

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

March 24, 1954

To Roland H. Cobb, Commissioner of Inland Fisheries and Game
Re: Licenses for Sale of Frozen Fish

We have your memo of March 22, 1954, in which you ask if under the provisions of Section 41 of Chapter 33 of the Revised Statutes, as amended, each and every one of the retail stores of the Atlantic & Pacific chain would have to have the license required by said section.

This section of law provides that anyone desiring to sell fish which have been either commercially grown within the State or imported from without the State must first obtain a license from the Commissioner, said license to be kept constantly and publicly posted in the office or place of business of the licensee.

It is the opinion of this office that the A&P would be in compliance with the requirements of the statute if they were in possession of one license kept in their office.

We would suggest that, if policing would be more convenient if each retail outlet were to have a license, then that requirement should be enacted by the legislature.

JAMES GLYNN FROST
Deputy Attorney General

March 30, 1954

To William O. Bailey, Deputy Commissioner of Education
Re: Salaries of Substitute Teachers

We have your memo of March 29, 1954, requesting an interpretation of the provisions of the minimum salary law (Section 201, Chapter 37, R. S. 1944, as amended by Chapter 371, P.L. 1953), as relating to pay of substitute teachers. You ask the following three questions:

1. What is the definition of a substitute teacher for administration of the minimum salary law?
2. When does a person cease to be a "substitute" and become a "teacher"?
3. Must each day-to-day substitute be paid per day 1/180 of \$1500, \$1600, \$1700 or \$1800, depending upon his training, under Chapter 37, Sec. 201, R. S. 1944, and after July 1, 1954, in accordance with the minimum salary schedule of Chapter 37, Sec. 201, P.L. 1953, as amended?

We are of the opinion that our laws contemplate two classes of teachers, those having a teacher's certificate as required by Section 157 of Chapter 37, and those who are not in possession of such certificate. The law in question reads:

"Each city, town, plantation and community school district shall employ only certified teachers and shall pay such teachers the minimum salaries as follows: . . ."

Teachers who do not possess the certificate referred to are contemplated in a later paragraph of the same section:

“If the employment of teachers under permits or other special licenses is authorized by the state board of education, the state board shall have the authority to prescribe minimum salaries and other regulations for this class of teachers.”

Reading this entire section as a whole we are of the opinion that all certified teachers, whether regularly employed by the superintending school committee on nomination by the superintendent or working on a substitute basis, but possessing the certificate required by Section 156, are entitled to be paid the minimum salaries as prescribed in Section 201, as amended.

A teacher not having such certificate presumably will have been issued a certificate under that section of law which permits the State Board of Education to grant lesser permits or other special licenses. Such permit or special license holder, presumably including substitutes who have been issued substitute teacher's certificates limited in use to service of not more than 30 days annually, would not be embraced in the minimum salary schedule.

JAMES GLYNN FROST
Deputy Attorney General

April 12, 1954

To William O. Bailey, Deputy Commissioner of Education
Re: Liability

You state that a “situation has arisen in a municipality where the services of a Recreation Director have been offered the school department by a local Recreation Commission free of charge. This person would be assigned as a coach of fall intramural football activities and spring baseball in the eighth grade.

“It is proposed that these activities be carried on as an integral part of the school program with School Committee sponsorship and responsibility. The person whose services have been offered is not eligible to certification as a teacher or physical education instructor.

“The question raised is whether a School Committee can accept this voluntary service with full protection and freedom from liability under present laws with respect to school teaching personnel.”

It is the opinion of this office that the voluntary nature of the service to be performed by the Recreation Director will in no way save the school committee from their negligent acts which cause injuries to students. Their responsibilities would remain the same as if the Recreation Director were a paid employee of the school.

JAMES GLYNN FROST
Deputy Attorney General