

APPROPRIATION: Legislature may appropriate funds to
CIVIL AIR PATROL: the Dept. of Resources and Development
DEPT. OF RESOURCES to aid in an educational program related
AND DEVELOPMENT: to aviation such as that fostered by the
Civil Air Patrol.

October 31, 1949

11/1/49

Hon. John W. Noble
Chairman, Appropriations Committee
Missouri Senate
Jefferson City, Missouri



Dear Senator Noble:

This department is in receipt of your letter requesting an opinion upon the following question:

"Can an appropriation be made to the State Department of Education or Department of Resources and Development to be used in assisting civil air patrol in their educational program, such funds to be used only for such expenditures as authorized by the Civil Air Patrol Regulation No. 173-2, dated September 1, 1949."

Regulation No. 173-2 lists the normal and usual expenses connected with maintaining its educational program, such as equipment, maintenance, classroom space, publication, etc., and does not include any item for salaries of officers.

The Civil Air Patrol is a volunteer organization of over one hundred thousand members under the supervision of the United States Air Force. In each state there is a Wing Headquarters under the supervision of a liaison officer who has an enlisted assistant and a civil service secretary. These three persons are paid by the United States Air Force and are Federal employees. The organization is composed of persons who voluntarily join, who receive no compensation from any source, and the general purpose of the organization is to promote civil aviation. During the war they were given specific duties, and it is believed that while engaged in coast patrol and other duties assigned by the Air Forces the individuals were members of the Armed Forces, but in the present organization they have purely a civilian status and are not in any way members of the Air Forces either in an active or reserve status. It is believed that many members of the Civil Air Patrol are reserve officers of the Air Forces.

Aside from the general nature of the organization, your inquiry requires consideration only of its educational program. One of the chief functions of the Civil Air Patrol is the training of American youths in the fundamentals of aeronautics. Classes are set up, taught by members of the Civil Air Patrol and students designated as cadets are taught map reading, theory of flight, meteorology, flying safety, navigation, aircraft structures, engines, construction, instruments, crash procedure and Civil Air regulations. The course is, it may be said, to embrace a thorough instruction including what are designated as ground school subjects of aviation. It does not include any flight training. The subjects offered embrace a more thorough course in theoretical aeronautics even than that required for a private license to fly under the Civil Air regulations.

An examination of the above activities of the Civil Air Patrol clearly indicates that said organization is offering an intensive and varied educational program related to aviation. The value of its program is made even more impressive when this fact is considered, that is, that any and all interested persons may attend classes conducted by the Civil Air Patrol free of charge. Those that wish to may pay a very nominal fee and become actual members of the Civil Air Patrol, but enrollments are by no means a prerequisite to attaining the benefits of this educational program.

Therefore, it is readily apparent that the Civil Air Patrol is conducting an educational program of a nature unquestionably of great value in promoting public interest and information in matters related to aviation.

In determining whether an appropriation can properly be made, it must be determined whether the Department of Education or the Department of Resources and Development is authorized to aid in this activity. No statute is found whereby the Department of Education is authorized to conduct or supervise any educational program such as that conducted by the Civil Air Patrol. It has been suggested that possibly this could be considered as vocational or prevocational education. This is negated by the provisions of Section 10540, R. S. 1939, which defines the terms as follows:

"(a) Vocational education shall mean any education of less than college grade, the controlling purpose of which is to fit for profitable employment.

"(b) Prevocational education shall mean that form of education of less than college grade which gives children an elementary acquaintance with different vocational activities, arts or occupations and better prepares them to make an intelligent choice of a vocation."

Possibly by a liberal construction education in any subject might better prepare one "to make an intelligent choice of a vocation," but the duties of the State Board of Education, as defined in Sections 10531 and 10534, restrict the vocational program to "training in agriculture, industrial, home economics and commercial subjects." The statute contemplates that the program of vocational and prevocational education should be conducted in local public schools (Sections 10531, 10532, 10534, 10537, R. S. 1939), meeting certain standards set up by the State Board or the Department of Education. The Department of Education is not authorized to aid or provide equipment for a system of education conducted by volunteer teachers independent of the public school system.

The Department of Resources and Development was created by the act approved July 20, 1943, found in Laws of Missouri, 1943, page 978, et seq. By Section 7 of the act the commission is authorized to "encourage the development of the aeronautical resources of the state and aid in an educational program related to aviation."

In an opinion to Mr. Hugh Denney, Director of the Division of Resources and Development, dated June 5, 1947, this department discussed this provision and held that the Division of Resources and Development was not authorized to inspect flying schools. In that opinion it was said:

"We must determine from the context of these statutory provisions whether or not the Legislature intended the Division to engage in such inspection activities. You will note that under subsection (g) of Section 15393.7, the Division is authorized to aid in an educational program related to aviation. We submit that the educational program referred to in that section is not a limited one of instruction in a course of study, but rather is an overall public

relations program designed to present to the public the advantages of aviation, to encourage the use of aeronautical facilities in Missouri, and generally to promote the aviation industry; in other words, to educate the public, by advertising and the dissemination of pertinent data and information, in aviation and inform them of the aeronautical resources of the State, thereby encouraging their development. This construction is in keeping with the apparent policy of the General Assembly as set out in Section 15393.7, by which the purposes and objectives of the Division are to be accomplished."

In another opinion to Mr. Denney, dated August 1, 1947, it was said:

"The intention of the General Assembly must be taken from the context of all the provisions relating to the scope of authority of the provision. Said provisions clearly show that the purposes and objectives of the Division are to be accomplished by advertising and the dissemination of pertinent data and information concerning the various enumerated fields. Section 15393.7, subsection (g), must be read and construed in connection with these provisions. Therefore, it reasonably appears, from a fair interpretation of these provisions, that the authority granted by that part of Section 15393.7, subsection (g), which reads, 'encourage the development of the aeronautical resources of the state,' is such as will authorize the Division to inform the public of the aeronautical resources of the state, thereby encouraging their development. In other words, we submit that the General Assembly authorized a general public relations program designed to present to the public the advantages of aviation; to encourage the use of aeronautical facilities in Missouri, and to promote the aviation industry in this manner."

From these opinions it appears that it was then the opinion of this department that the Division of Resources and Development is authorized to encourage the development of the aeronautical resources of the state by a public relations program designed to present to the public the advantages of aviation. The opinions referred to represent the present opinion of this department.

It is believed that the educational program offered by the Civil Air Patrol is such a public relations educational program. It is difficult to see a better way of acquainting the public with the advantages of aviation than to offer general free instruction to the public generally.

To sum up, then, the Department of Resources and Development is authorized "to aid in an educational program related to aviation." The Civil Air Patrol is at the present time engaged in an intensive and effective program of educating the people of this state in a wide assortment of subjects related to aviation. Thus, it would seem that an appropriation to the Department of Resources and Development to be used in assisting and co-operating with the Civil Air Patrol in its program is eminently authorized by Laws of Missouri, 1943, page 981, Section (g).

CONCLUSION

It is the opinion of this office that an appropriation may be made to the Department of Resources and Development to be used, in co-operation with the Civil Air Patrol, in promoting an educational program related to aviation.

Respectfully submitted,

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APPROVED:

J. E. TAYLOR
Attorney General

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