott
815 Union Street
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Re: Schools—Community Colleges—New Community Colleges—Application to Organize; Preparatory Study
Schools—Community Colleges—New Community Colleges—Standards for Approval
Schools—Community Colleges—Attachment of Territory—Territory Attachment; Elections, When, Limitations and Approvals
Schools—Community Colleges—Community College Elections—Definitions

Synopsis: A community college's taxing district is established and limited by statute. The Legislature has not granted community colleges the authority to remove or transfer territory from one community college district to another. If one of the two community colleges in Montgomery County closed, the other one cannot absorb the closed college's taxing district because no statutory mechanism exists to do so. Once a community college closes, its taxing district no longer exists, and the territory within that taxing district is no longer be part of a community college district. Another community college could seek to add territory from the defunct community college district provided it complies with the applicable statutory provisions. Cited herein: K.S.A. 71-1101; K.S.A. 71-1102; K.S.A. 71-1201; K.S.A. 71-1301; K.S.A. 71-1303; K.S.A. 71-1304; K.S.A. 71-1305; K.S.A. 71-1402; K.S.A. 72-521.

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Dear Mr. Ott:

As the attorney for Coffeyville Community College, you ask about a unique situation in Montgomery County. The county has two community colleges, each with its own taxing district. You ask, if one of the community colleges closes, what would happen to the territory within its taxing district. Specifically, you inquire what action, if any, the remaining community college must take to add the closed college's taxing district to its own taxing district.

In addressing this issue, we note Kansas Attorney General Opinion No. 2014-13 has already addressed whether the territory of one community college district can be removed or transferred to the territory of another community college district. The opinion concluded that it could not. We find that opinion instructive and incorporate its reasoning here.

Answering your question requires statutory interpretation. Statutory interpretation begins with the statutory text, giving words their ordinary and everyday meanings.[1] Only when the statutory language is ambiguous do Kansas courts turn to canons of construction or legislative history.[2]

The Legislature has the power to create municipal corporations, "including the power to designate their boundaries and to increase or decrease their corporate limits."[3] This power belongs solely to the Legislature, and not the executive or judicial branches.[4] The Legislature has "absolute authority" to create or terminate municipal corporations, as well as to enact provisions by which a municipal corporation's boundaries will be increased or decreased.[5]

"'A community college is a statutory creation whose actions are limited by the content of those statutes.'"[6] A community college has only the powers conferred upon it by statute, either specifically or by clear implication, and "any reasonable doubt as to the existence of such power should be resolved against its existence."[7]

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[1] *Bruce v. Kelly*, 316 Kan. 218, 224, 414 P.3d 1007 (2022).
[2] *State v. Smith*, 311 Kan. 109, 113, 456 P.3d 1004 (2020).
[3] *State ex rel. Tomasic v. Unified Gov't of Wyandotte Cnty./Kansas City, Kan.*, 254 Kan. 293, 301, 955 P.2d 1136 (1998) (internal quotations and citations omitted); *see State ex rel. Jordan v. City of Overland Park*, 215 Kan. 700, 706, 527 P.2d 1340 (1974) ("This court has uniformly held that the power to create municipal or quasipublic corporations is a legislative power and that its exercise is a function of the legislature").
[4] *Tomasic*, 254 Kan. at 301.
[5] *Jordan*, 215 Kan. at 706.
[6] Att'y Gen. Op. No. 2014-13, at *1 (quoting Att'y Gen. Op. No. 2011-4).
[7] *Id.*; *Hobart v. Bd. of Ed. of U.S.D.* No. 309, 230 Kan. 375, 383, 634 P.2d 1088 (1981).

