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COLLEGES AND UNIVERSITIES: Community College Districts – Election of school district to become part of
SCHOOLS: Districts – Discontinuance of community college department of school district.

The board of education of a school district operating a community college department may, by lawful resolution, become a part of the territory of a community college district authorized by law.

The board of education of a school district operating a community college department and electing to join a community college district may not discontinue the community college department until the community college district is operating a community college and the state board of education approves the discontinuance of the department.

No. 4596

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Dr. Ira Polley
Superintendent of Public Instruction
Department of Education
Prudden Building
Lansing, Michigan

You have requested an opinion on the following questions:

“1. Can the Highland Park Board of Education, by resolution, become a part of the new community college district and be included within the total area that is to be divided into the aforementioned seven trustee districts?”

“2. If the Highland Park Public School District can become a part of the new community college district, can it continue to operate its Community College Department until such time as the new Wayne County Community College district has adopted the necessary millage and has become fully operative?”

Act 331, P.A. 1966, being M.S.A. Cur. Mat. § 15.615(101) et seq., is known as the Community College Act of 1966. Its title states that it is an act to revise and consolidate the laws relating to community colleges and to provide for the creation of community college districts.

The legislature has amended Act 331, P.A. 1966 by means of Act 285, P.A. 1967, effective August 1, 1967, to add a new Chapter 5 thereto.

Section 81 of Chapter 5 provides as follows:

“Upon the effective date of this chapter, an intermediate school district now or hereafter having a population of more than 1,000,000 is constituted as a community college district which shall include all of the territory of the intermediate district except that portion presently included in an established community college district or included in a school district operating a community college as a department of the school district under the provisions of Act 269 of the Public Acts of 1955, as amended, being sections 340.1 to 340.984 of the Compiled Laws of 1948. Any such established community college district or community college department of a district school system may become

a part of the new community college district under this chapter by action of its board of trustees or board of education."

In Section 83 of Chapter 5 the legislature has provided that the date of the first election of members of the board of trustees shall be determined by the intermediate board of education. On or before January 1, 1968 the intermediate board of education shall divide the territory of the community college district into seven trustee districts which shall be composed of compact and as nearly contiguous territory and as equal in population as practicable.

The Board of Education of the Highland Park School District operates a community college department in accordance with Sections 791 to 796 of Act 269, P.A. 1955, as amended, being C.L.S. 1961 § 340.791 - § 340.796; M.S.A. 1955 Rev. Vol. and 1965 Cum. Supp. § 15.3791 - § 15.3796.

The controlling language of Section 81 is plain and certain. A fair reading is sufficient. *Bartkowiak v. Wayne County*, 341 Mich. 333 (1954). The Board of Education of the Highland Park School District may by lawful resolution elect to become a part of the community college district created under Chapter 5 of Act 331, P.A. 1966, as last amended by Act 285, P.A. 1967, supra. Upon such action by such board of education the territory of such school district would be included within the seven trustee districts to be determined by the intermediate board of education in accordance with Section 83 of Chapter 5 of Act 331, P.A. 1966, as added by Act 285, P.A. 1967.

2. In answer to your second question, the legislature has made no express provision in Chapter 5 of Act 331, P.A. 1966, as added by Act 285, P.A. 1967, supra, for the discontinuance of the community college department of a school district that elects by action of its board of education to become a part of the community college district formed pursuant to Chapter 5 of Act 331, P.A. 1966, as added by Act 285, P.A. 1967, supra.

Consideration must be given to Section 795 of Act 269, P.A. 1955, as added by Act 20, P.A. 1963, being M.S.A. 1965 Cum. Supp. § 15.3795. This section provides in pertinent part as follows:

"(1) If a school district is operating a community college department, and a community college district is established and operated as provided by Act No. 188 of the Public Acts of 1955, as amended, being sections 390.571 to 390.882 of the Compiled Laws of 1948, which community college district includes the territory of such school district or a major portion thereof, the board of the school district, with the approval of the superintendent of public instruction, may discontinue the community college department. * * *"

While Section 795 of Act 269, P.A. 1955, supra, makes reference to Act 188, P.A. 1955, it is noted that Act 188, P.A. 1955 has been repealed by Act 331, P.A. 1966, supra, and particularly by Section 194 thereof.

Section 795 of Act 269, P.A. 1955, as added by Act 20, P.A. 1963, supra, is *in pari materia* with Section 81 of Chapter 5 of Act 331, P.A. 1966, as added by Act 285, P.A. 1967 and the two statutes must be con-

strued together and meaning given to both. *City of Detroit v. Michigan Bell Telephone Co.*, 374 Mich. 543 (1965). Thus, the intent of the legislature is effected by harmonizing the two acts concerned with the education of persons in community colleges. *State Highway Commissioner v. Detroit City Comptroller*, 331 Mich. 337 (1951).

Reading Section 795 of Act 269, P.A. 1955, *supra*, a school district operating a community college department may discontinue such community college department with the approval of the state board of education if its territory becomes part of a community college district established and operated pursuant to law. While Section 795 confers the authority to give such approval on the superintendent of public instruction, such power is vested in the State Board of Education by virtue of Section 14 of Act 287, P.A. 1964, being M.S.A. 1965 Cum. Supp. § 15.1023(14). It is clear that such approval cannot be given until the community college district is actually operating a community college.

Therefore, in answer to your second question, it is my opinion that should the Board of Education of the Highland Park School District, by lawful resolution, choose to become part of the community college district formed pursuant to Chapter 5 of Act 331, P.A. 1966, as added by Act 285, P.A. 1967, *supra*, it may continue to operate its community college department until such time as the community college district is operating a community college and until the state board of education approves the discontinuance of the community college department in accordance with Section 795 of Act 269, P.A. 1955, *supra*.

FRANK J. KELLEY,
Attorney General.