

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

January 26, 1948

To Earle R. Hayes, Secretary

I have your memo of January 23rd relating to the definition of "teacher" in Section 1 of the Retirement Law, which includes those teachers in schools which are supported at least 3/5 by State and/or town funds. In the second paragraph of your memo you go on to state that this means in effect that all teachers presently teaching in any academy or other school which is being directly supported at least 3/5 by public moneys are not only eligible for membership in the Retirement System but must become members, since there is no election provided for teachers under the present law. Then you ask this question in your third paragraph, whether or not prior service credit for all teaching service prior to July 1, 1947, shall be credited to these teachers for all years which they have taught in these academies regardless of whether or not, during some of those years, the schools may or may not have been supported 3/5 by public funds.

In answer to your question it is my opinion that the board need not go back and check each year in connection with each school involved, in order to determine whether or not it was being 3/5 supported by public funds. You should base your decision to issue prior service certificates on the present provisions of the Retirement Law as enacted by the last legislature.

In paragraph 4 of your memo you direct my attention to the definition of prior service which is found in the same section of the law, wherein it provides that "prior service" shall mean service rendered prior to the date of establishment of the System, and the date of establishment, so far as teachers are concerned, is fixed under the provisions of Section 2 as being July 1, 1947.

You also call my attention to the fact that under the provisions of Subsection V of Section 4 of the new law, the Board of Trustees "shall issue Prior Service Certificates certifying to each member the length of service rendered prior to the applicable date of establishment. . . ." You further state that this means that the board, in view of the facts that teachers in these schools which are supported 3/5 by public funds are included in the specific definition of "teacher" in Section 1, that the date of the establishment of the System for teachers was fixed as of July 1, 1947; and further that the Board is required to issue prior service certificates to all "teachers," should issue prior service credits for all their teaching service to all the teachers involved.

In answer to your conclusions stated in the last two paragraphs of your memo, it is my opinion that the teachers now come under the Act who are teaching in schools supported 3/5 by public funds and should receive prior service certificates for all their teaching service.

RALPH W. FARRIS
Attorney General

January 28, 1948

To Harrison C. Greenleaf, Commissioner of Institutional Service

Agreeably to your request on the above date, under the provisions of Section 137 of Chapter 23, R. S., which provides that your department may in its discretion investigate the fact that any person may be lawfully liable for