

# 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**

his conclusion in this respect, because many members of the legislature are officers of corporations which are furnishing to the State materials and supplies under competitive bids through the Bureau of Purchases, and if this statute were strictly construed, without considering the Administrative Code Statute, the State would be cut off from purchasing from its own citizens valuable materials, supplies and equipment which are manufactured or sold within our State and this would seriously impair the functioning of our institutions and departments when they were faced with emergency purchases and could best secure them from corporations of which members of the legislature may be stockholders or directors. Consequently any such corporation, selling or manufacturing supplies that the State is sometimes forced to purchase on emergency purchase orders, should not be barred.

RALPH W. FARRIS  
Attorney General

January 19, 1950

To Ober C. Vaughan, Director of Personnel  
Re: Reinstatement

I have your memo of January 18th, stating that a former State employee has requested a meeting with the Personnel Board in connection with his reinstatement rights. You state that he had previously been informed by your office that due to the fact that he had been out of State employ for some four years his term of eligibility for reinstatement had run out. This was based on Rule V of the Personnel Law and Rules and the policy of the Board to maintain original entrance and reinstatement lists for no longer than a two-year period.

You then state that he contends that under Rule VI: "Any person holding a permanent position in the classified service who has been separated therefrom by resignation or otherwise, without delinquency or misconduct on his part, shall have his name entered on the proper reinstatement list upon such former employee's application and if a satisfactory service report is filed by the department head under whom such former employee worked." He contends that Rule VI is not restricted by the terms of Rule V.

You state that the Board feels that they would have authority to conform to his request, but that it would be a direct violation of the general policy which has been in effect for several years. Upon this basis you ask my opinion as to whether Rule VI is restricted by the terms of Rule V.

Rule V refers to the eligibility and Rule VI to the reinstatement lists. Eligibility naturally has to do with reinstatement, however. Rule V provides: "The term of eligibility of individuals on reinstatement lists shall begin with the termination of permanent service and shall last for a period of one year therefrom and may be extended in the same manner as the eligibility of applicants on the original entrance lists." So you see that Rule V deals with reinstatement as well as the original entrance lists. Therefore it must be read in connection with Rule VI which provides for the lists.

As in this case application was not filed within the specified period of one year, the Board may extend the eligibility as provided in Rule V, so that the applicant may be reinstated. From my reading of Rules V and VI it seems

to me that the Board has discretion to renew the reinstatement lists at different periods for terms not exceeding two years each at any time they see fit to do so, providing the applicant for reinstatement has complied with Rule VI, that is, that there was no delinquency or misconduct on his part.

RALPH W. FARRIS  
Attorney General

January 30, 1950

To Carl L. Treworgy, Clerk, Racing Commission  
Re: 8 week night harness racing law

I have your memo of January 30th asking if it would be legal for the Commission to split up the 8-week night harness racing meetings into two or more periods and also if it would be legal to grant less than 8 weeks to a licensee, under the provisions of Section 5 of Chapter 388, P. L. 1949.

In reply I will say that the statute provides that the Commission shall issue licenses, where pari mutuel betting is permitted, to hold night harness races or meets for a period of 8 weeks and no more between June 15th and October 15th of each year; if the applicants are qualified under this section, the Commission has wide discretionary powers in regard to the length of time for which licenses may be issued, having in mind always the economic welfare of the State where pari mutuel betting is permitted.

RALPH W. FARRIS  
Attorney General

January 31, 1950

To Philip A. Annas, Associate Deputy Commissioner of Education  
Re: Board of Trustees, Greeley Institute

I have your memo of January 30th relating to the status of the board of trustees of Greeley Institute, which was chartered under Chapter 48, P&SL 1913. Section 2 of this chapter states in part as follows:

“The board of trustees shall be seven, and of this number the selectmen of the town of Cumberland, and each of them, during their term of office, shall always be members. The remaining four shall be first designated by the inhabitants of the town of Cumberland in town meeting, . . .”

In your memo you call my attention to an amendment to the charter of Greeley Institute, Chapter 66, P&SL 1945, which added four new sections. Section 3-A enacted by this chapter provides:

“Powers of trustees. . . , and when the amount paid under the contract is equal to or exceeds the income of the Institute, in accordance with said section, then the board of trustees is hereby authorized and empowered to choose 3 of their number, who shall not be the selectmen of the said town of Cumberland, to act as a joint committee with the superintending school committee of said town in accordance with said section,