

COORDINATING BOARD FOR
HIGHER EDUCATION:
DEPARTMENT OF ELEMENTARY
AND SECONDARY EDUCATION:
SCHOOLS:
SCHOOL AID:
STATE COLLEGES:

For purposes of subsection 5 of Section
160.545, RSMo 1994, the West Plains Campus
of Southwest Missouri State University is "any
public community college or vocational or
technical school" and entitled to
reimbursement of the cost of tuition, books
and fees as provided in that section.

April 14, 1998

OPINION NO. 100-98

The Honorable Michael J. Lybyer
State Senator, District 16
State Capitol Building
Jefferson City, MO 65101

and

The Honorable Lawrence (Doyle) Childers
State Senator, District 29
State Capitol Building
Jefferson City, MO 65101

Dear Senator Lybyer and Senator Childers:

This opinion is in response to your question asking:

Is the West Plains Campus of Southwest Missouri State
University eligible for reimbursement for the costs of
tuition, books and fees to public community colleges,
vocational or technical schools, as provided in Section
160.545.5 of the Revised Statutes of Missouri?

The West Plains Campus of Southwest Missouri State University is described in
Section 174.500, RSMo 1994, as follows:

**174.500. West Plains campus of Southwest
Missouri State University established--mission
implementation plan.--1.** The board of regents of
Southwest Missouri State University is authorized to

continue the program of higher education at West Plains, Missouri, which was begun in 1963 and which shall be known as the "West Plains Campus of Southwest Missouri State University". Southwest Missouri State University may include an appropriation request for the branch facility at West Plains in its operating budget.

2. The coordinating board for higher education in cooperation with the board of regents shall develop a mission implementation plan for the campus at West Plains, Howell County, which is known as the "West Plains Campus of Southwest Missouri State University", and which shall be a teaching institution, offering one-year certificates, two-year associate degrees and credit and noncredit courses to both traditional and nontraditional students to meet the ongoing and emerging employer and educational needs of the citizens of the area served.

Section 160.545, RSMo 1994¹, establishes within the Department of Elementary and Secondary Education the "A+ Schools Program." Subsection 5 of Section 160.545 provides:

5. Within the amount appropriated for the program, in addition to the grants to public schools authorized by subsections 1 to 3 of this section, the commissioner of education shall, by rule and regulation of the state board of education and with the advice of the coordinating board for higher education, establish a procedure for the reimbursement of the cost of tuition, books and fees to any public community college or vocational or technical school for any student:

¹Section 160.545 was enacted as Section 14 of Section A of Senate Bill No. 380, 87th General Assembly, First Regular Session (1993). In Akin v. Director of Revenue, 934 S.W.2d 295 (Mo. banc 1996), the Missouri Supreme Court held the provisions of Section A of Senate Bill No. 380 to be constitutional and severable from the unconstitutional provisions of Sections B, C and D of the bill.

(1) Who has attended a public high school in the state for at least three years immediately prior to graduation that meets the requirements of subsection 2 of this section; and

(2) Who has made a good faith effort to first secure all available federal sources of funding that could be applied to the reimbursement described in this subsection; and

(3) Who has earned a minimal grade average while in high school as determined by rule of the state board of education, and other requirements for the reimbursement authorized by this subsection as determined by rule and regulation of said board. [Emphasis added.]

Subsection 5 refers to "any public community college or vocational or technical school." The issue to be addressed is whether the West Plains Campus of Southwest Missouri State University is deemed "any public community college or vocational or technical school" for purposes of the benefits authorized by subsection 5 of Section 160.545.

To assist in determining if the West Plains Campus is "any public community college or vocational or technical school" for purposes of subsection 5 of Section 160.545, you have provided the following information.

The West Plains Campus is separately accredited by the North Central Association for the granting of associate degrees,

The West Plains Campus currently offers an Associate of Arts Degree in General Education, an Associate of Science Degree in Nursing, and Associate of Applied Science Degrees in Business, Drafting Technology, Manufacturing Machine Technology, Paralegal Studies and Welding Technology. The West Plains Campus offers courses in the liberal arts and sciences, including general education, as well as occupational and vocational-technical.

Courses are offered by SMSU faculty as well as in coordination with local area vocational-technical schools.

* * *

Course offerings lead to the granting of seven associate degrees including Associate of Arts, Associate of Science, and Associate of Applied Science. The campus does not offer baccalaureate or higher degrees.

The West Plains Campus derives financial resources from state appropriations, student fees, federal student aid programs including Pell Grants and Stafford Loan Program, and local contributions. Student fees are paid by the student population, which is currently 35.8 percent from the City of West Plains, 49.3 percent from Howell County and 94.1 percent from the seven-county area constituting Howell and the six neighboring counties. Since establishment of the campus in 1963, the City of West Plains and the surrounding area have provided significant local support. For example, during the past five years, gifts to the West Plains Campus from residents of Howell County and contributions from the City of West Plains in support of SMSU-West Plains have exceeded hundreds of thousands of dollars. Clearly there has been significant local/public support of SMSU-West Plains.

You have also stated that the "campus provides a variety of educational and community services, including a summerfest enrichment program for area elementary students, an adult literacy program, professional development and other non-credit courses for local business and industry."

