

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

October 27, 1952

To Morris P. Cates, Deputy Commissioner of Education

Re: Insurance — Fort Preble

This will acknowledge receipt of your memo in which you desire an interpretation with respect to the following paragraph:

“In the event that death or injury occurs to any person, or loss, destruction or damage occurs to any property in connection with the maintenance or use of the permitted premises by the State of Maine, State Board of Education, occasioned in whole or in part by the acts or omissions of the State of Maine, State Board of Education, its agents, employees, or servants, the State of Maine, State Board of Education, agrees to indemnify and save harmless the Government from and against any loss, claims or demands to which the Government may be subject as a result of such death, loss, destruction or damage.”

The above quoted paragraph is one of the terms and conditions on which right of entry has been granted to the State of Maine by the Department of the Navy for use of the premises as a center for the Maine Vocational-Technical Institute. As a result of this paragraph you are inquiring as to the extent and types of insurance coverage which the State of Maine should carry to fulfill its responsibilities in connection with this condition.

It is agreed by the parties as a result of the aforesaid paragraph that the State of Maine shall indemnify and save harmless the Government from and against any loss, claims or demands to which the Government may be subject as a result of (1) death or injury occurring to any person occasioned in whole or in part by the acts or omissions of the State of Maine, State Board of Education, its agents, employees or servants, and (2) loss, destruction or damage occurring to any property occasioned in whole or in part by acts or omissions of the State of Maine, State Board of Education, its agents, employees or servants.

By virtue of this agreement the State of Maine should carry: (1) fire insurance with extended coverage, and (2) liability insurance.

Although the State of Maine, as a matter of policy, does not generally carry liability insurance there are instances where such insurance is carried, i.e., motor vehicles and elevators. While the State of Maine is generally not liable for the torts of its employees, it is the understanding of this office that the Federal Government is liable for the torts of its employees, and as a result of this contract, the State of Maine will save the Department of the Navy harmless for the torts caused in whole or in part by the State of Maine, its agents, employees or servants. It is suggested, however, because of the general policy above mentioned for the State of Maine not to have liability insurance, that permission to purchase such insurance be granted by the Governor and Council.

ALEXANDER A. LaFLEUR

Attorney General