

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

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OPINIONS

January 6, 1959

To: Philip A. Annas, Executive Director of Division of Instruction, Education Department

Re: Federal Funds — Unorganized Units — School Current Expense

We have your request for an opinion as to whether the State Department of Education or the Commissioner of Education, by virtue of his office, has, under the law and practice in the state, the authority to accept and disburse Federal funds which may be granted under P. L. 874 for assistance for school current expense purposes in unorganized units in the State of Maine.

It is our opinion that the Commissioner of Education under the laws of the State of Maine has the authority to accept and disburse Federal funds which may be granted under P. L. 874 for assistance for school current expense purposes in unorganized units in the State of Maine when so authorized by the Governor and Council.

Unlike the average public school which is maintained in great part by the municipality in which it is located and which is governed by a local body, the burden of maintaining and governing schools in unorganized territories is vested in the Commissioner of Education, Sections 159 to 183, inclusive, of Chapter 41 of the Revised Statutes of 1954. Under the provisions of Section 176 of Chapter 41:

“The treasurer of state is authorized to accept gifts, bequests and other funds from public or private agencies, subject to any conditions contained therein provided such conditions are approved by the state board of education, to be credited to the capital working fund. When any such gift, bequest or grant is made for a particularly designated purpose, the amount so received shall be used to reduce the total amount of capital outlay involved in the project designated and due to be returned to the fund as provided in section 169.”

Section 15, Chapter 11, Revised Statutes of 1954, reads as follows:

“The governor, with the advice and consent of the council, is authorized and empowered to accept for the state any federal funds or any equipment, supplies or materials apportioned under the provisions of federal law and to do such acts as are necessary for the purpose of carrying out the provisions of such federal law. The governor, with the advice and consent of the council, is further authorized and empowered to authorize and direct departments or agencies of the state, to which are allocated the duties involved in the carrying out of such state laws as are necessary to comply with the terms of the federal act authorizing such granting of federal funds or such equipment, supplies or materials, to expend such sums of money and do such acts as are necessary to meet such federal requirements.”

An order passed in Council authorizing the Treasurer of State to accept Federal funds under P. L. 874 on behalf of any unorganized unit for

which application may be made by the Commissioner of Education and to expend such Federal funds as may be granted under the provisions of P. L. 874 when so authorized by the Commissioner of Education for current expenditure purposes for the schooling of children in unorganized units would be sufficient to invoke the authority contained in Section 176 of Chapter 41 and Section 15 of Chapter 11.

JAMES GLYNN FROST
Deputy Attorney General

January 6, 1959

To: Asa A. Gordon, Coordinator of Maine School District Commission

Re: Subsidy Payments under Chapter 41 to School Administrative Districts

You have requested the opinion of this office concerning the method of computing subsidy payments to a school administrative district.

When a school administrative district is formed and in operation, it is an administrative unit as defined in Section 237-E of Chapter 41. For the first year the subsidy payment of the subordinate units are to be paid to the school administrative district (Section 237-E). After the first year, in this particular fact situation, the school administrative district is classified for the purposes of the foundation program in the same manner as a municipality pursuant to Sections 237-D and 237-E.

GEORGE A. WATHEN
Assistant Attorney General

January 9, 1959

To: H. H. Harris, Controller

Re: Unexpended Balances from Appropriations under Chapter 378, P. L. 1957

My opinion has been requested as to the effect of the last sentence in Section 3 of Chapter 378 of the Public Laws of 1957.

Section 14 of Chapter 15-A of the Revised Statutes of 1954, as enacted by Chapter 34 of the Public Laws of 1957, reads as follows:

“All appropriations by the legislature for the construction of buildings, structures, highways and bridges shall constitute continuous carrying accounts for the purposes designated by the legislature in such appropriations. The state controller is authorized to carry forward all such appropriations to the succeeding fiscal year, provided the construction shall have been begun by the letting of a contract or contracts or by actually starting the work during the year for which the appropriations were made. Any balance remaining after the completion of the object of the appropriations shall revert to the general fund in the state treasury or to the fund from which it was apportioned under existing provisions of law.”