

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

but must be confined strictly to the sections of the law being considered in that opinion.

Our answer to your question is in the negative.

JAMES G. FROST  
Assistant Attorney General

March 31, 1952

To Fred L. Kenney, Director of Finance, Department of Education

Re: Subsidies - Part-time Positions

. . . For the purposes of administering the subsidy sections of Chapter 37, R. S., the definitions contained in Section 197 of that chapter have been pertinent. Among those definitions the term "teaching positions" is defined and states that the term excludes any such position which is filled by a person devoting less than half of the school day to the duties of such position. As a result of this definition it has been the policy of your department not to allocate subsidies authorized by Sections 195 et seq. for teachers who were working in positions that were less than half-time.

The 1951 Legislature repealed Sections 201-204, inclusive, all sections relating to State school funds, and enacted the "general purpose educational aid" section. This section, seen as Section 201 of Chapter 37, R. S., provides that the State shall appropriate to the municipalities a sum which is a certain percentage of the State valuation per resident pupil.

You make the following pertinent remarks relative to the newly enacted Section 201:

"(1) the Legislature did not mention 'less than one-half time teachers' when it enumerated the several exemptions

"(2) the term 'teaching positions' is not specifically referred to

"(3) we have a very similar situation in allowing substitute teachers to work on less than half time basis and permit their salaries to be subsidized

"(4) Chapter 386 permits the State Board of Education to make reasonable regulations for carrying out the provisions of this General Purpose Aid computation, and

"(5) it states specifically that '. . . It is the intent of the legislature that the 1951 allocations be made under the provisions of law as they existed prior to the effective date of this section.'"

It is our opinion that the newly enacted Section 201, entitled "General Purpose Education Aid", revamps completely the manner in which education is to be subsidized. The term "teaching positions" is to be found nowhere in the new section.

One paragraph of the new Act provides that only certified teachers shall be employed and sets a minimum salary to be paid such certified teachers. The concluding sentence of that paragraph reads as follows:

"Any city, town, plantation or community school district which fails to comply with any of these conditions shall have deducted from its apportionment a sum equal to twice that by which it is delinquent."

You then ask the following question: "Must I apply the penalty of deducting salaries paid to teachers working less than half time in computing the next biennial computation for subsidy payments to municipalities in December 1953 and 1954?"

It is the opinion of this office that this paragraph really sets up the minimum salary for a certified teacher. The sentence quoted penalizes cities and towns which employ teachers who are not properly qualified and pay them less than the minimum salary. The fact that a teacher is employed at half-time or less does not authorize an amount to be deducted from the apportionment. If that teacher is paid in proportion an amount that would comply with the minimum salary, then no such penalty is authorized.

JAMES G. FROST  
Assistant Attorney General

April 4, 1952

To Julius Greenstein, Chairman, Boxing Commission  
Re: Imposition of Fines

You have requested this office to give an opinion as to whether or not the Commission may, in addition to suspending or revoking a license, or in lieu thereof, impose a penalty in the way of a fine for violation of the rules and regulations of the Commission.

Board and Commissions may exercise only those powers delegated to them by the legislature. The statutes relative to your Commission give no permission to impose fines.

The general rule is that under our Constitutions the power to fine is a judicial power and cannot be reposed in administrative tribunals, with the one exception that where permitted by the Constitution a fine may be imposed for contempt in violation of administrative orders.

It is our opinion, therefore, that your Commission may not impose a fine for violation of your laws, rules, or regulations.

JAMES G. FROST  
Assistant Attorney General

April 4, 1952

To Earle R. Hayes, Secretary, Maine State Retirement System  
Re: Participating Local Districts

This office is in receipt of your memo of March 27, 1952, in which you recall to mind our conversation of recent date relative to local participating districts.

Your office has prepared in mimeographed form condensations of the laws passed by the 1951 legislature amending Chapter 60 of the Revised Statutes of 1944. You state in this mimeographed form, which you distributed to participating local districts: