

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1945-1946

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December 23, 1946

To Harry V. Gilson, Commissioner of Education

Re: Authority of Commissioner of Education to require that local school systems operate a minimum of hours on each school day

I have your memo of December 13th' relating to the above entitled subject matter.

You state that as a result of the heavy influx of war workers into certain communities of the State at the beginning of World War II, school housing facilities in some communities were overtaxed to the point that the school day was reduced from minima of five or more hours to three or four per day to permit the operation of double sessions. This situation was tolerated by your department until emergency school facilities could be provided in these communities; but as a result there has been an increasing tendency on the part of other communities throughout the State to reduce school privileges to children in terms of the length of the school day, as one means of meeting problems resulting from increased enrollments, inadequate housing, lack of teachers and increased costs of maintenance. This tendency, you say, is assuming epidemic proportions, with the result that the educational opportunities of many children are threatened with serious curtailment, when the need is for expansion; and you call my attention to the provision of statute that schools be maintained a minimum of 32 weeks per year, 4 weeks per month and 5 days per week, though "school day" is not specifically defined. However, the legislature, has definitely distinguished between a full day of school and a half-day, in this connection (Section 83, Chapter 37): "Absence . . . of 1/2 day or more shall be deemed a violation. . ." etc.

Your inquiry, based upon the above statement of facts, is whether you are correct in assuming that a community which limits any of its pupils to half a day of school attendance, totaling less than five hours is failing to comply with the laws pertaining to the operation of schools.

In answer to this inquiry, I will say that the Commissioner of Education is correct in his assumption.

RALPH W. FARRIS
Attorney General

December 31, 1946

To Earle R. Hayes, Secretary, Employees' Retirement System

I have your memo of December 27th, requesting information in the case of a retired employee, on the strength of the policy of your department that persons who have retired as State employees may engage in any business they choose after retiring, provided such employment is not with the State. You state a specific case where a retired State employee is doing some teaching and wants to know if there is anything in the law to prevent his teaching in the Washington Academy, which is a private institution located at East Machias.

There is no law prohibiting such employment. You are right in your understanding that Washington Academy is primarily a private institution, though under our present law, the teachers may come under the Teachers' Retirement System, if they so desire, if the school is receiving any State aid.

In case Washington Academy should come under the Retirement System, there might be some question raised of the feasibility of a retired teacher's receiving the benefits of the Act and deducting 5% from his salary.

RALPH W. FARRIS
Attorney General