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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1951 - 1954

1951, Chapter 39, amending Resolves of 1949, Chapter 144 . . . It should be noted that the Resolves above mentioned are substantially the same, except that the latter changes the name of the fund and extends the program to institutions not exclusively educational.

The first requirement is that the party or department designated to carry on the program shall have authority "to acquire, allocate, and distribute personal property to tax-supported and to non-profit institutions eligible to acquire same under section 203 (j) of the act". The right to acquire and distribute is clearly set forth in the Resolves. The property to be acquired is federal surplus property and must by implication be construed to mean property on such terms and conditions as the Federal Government shall attach.

The second requirement is that the party or department designated shall have the right "to acquire, warehouse, and distribute as above". We feel that the right to acquire and distribute necessarily implies the right to warehouse same during the interval between acquisition and disbursement. This is substantiated by the fact that there has been a surplus property warehouse for this purpose since 1945.

The third requirement is that the party or department designated shall have the right "to execute the agreements required by the Federal Government". We take this requirement and the term "agreement" to mean that the Commissioner, as the designated party, shall have the right to make such administrative agreements as will expedite the program at hand. By way of example: he is at this moment drawing up an administrative code of procedure that will conform to minimum requirements of this regulation and will become the mode of procedure for disbursing surplus property. We feel that this is purely administrative and allowable by virtue of his office as Commissioner of Education. This action is comparable to his distribution of State duties among his associates and deputies, a matter of sound administrative practice.

With the above constructions in mind, we do not hesitate to certify that the Commissioner's duties, as set out by our Legislature, conform to the Federal standards as of May 6, 1953.

ROGER A. PUTNAM
Assistant Attorney General

May 15, 1953

To Spaulding Bisbee, Director of Civil Defense
Re: Status of State Police Reserve Corps

We have in hand your memo of May 11, 1953, containing the following question:

"Does the State Police Reserve Corps come within the Civil Defense Act so that its members will be entitled to the benefits of the Workmen's Compensation Act, which has been recently extended to cover all civil defense and public safety personnel. (Section 2, Chapter 267, P. L. 1953.)

The State Police Reserve Corps was created by Section 9 of Chapter 273 of the Public Laws of 1951. Its obvious purpose was to supplement our efficient State Police with a highly trained ready reserve to assist our regular police forces during civil defense emergencies. Section 9 (supra) also provides that the

Chief of the State Police can call the Reserve Corps to duty *as State Police, only* after the Governor has issued his proclamation provided for in Section 6 of Chapter 11-A, as amended. When the Corps is thus called to duty the act further provides that its members shall have the same status as regular members of the State Police. Thus at that time they would be considered State employees and so entitled to benefits under our Workmen's Compensation Act.

The question still remains whether the members of the Corps would be covered while in training for their duties in civil defense emergencies. It is the opinion of this writer that it was the intent of the legislature to cover *all* civil defense and public safety workers and that this Corps, as a necessary and important adjunct to the whole civil defense program, which would not exist except for such a program, would be covered while in training as members of that organization.

This opinion relates only to the question of general coverage. Each claim will undoubtedly turn upon its facts, and the claimant must show (1) that he is a civil defense or public safety worker; (2) that he was in training for or on civil defense or public safety duty; and (3) that his injury was directly attributable to that training or duty. Questions such as these are within the exclusive province of the Workmen's Compensation Board and are beyond the scope of any opinion that we might render.

ROGER A. PUTNAM
Assistant Attorney General

May 15, 1953

To Ermo H. Scott, Deputy Commissioner, Education
Re: Teachers' Contracts

We have your memorandum of May 6, 1953, in which you ask, briefly, two questions:

1. In your suggested contract form, to be used by the towns contracting with probationary teachers, should a provision be inserted in such contract that the contract may be terminated by a definite period of written notice given by either party?

Answer. After considerable discussion with your department and with members of our staff, it would appear that such a provision would be of such uncertain meaning with respect to the statutory provision for dismissal that it would unquestionably give rise to misunderstanding. It therefore should not be included in the contract. Along with the statutory provision for removal, as seen in section 50 of Chapter 37, it would seem sufficient if there were provision for termination by mutual consent upon a given days' notice.

2. Would it be legally sound and within the statutory provisions relating to teachers' contracts for a local school committee to extend the provisions of the contract in both suggested forms (probationary and permanent) to include a provision to the effect that after hearing granted under the provisions of section 50 of Chapter 37 the case might then be referred to an arbitration board, the decision of the board being final?