

# MAINE STATE LEGISLATURE

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December 18, 1957

To Kermit S. Nickerson, Deputy Commissioner of Education  
Re: Retirement of School Secretaries

. . . You inquire whether a school secretary may elect to make Social Security contributions rather than payments to the Maine State Retirement System.

While you mention several sections of law which relate to the situation, the most important section is the definition of "teacher" contained in Chapter 63-A, Section 1, of the Revised Statutes, wherein the word "teacher" is defined as including school secretary.

We must advise that your memo does not contain sufficient information for this office to make a decision.

We would also advise that requests such as the present should be directed to the Maine State Retirement System and should contain information as to the specific town involved and whether or not that town is under the State or local government pension or retirement plan.

By amendment to the State Social Security Law enacted by the 1957 Legislature, it is provided that:

"The provisions of this chapter (Social Security) shall not apply to teachers, policemen and firemen who are under a state or local government pension or retirement plan."

You can therefore see that it becomes important, in the determination whether or not school secretaries can make a choice as you suggest, to determine whether or not they are under pension systems.

There are also certain other situations that could conceivably be governed purely by federal law, such as severability of an instrumentality of the State into various positions. These questions in the first instance should be considered by the Maine State Retirement System, which System administers the Social Security Law in so far as it applies to the State of Maine or its instrumentalities.

We will be only too happy to give every assistance to the Maine State Retirement System if that System has any questions with respect to the eligibility of persons or instrumentalities to participate in the Federal Social Security Law.

James Glynn Frost  
Deputy Attorney General

jgf/c