

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**R E P O R T**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1949 - 1950**

sioner and receives supplementary financial assistance in an amount not less than \$50 from the town, the town shall receive reimbursement of \$50 from the state for such expenditure at the next distribution of state funds."

Paragraph 2 of the latter section directs the distribution of the school equalization fund and prescribes:

"Whenever it appears to the commissioner that any town should receive special aid or encouragement for the purpose of raising the standard of qualifications of teachers, or of increasing the length of the school year, or otherwise adding to the efficiency of the schools, he shall issue to the governor and council a recommendation relative thereto, and upon the approval of the governor and council the state controller may draw a warrant in favor of the treasurer of said town from the equalization fund for an amount to cover the difference between the proceeds of a tax of not less than 12 mills nor more than 20 on the valuation of the town as fixed by the board of equalization together with the apportionment from the state school fund, and the cost of a minimum educational program as hereinbefore defined."

Upon a quotation of parts of these two sections you request me to determine whether the phrase, "together with the apportionment from the state school fund," must include the reimbursing sums for additional professional work as provided in Section 201; and you comment that if this amount is included, it is deductible from the cost of the minimum program and the burden is transferred thereby entirely to the town, a process which seems to defeat the intent of both sections.

After a study of the portions of the statute which I have cited, it is my opinion that when a town has complied with Section 201 and has given to certified teachers, under this provision, supplementary financial assistance in the amount of \$50 or less for each teacher, the town should receive reimbursement from the State for such expenditure at the next distribution of State funds; and I concur with your statement that if this amount is deducted from the cost of the minimum program, the town does not receive the reimbursements. In other words, it is taken away from the town, which clearly was not the intent of the legislature.

RALPH W. FARRIS  
Attorney General

January 4, 1950

To W. O. Bailey, Deputy Commissioner of Education  
Re: Tuition

I have your memo of December 30th, stating that the Superintendent of Schools in Whitefield has raised the following question:

"Does the State Department uphold Wiscasset Academy charging tuition for a full term when a pupil quits after four weeks? They sent out a letter last year that no part-time tuition bills would be sent; if a pupil attended part of the term, they would be charged for the full term."

You ask if I can give you a ruling on the legality of this practice and quote Section 98 of Chapter 37 in part, that "such free tuition privilege shall continue so long as said youth shall maintain a satisfactory standard of deportment and scholarship."

I will state that the law does not permit high schools and academies to charge tuition for pupils who are not receiving instruction, any rule by an academy to the contrary notwithstanding, because if the pupil is not in school, as you state, satisfactory standards of scholarship obviously cannot be maintained. Therefore any charge for tuition after a pupil has left the institution would be illegal.

You state in your note that since State subsidy is based on the amount expended for tuition purposes, it is conceivable that a youth might leave one school after four weeks' attendance and enter another school, thereby requiring his town to pay tuition in two schools and the State to subsidize both towns for their expenditure, if the policy at Wiscasset were deemed legal.

If the Wiscasset Academy insists upon this policy of charging tuition to a town after the student has left the school, it is for your department to handle this as an administrative matter in regard to the subsidy. I feel that if you take this up with the trustees of Wiscasset Academy, they will see the error of their policy on charging a town for a pupil who is not in attendance and that it might involve the town of the pupil's residence in paying two tuitions for the same term, if the pupil transferred to another school.

RALPH W. FARRIS  
Attorney General

January 4, 1950

To Arthur R. Savage, Secretary, Maine State Board of Architects  
Re: Building Inspectors

I have studied your letter of October 14, 1949, with the accompanying enclosure setting forth the powers and duties of the building inspector of the City of South Portland. You inquire whether or not the specifications of the duties of the building inspector of South Portland would require action by the Board of Architects under the provisions of Section 3 of Chapter 242 of the Public Laws of 1949.

It is difficult, if not impossible, as a matter of legal interpretation to give a categorical answer to your question. In attempting to answer your question I have consulted with a member of the Legal Affairs Committee of the legislature which conducted hearings on the measure, in an effort to ascertain the intent of this legislation. I was informed that it was the intent of the section involved to require the suspension, by the Board of Architects, of a license to practice architecture when one accepted an appointment placing him in a position similar or analogous to the position one would occupy with duties such as those imposed by the building code of the City of South Portland.

In the light of the foregoing it would appear that the Board is clothed with the apparent power to take administrative action to suspend the license of an individual in such a position.