

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

November 9, 1950

To Howard L. Bowen, Associate Deputy Commissioner of Education
Re: Procedure to be followed when a child is taken from a school

In your memorandum of November 7, 1950, you state that the department is in receipt of a letter from the Rockland school committee in which inquiry is to be made as to the procedure to be followed when a child is taken from a school. This inquiry arises from conflicting opinions in the City of Rockland as to the procedure to be followed when the police and authorities desire to take a child from school for questioning. You state in substance that it is the opinion of the superintending school committee that the child's parents should be notified and that it is the opinion either of the police or of the city council that the child's parents should not be notified. The Attorney General is requested to render his opinion in order to resolve the issue.

You are advised that the Attorney General has neither the right nor the duty by statute or otherwise to act as an arbiter with respect to local matters. The situation presented by your memorandum is entirely a local matter involving local procedure to be followed in the conduct of local affairs, namely, the administration of the school department and the administration of the law enforcement agency. In view of this situation, in all fairness to all parties concerned, the Attorney General cannot and should not give any opinion, since any opinion expressed would carry no official weight whatsoever.

I might point out, in the event that the point has been overlooked, that the Supreme Judicial Court of Maine has held that the relationship between a teacher and a pupil is known at law as that of "in loco parentis." Since the court has so held, it follows that the teacher standing in the place of the parent should act accordingly.

JOHN S. S. FESSENDEN
Deputy Attorney General

November 6, 1950

To Harland A. Ladd, Commissioner of Education
Re: Section 165 of Chapter 37 with respect to Academies, when read in conjunction with Section 201 of Chapter 37, both sections as amended.

In your memorandum of November 3, 1950, you inquire as to the amount of the allocation per teaching position to be made to Traip Academy in Kittery, Maine, pursuant to the provisions of Section 165 of Chapter 37, R. S. 1944, as amended. You state that the department, in its administrative policy, believes that under the provisions of this section \$600 is the amount to which an academy is entitled and that in this particular case Traip Academy claims that it should receive the amount of \$850, that being the amount of the allocation that would be made per position to the Town of Kittery.

The entitlement of an academy to any allocation at all, within the limits of the question asked by you depends strictly upon the provisions of Section 154, which places academies on an equal footing with schools with respect to instruction in agriculture, industrial arts, or home economics. The maxi-