The taxing district and territory of a community college is statutorily defined as a "community college district" or "college district."[8] K.S.A. 71-1101, *et seq*. establishes the procedure for establishing a community college district. A proposed community college district shall include "[a]t least all of the territory of the petitioning district or districts or all of one county."[9] Additionally, "[a]ny contiguous compact territory in the area in which the petitioning districts are located may be included in the proposed community college district."[10] The statutes also provide for adding territory to a community college district after submission of a petition by the board of education of a unified school district or board of trustees of a community college.[11] While a statutory procedure to transfer territory from one unified school district to another exists in K.S.A. 72-521 *et seq.*, community colleges are statutorily exempt from those provisions.[12]

Attorney General Opinion No. 2014-13 originated from a request by Independence Community College, and addressed whether a community college may add territory to its taxing district when such territory was already a part of a different community college district.[13] The opinion found it necessary to first determine whether territory from one community college district may be removed or transferred from another.[14] The opinion concluded it could not because there was no statutory authority to do so.[15] The opinion also ultimately concluded that territory cannot be part of two community college districts.[16] The opinion further provided a thorough history of legislative development of the statutes governing community colleges.[17]

No statutory provision addresses removing territory from one community college district or transferring territory from one community college district to another, even where one of the community colleges has closed. The authority to remove or transfer territory is not clearly implied in the statutes addressing the establishment or consolidation of community college districts, nor is it clearly implied in the statutes addressing adding territory to a community college district.[18] Likewise, as Attorney General Opinion 2014-13 concluded, territory may not be included in two community college districts.

The Legislature has not provided any mechanism for one community college to take over or absorb the territory from another community college district if that college

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[8] K.S.A. 71-1402(b).
[9] K.S.A. 71-1102(a).
[10] K.S.A. 71-1102(b).
[11] K.S.A. 71-1201.
[12] K.S.A. 72-521(a).
[13] Att'y Gen. Op. No. 2014-13, at *1.
[14] *Id.*
[15] *Id.* at 2.
[16] *Id.* at 4.
[17] *Id.* at 2-4.
[18] *See id.* at 2.

has closed. If a community college closes, the taxing district would also cease to exist. The territory from the closed college would still be outside of the open college's district. However, if the open college wanted to then add territory from a closed community college district, it would be able to do so pursuant to the statutory mechanisms provided in K.S.A. 71-1201.

While there is no statutory provision for one college absorbing a closed college's taxing district, Kansas statutes do provide a procedure for consolidation.[19] K.S.A. 71-1301 authorizes the boards of trustees for two or more community college districts to agree to form one consolidated community college district. These agreements "shall be of no force or effect" without approval from the state board of regents and subsequent approval at a special election "called for the purpose in the territory which will compromise the consolidated community college district."[20] "The territory of the consolidated community college district shall be all of the territory of the community college districts being consolidate."[21] The plan is deemed approved if a majority of voters in each community college district being consolidated votes "yes."[22] Before the consolidated community college district is finally approved, the responsible county election officer must certify the results of the election.[23] Then an order establishing the new community college district and describing the boundaries of the district shall be issued.[24]

Unlike if one college closed, consolidation under K.S.A. 71-1301, *et seq.* would result in the consolidated college's taxing district including the taxing districts of the original colleges.

In summary, two community colleges exist in Montgomery County, each with its own taxing district. If one closed, the other college could not absorb the closed college's taxing district. The closed college's taxing district would cease to exist, and that territory would no longer be part of a community college district. If the remaining college wished to add the now unclaimed territory, it must follow the provisions set out in K.S.A. 71-1201. Statutes do provide, on the other hand, a mechanism for consolidating multiple community college districts into one, though separate, specific procedures that must be followed.

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[19] *See* K.S.A. 71-1301, *et seq.*
[20] K.S.A. 71-1303.
[21] K.S.A. 71-1304.
[22] K.S.A. 71-1304.
[23] K.S.A. 71-1305.
[24] K.S.A. 71-1305.

Sincerely,

/s/ Kris W. Kobach

Kris W. Kobach
Attorney General

/a/ Ryan J. Ott

Ryan J. Ott
Assistant Solicitor General