

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

for the calendar years  
**1951 - 1954**

to ferry them across the river in your boats and take them over the island, using a pickup truck, and you inquire what the State's liability would be in the event an accident occurs during such transportation or during such time as a party happen to be staying there over night.

The general rule is that the State can sustain liability only by reason of a contractual obligation. Otherwise the State is not liable for the tortious acts of its officers, unless the State assumes such liability through statutes. The State is immune from suit by private citizens, as likewise are its agencies and instrumentalities. Briefly, in the absence of a contract and in the absence of a statute by which the State might assume liability, the State has no liability with respect to accidents which might occur en route to or while visitors are on Swan Island. This rule does not, of course, apply to individuals in State employ who may be responsible for such accidents. An individual himself may be liable under the same rules as would a private individual in the same circumstances.

JAMES G. FROST  
Deputy Attorney General

May 8, 1952

To Harland A. Ladd, Commissioner of Education  
Re: Five-year Limit on Certain Credits

Section 201, as revised, of Chapter 37, R. S. 1944, provides in part that the renewal of each teaching certificate shall be conditional upon the completion of at least six semester hours of professional study within each period of five years. Contained in the same section is a paragraph stating:

“Subject to the foregoing provisions of this section, the state board of education may make such reasonable regulations as are deemed necessary for carrying out the purposes and provisions of this section.”

You ask if the State Board of Education may legally and properly effect a regulation which would give a year of grace by authorizing certification under a special license in hardship cases involving hospitalization, illness, or critical family circumstances which make it virtually impossible for the teacher to attend a summer session or to participate otherwise in formal study for credits.

It is the opinion of this office that such a regulation is not permitted under the wording of the above quoted requirement. The teacher is given a period of five years within which he or she shall acquire six semester hours of professional study; and a reading of this section shows that it is a mandatory condition and the period should not be extended beyond the five years.

Rules and regulations are permitted to be made under the theory that the legislature is delegating that authority; but such rules and regulations must be within the intent of the statute and not inconsistent with it. It may be that consideration will show that this statute is unduly strict, in which case you may believe it necessary to present it to the next legislature for amendment.

However, the intent of this provision is plain and we feel that rules and regulations which would extend the privilege in certain cases to go beyond five years would not be a proper use of the delegated power.

JAMES G. FROST  
Deputy Attorney General