Subsection 5 of Section 160.545 refers to any public community college or vocational or technical school. The word "any" is all comprehensive and the equivalent of the words "every" and "all." Hamilton Fire Insurance Company v. Cervantes, 278 S.W.2d 20, 24 (Mo. App. 1955). The word "any" is all inclusive and should not be interpreted to be restricted in its meaning. Reiter v. State Farm Mutual Automobile Insurance Company, 357 F.Supp. 1006, 1009 (Ark. 1973). See also State

ex rel. Sayad v. Zych, 642 S.W.2d 907, 911 (Mo. banc 1982) (When the word "any" is used in a constitutional provision, its meaning is all-comprehensive, and is equivalent to "every"). In determining the public community colleges and vocational and technical schools which are to receive the benefits of subsection 5, the use of the word "any" indicates the terms "public community colleges and vocational and technical schools" should be given an all inclusive meaning and the meaning of the terms should not be unduly restricted.

When interpreting a statute, the primary responsibility is to ascertain the intent of the legislature from the language used and give effect to that intent if possible. Mayfield v. Brown Shoe Company, 941 S.W.2d 31, 36 (Mo. App. 1997). To arrive at the legislature's intent when it leaves a phrase or term undefined, the objectives of the act are to be considered, and the construction given must be reasonable and logical. Id. Where the legislature does not define a phrase used in a statute, words used in the statute are given their plain and ordinary meaning which is found in the dictionary. State v. Carson, 941 S.W.2d 518, 521 (Mo. banc 1997).

Section 160.545 does not contain a definition for "public community college or vocational or technical school."² Webster's New World Dictionary, Second College

² Although "community college" is not defined for purposes of Section 160.545, "community college" is defined in subsection 5 of Section 163.191, RSMo 1994, for purposes of that section, as:

5. A "community college" is an institution of higher education deriving financial resources from local, state, and federal sources, and providing postsecondary education primarily for persons above the twelfth grade age level, including courses in:

- (1) Liberal arts and sciences, including general education;
- (2) Occupational, vocational-technical; and
- (3) A variety of educational community services.

Community college course offerings lead to the granting of certificates, diplomas, and/or associate degrees, but do not include baccalaureate or higher degrees.

This definition is consistent with the conclusion reached in this opinion; however, this opinion

Edition (hereinafter sometimes referred to as "Webster's") defines "community college" as "a junior college established to serve a certain community and supported in part by it". Webster's defines "junior college" as "a school offering courses two years beyond the high school level, either the first two years of the standard college course or terminal study programs in various fields, and awarding a certificate at the completion of the course." "Vocational" is defined by Webster's as including "education, training, etc. intended to prepare one for an occupation," while "technical" is defined as "having to do with the practical, individual, or mechanical arts or the applied sciences."

Based on the facts you have provided, the West Plains Campus is within the plain and ordinary meaning of the term "community college." The West Plains Campus serves a certain community and is supported in part by it. You have stated that 94.1 percent of the student population is from Howell County and the six neighboring counties. You have stated that local support from residents of Howell County and the City of West Plains has exceeded hundreds of thousands of dollars during the past five years. The West Plains Campus offers courses two years beyond the high school level. Section 174.500 provides for the offering of one-year certificates, two-year associate degrees and credit and noncredit courses. The information you provided indicates the school offers seven associate degrees but does not offer baccalaureate or higher degrees. The plain and ordinary meaning of the term "community college" would include the West Plains Campus.

The apparent objective of subsection 5 of Section 160.545 is to benefit schools providing programs such as those provided by the West Plains Campus. To interpret the term "community college" so as to exclude the West Plains Campus would not be consistent with the apparent legislative objective in enacting subsection 5 of Section 160.545

In summary, the West Plains Campus fits the plain and ordinary meaning of the term "community college." The use by the legislature of "any" preceding "community college" indicates the term "community college" should be given an all inclusive meaning and the meaning should not be unduly restricted. Including the West Plains Campus furthers the apparent objective of the legislature in enacting subsection 5 of Section 160.545. Therefore, we conclude the West Plains Campus is eligible for

only addresses the applicability of subsection 5 of Section 160.545 to the West Plains Campus.

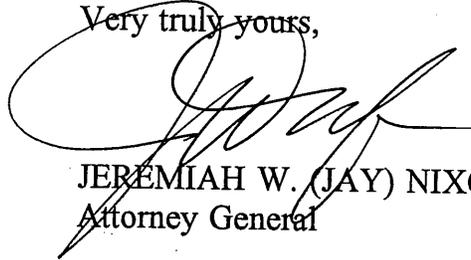
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reimbursement of the cost of tuition, books and fees as provided in subsection 5 of Section 160.545.

CONCLUSION

It is the opinion of this office that for purposes of subsection 5 of Section 160.545, RSMo 1994, the West Plains Campus of Southwest Missouri State University is "any public community college or vocational or technical school" and entitled to reimbursement of the cost of tuition, books and fees as provided in that section.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay Nixon", is written over the typed name and title.

JEREMIAH W. (JAY) NIXON
Attorney General