

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

MAINE STATE
LIBRARY

3. Is the diagnosis of a Chiropractor considered legal in the State of Maine?

Answer. Yes, for certain ailments which said chiropractor is authorized to treat.

4. May the Division of Special Education for Physically Handicapped Children require the diagnosis of a specialist—an Orthopedist, a Heart Specialist, Ophthalmologist, Otologist, Neurologist, Psychiatrist, and others—as an aid in determining the eligibility of an applicant for the special services of this Department?

Answer. Section 180-B of Chapter 149, P. L. 1945, provides as follows: "There is hereby created in the state department of education a division of special education to foster, inspect, approve and supervise a program of education for physically handicapped children as defined in sections 180-A to 180-I, inclusive."

This gives the Department of Education a Division of Special Education with the power to make rules and regulations in supervising and carrying out this program for the education of physically handicapped children. It is for your department to say whom you will have to examine these children in order to determine whether or not they are physically handicapped. It is my opinion that you can require a specialist in each one of the branches named in your question 4.

RALPH W. FARRIS
Attorney General

October 17, 1945

To Earl Hutchinson, Director of Secondary Education

Re: Secondary School Tuition by a Maine Town to a New Hampshire Town

I have your memo of October 16th requesting an interpretation of the statute relating to school pupils attending schools in another State, namely Section 99, Chapter 37, R. S. 1944, as amended by Chapter 270, P. L. 1945.

Section 99 of Chapter 37 provides in part as follows:

"Provided further, that any town not maintaining a high school may pay tuition for any student who with parents or guardian resides in said town and who attends an approved school. . . in a town adjacent to the state of Maine in another state, when distance and transportation facilities make attendance in a Maine high school or academy inexpedient. . ."

This provision of Section 99 was enlarged upon by Chapter 270 of the Public Laws of 1945, in that it added the following provisions:

"Any youth who resides with a parent or guardian in a town that maintains, or contracts for school privileges in, an approved second-

ary school which offers less than 2 approved occupational courses of study, and whose qualifications for such training are approved by the superintending school committee of the town, may elect to attend some other approved secondary school to which he may gain admission for the purpose of studying an occupational course not offered or contracted for by the town of his legal residence."

After giving these sections some study I am of the opinion that it was the intent of the legislature to equalize opportunities for education in occupational training. If the Commissioner of Education deems it expedient in this particular case—that of South Berwick sending certain pupils mentioned in a petition to him dated October 8, 1945, to Dover, N. H., which the petitioners state is only 4 miles away, instead of to Traip Academy, Kittery, which is 15 miles away—I am of the opinion that he would be justified in authorizing the Town of South Berwick to send these pupils to the Dover High School under the provisions of Section 99 of Chapter 37, R. S. 1944, and Chapter 270, P. L. 1945. This opinion is a little different from what I had in mind when I talked with the Deputy Commissioner last June before this amendment of 1945 became effective. In fact, I could not at that time give these statutes sufficient study and did not render a written opinion. I believe that the State Department of Education should reimburse the Town of South Berwick for tuition payments to the City of Dover, N. H.

RALPH W. FARRIS
Attorney General

October 18, 1945

To William O. Bailey, Deputy Commissioner, Planning and Research,
Education Department

I have your memo of October 15th stating that one of the towns in Maine has a high school offering manual training and that the manual training shop is located in another school building, five minutes' walk from the high school; that pupils usually walk for the manual training period, but that on occasion they ride to the manual training shop in the private cars which they have used for their own transportation to school and take with them a carful of classmates.

Your question is: "If an accident were to occur on one of these trips, and the children were injured during school hours, could the town or school officials be in any way held responsible?"

My answer to this question is, No. The town does not provide the transportation which these children voluntarily assume for themselves, and the insurance company that covers the cars would be liable if any injuries were occasioned by accident to the passengers in said cars. The parents of the children could sue the owner of the car to get at the insurance company, in case the car was operated negligently and the children were free from contributory negligence.

RALPH W. FARRIS
Attorney General