

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

used in that section means that a person is domiciled in the State of Maine, having a residence here with the intention to reside permanently in this State.

It has been said in this office that the eligibility requirements of a citizen to obtain a license under Chapter 34, with respect to the phrase "who has resided" are the same as those for eligibility to vote here. Such a requirement is also present in the Inland Fish and Game Laws, except that the period for which a person must have resided in this State is three months instead of six.

It is with this background that we feel that continuous physical presence is not necessary, if the interruptions are such as have been considered not to vitiate residence.

We have not issued any opinions directly in point with your questions, but we are attaching a copy of an opinion written by Mr. Fessenden, Deputy Attorney General, to the Governor of the State of Maine, which bears on your problems.

JAMES G. FROST  
Assistant Attorney General

January 9, 1952

To Earle R. Hayes, Secretary, Maine State Retirement System  
Re: Modifications of Agreement between State Agency and the Social Security Administration

We have your memo of January 8, 1952, in which you ask our opinion as to whether or not it is necessary for the Governor to approve modifications to the original agreement between our State agency and the Federal Security Administrator, under which contract benefits are extended to employees of political subdivisions of the State.

We quote the pertinent part of Chapter 395 of the Public Laws of 1951, which is to be considered in reaching our conclusion:

"Sec. 3. Federal-state agreement. The state agency, with the approval of the governor, is hereby authorized to enter on behalf of the state into an agreement with the federal security administrator, consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the federal old-age and survivors insurance system to employees of any political subdivision of the state with respect to services specified in such agreement which constitute "employment" as defined in section 2. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency and federal security administrator shall agree upon, but, except as may be otherwise required by or under the Social Security Act as to the services to be covered, such agreement shall provide in effect that:

I. Benefits shall be provided for employees whose services are covered by the agreement, and their dependents and survivors, on the same basis as though such services constituted employment within the meaning of title II of the Social Security Act;

II. The state shall pay to the secretary of the treasury, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages, as defined in section 2, equal to the sum of the taxes which would be imposed by sections 1400 and 1410 of the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that act;

III. Such agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein, but in no event may it be effective with respect to any such services performed prior to the 1st day of January, 1951.

IV. All services which constitute employment as defined in section 2, are performed in the employ of a political subdivision of the State, and are covered by a plan which is in conformity with the terms of the agreement and has been approved by the State agency under the provisions of section 5, shall be covered by the agreement."

By the provisions of the above quoted section the state agency is to enter a contract on behalf of the State with the approval of the Governor, which contract may contain provisions relating to the modification of the agreement between the state agency and the federal security administrator.

The original contract signed by the Governor having contained such modification provision, it is our opinion that the Governor, in signing the contract gave prior approval to such subsequent modifications to the original agreement as the state agency should make with political subdivisions of the State consistent with the provisions of the Social Security Act as amended.

JAMES G. FROST  
Assistant Attorney General

January 14, 1952

To Harland A. Ladd, Commissioner of Education  
Re: Schooling of Displaced Persons

We have your memo of December 26, 1951, in which you state that three displaced children of Grand Falls Plantation are attending school at Burlington and that their failure to grasp the English language has made it difficult for them to derive all the benefits from pursuing their education. You state that the superintending school committee of Grand Falls Plantation proposes a special program of education whereby these children would attend Burlington school during its regular sessions except for a period of 1½ hours each morning when they would receive special instruction in English from a tutor hired by Grand Falls Plantation.

You then ask if such a program is permitted under the provisions of Section 83 of Chapter 37 of the Revised Statutes and if local expenditures for tutorial services may be included in computing general-purpose educational aid provided by Section 201 of Chapter 37, as amended.

Section 83 provides generally that children of certain ages shall attend some public school during the time such school is in session, provided also that such attendance shall not be required if a child obtains equivalent instruction for a