

VOLUME NO. 38

OPINION NO. 38

SCHOOLS - Postsecondary vocational education programs, CETA funds, control of funding;
VOCATIONAL EDUCATION - CETA funds, control of post-secondary vocational education funding;
MONTANA CODE ANNOTATED - Sections 20-3-106, 20-7-322, 20-7-324;
REVISED CODES OF MONTANA, 1947 - Sections 75-5707, 75-7706, 75-7709.

HELD: Federal CETA funds that are designed to establish training programs in postsecondary vocational technical centers must be provided through the Superintendent of Public Instruction.

30 August 1979

Georgia Ruth Rice
Superintendent of Public Instruction
State Capitol Building
Helena, Montana 59601

Dear Mrs. Rice:

You have requested my opinion to the following question:

May federal CETA funds be lawfully provided to school districts for vocational education programs through the State Department of Labor and Industry

rather than through the Board of Public Education and the Office of Public Instruction?

The State of Montana participates in and receives substantial federal funding through the Comprehensive Employment and Training Act (CETA), 29 U.S.C.A., section 801 et seq. This program is designed to "provide job training and employment opportunities for economically disadvantaged, unemployed, or underemployed persons...." 29 U.S.C.A. § 801. CETA funds and programs are the responsibility of the Governor as prime sponsor and his Employment and Training Council. See 29 U.S.C.A. § 820. The money the prime sponsor receives in Montana has been subgranted at least in part to the Board of Public Education, for use in vocational education programs. Due to an apparent dispute between the Council and the Superintendent of Public Instruction (acting as executive agent of the Board), this subgrant has been cancelled and these CETA vocational education monies have been re-subgranted to the Employment Security Division of the Montana Department of Labor and Industry. Under either arrangement, however, at least part of the funds in question ultimately end up in local post-secondary vocational technical center programs.

The instant dispute, then, involves which subgranting procedure is required by law. It should be cautioned that no other use of CETA funds, such as funding for persons who apply for admission to programs on an individual basis, has been raised as an issue, and no other use of CETA funds is intended to be affected by this opinion. The reach is solely as to funds used for post-secondary vocational technical education programs, since CETA funds are apparently used for a variety of other purposes and programs.

Nothing has been found in CETA itself which would answer the issue raised herein. While the prime sponsor is ultimately responsible for the program in the State, 29 U.S.C.A. § 813, which must be coordinated with existing programs, including postsecondary vocational technical education, 29 U.S.C.A., § 815(b), nothing in the federal law actually governs whether one state agency or another will act as the "funnel" of federal funds to local programs.

Montana law, however, is much more specific. The Superintendent of Public Instruction is the "governing agent and executive officer" for vocational education. § 20-3-106 (28), MCA. Section 20-7-324, MCA, vests almost total control over postsecondary vocational technical centers in the SPI. Subsection (1)(c) thereof provides:

Designated postsecondary vocational technical centers shall be eligible to receive such funds from the federal government as the superintendent of public instruction may provide pursuant to applicable acts of congress.

Subsection (2) empowers the SPI to "direct the distribution" of these federal funds on the basis of postsecondary vocational technical center budgets also approved by the SPI. All money "designated, appropriated, or apportioned" from federal sources for the "establishment, operation or furtherance of vocational education" must be deposited with the State Treasurer to be disbursed "at the direction of" the SPI. § 20-7-322, MCA. This section primarily relates to funds provided for vocational education under 29 U.S.C.A., § 842. The SPI has "sole authority" to approve all postsecondary vocational technical center budgets.

It is clear from the provisions cited above that the Legislature has intended to place all matters relating to the financing of post-secondary vocational technical education under the supervision of the SPI. This would include the distribution of CETA money designed to be spent on post-secondary vocational technical education.

THEREFORE, IT IS MY OPINION:

Federal CETA funds that are designed to establish training programs in post-secondary vocational technical centers must be provided through the Superintendent of Public Instruction.

Very truly yours,

MIKE GREELY
Attorney General