

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

In answering this question it is assumed that the Director has been appointed by the municipal officers as provided in the Civil Defense Act. The power of appointment is, in the absence of other law to the contrary, accompanied by the power of removal. Therefore the removal of a locally appointed Civil Defense Director should be governed by the manner in which he was appointed. Reference should be made in each instance to the charter of the municipality, which may govern the method of appointment and removal of officers.

JAMES G. FROST
Deputy Attorney General

June 16, 1953

To Kenneth Burns, Accounting Supervisor, Institutional Service
Re: Settlement of Pupils at the Maine School for the Deaf.

We have your memo of May 16, 1953, in which you request an opinion relative to the settlement of children admitted to the Maine School for the Deaf. You ask specifically three questions:

"1. Is the Maine School for the Deaf a state institution in the meaning of R. S. 1944; Chapter 82; Section 3?

"2. If so, does the above apply to a pupil for the entire period of attendance from the date of the original enrollment at the school until the pupil is graduated or officially discharged? Reference: R. S. 1944; Chapter 23, Sections 171 and 172.

"3. Does the above apply only for one school year at a time and is the fall registration, after the summer vacation, to be considered as a new enrollment?"

These questions are asked to determine whether or not the settlement of a child entering the school remains the same throughout his stay at the institution or whether it may change from time to time, thereby coinciding with the changes of settlement of the child's father.

It is the opinion of this office that the Maine School for the Deaf is a State institution within the provisions of Section 3 of Chapter 82 of the Revised Statutes, which provides:

"The settlement status of a person . . . who is an inmate of any asylum, penitentiary, jail, reformatory or other state institution shall not change during such period of service, confinement or imprisonment, but his settlement shall remain as it was at the time of the beginning of such service, confinement or imprisonment."

In view of the strict limitations set out in Section 171 of Chapter 23 of the Revised Statutes with respect to the withdrawal or discharge of a pupil from the Maine School for the Deaf and because of the requirement in Section 172 of Chapter 23 that certain children shall be compelled to attend the Maine School for the Deaf until discharge by the superintendent, it is our opinion that the answer to Question No. 2 is, Yes.

Having answered Question No. 2 in the affirmative, it is unnecessary for us to answer Question No. 3.

JAMES G. FROST
Deputy Attorney General

June 22, 1953

To Everett F. Greaton, Director, Maine Development Commission
Re: Appropriation for Promotion of Industry and Mineral Research

One provision of Chapter 223 of the Public Laws of 1951 appropriated the sum of \$50,000 to the Maine Development Commission for the promotion of industry and mineral research. With respect to this \$50,000 appropriation it was provided that "Any unexpended balance shall not lapse but be carried forward to the 1952-1953 fiscal year." You state that there is presently left in the fund, unencumbered, approximately \$30,000 and that you had assumed that this was a carrying provision and that the fund did not lapse. You ask if the above quoted provision of the law, in our opinion, means that this fund must lapse unless encumbered or whether we feel that it was the intent of the legislature that this fund could carry on and should not lapse.

It is the opinion of this office that the intent of the legislature is clear and that the fund shall not continue beyond the end of the 1952-53 fiscal year.

The above quoted phrase is the usual expression to show legislative intent that funds shall lapse at a particular time.

JAMES G. FROST
Deputy Attorney General

June 23, 1953

To Everett F. Greaton, Executive Director, Maine Development Commission
Re: Encumbrance of Funds for Salary and Expenses

We have your memo of June 23, 1953, in which you state that you have employed a full-time Assistant Geologist at a salary of \$4000. a year with traveling and laboratory expenses of another \$2000.

The amount of \$4000 is to be paid from the special appropriation for industrial and mineral research. This fund, unless properly encumbered, will lapse at the end of the 1952-53 fiscal year, and you ask if you can encumber this fund for the amount of the contract.

We wish to advise that a contract, the terms of which show employment prior to June 30, 1953, is sufficient to encumber the fund for the amount expressed in the contract.

JAMES G. FROST
Deputy Attorney General