

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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spector or other authorized officer charged with the enforcement of sections 22 to 45, inclusive, a work permit issued to such child by the superintendent of schools of the city or town in which the child resides, or by some person authorized by him in writing.

"The provisions of this section shall not apply to minors engaged in work performed in agriculture, household work or any occupation that does not offer continuous, year-round employment.

"The person authorized to issue a work permit shall not issue such permit until such child has furnished such issuing officer a certificate signed by the principal of the school last attended showing that the child can read and write correctly simple sentences in the English language and that he has satisfactorily completed the studies covered in the grades of the elementary public schools or their equivalent. . ."

The statute is clear and, with exceptions not here pertinent, provides that the permit shall not issue to a minor under 16, unless he has satisfactorily completed the studies covered in the grades of the elementary schools or their equivalent.

Inasmuch as these questions relate to students in a junior high school we note the following:

Elementary schools include those which offer courses preceding those given in high school (Section 236, Chapter 41). A junior high school may include up to two grades or years of high school (Chapter 41, Section 98). We are advised, however, that the Portland Junior High School does not include grades of a high school; so, for the purposes of this opinion, minors in a junior high school in Portland are in elementary grades.

2) Do permits issued under Section 26 have the effect of excusing a child from school attendance?

Answer. No. We see no provision of law which would lead to the conclusion that the issuance of such a certificate has the effect of excusing a child from school attendance.

The two forms of work permits submitted to us appear to be proper forms, except for statutory citations on form numbered 3, which citations have been changed since the form was printed.

JAMES GLYNN FROST
Deputy Attorney General

January 23, 1959

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

Re: Subsidy and Bonus Payments to School Administrative Districts

I have your request for an opinion of this office regarding the method to be used to compute payments under the foundation program and the 10% bonus to newly formed School Administrative Districts.

Section 111-A of Chapter 41 is the declaration of policy of the State to encourage the development of School Administrative Districts. Section 236 defines the term administrative unit, and Section 237-E supplements this definition as there is no doubt that a school administrative district is an administrative unit as used throughout Chapter 41.

Section 237-D states that:

“The foundation program allowance for each *administrative unit*, except community school districts which do not offer educational programs for both grades and high school pupils, shall be determined as follows:

“The average of the 2 preceding years’ average daily membership of the pupils attending school in the unit shall be multiplied by the applicable dollar allowance in Table I below. To this amount shall be added the average of the unit’s 2 preceding years’ expenditure for tuition, pupil transportation and board. The total of these items will be the total foundation program. From this total foundation program shall be subtracted the average of the 2 preceding years’ tuition collections and other school maintenance incidental receipts. The net cost thus obtained represents the net foundation program allowance on which state subsidy shall be computed biennially in accordance with section 237-E and Table II.” (emphasis supplied)

Section 237-E provides the mechanics for the determination of the percentage of state support of the foundation program.

Section 237-E provides:

“On the basis of information available in the office of the Commissioner of Education on September 1st for the 2 years next preceding the biennial convening of the Legislature, as provided in returns of educational statistics required by him, the commissioner shall apportion subsidies to the school administrative units of the State for each of the next 2 years according to the following plan:”

Section 237-E further provides that for each classification the subsidy allocation thereafter shall be the same for each of the two years following.

It is my opinion that after a School Administrative District has been organized that this unit must be recomputed to determine state support for the unit pursuant to Section 237-E which charges the Commissioner of Education with the apportionment of subsidies according to the mechanics or formula of that section. The language in the last paragraph of Section 237-E:

“When a School Administrative District has taken over the operation of the public schools within its jurisdiction, the subsidy payment that would normally be paid to the subordinate administrative units which operated the public schools within the confines of the School Administrative District prior to the formation of said district shall be paid directly to the School Administrative District.”

shows clearly that after organization of a School Administrative District only that unit is entitled to subsidy aid.

In order to remain consistent with the declaration of policy and further to carry out the duty imposed on the Commissioner, the treatment of a School Administrative District as a single unit is necessary. If one interprets the first paragraph of Section 237-E to mean that during the biennium that for the purposes of apportioning subsidies there can be no change in administrative units which existed at the time of the computation for

budget purposes, this would in effect freeze every unit as of that date. The effect of this "freezing" would mean that any change in the make-up of an administrative unit would not be reflected in its share of subsidy until a new computation was made. This would affect the withdrawal and addition of a municipality to a School Administrative District or Community School District as well as the formation of such a district.

It is my opinion, in keeping with the declaration of policy and the intent of the Legislature that the Commissioner must apportion subsidies to such units as have been created or changed during the biennium, and make such additional computations as required.

GEORGE A. WATHEN
Assistant Attorney General

January 26, 1959

To: Kermit Nickerson, Deputy Commissioner of Education

Re: School Administrative Districts — Agency of the State

I have your request for an opinion concerning whether or not School Administrative Districts are agencies of the state for the purpose of receipt of monies from federal grants under Public Laws 815 and 874.

In my opinion a School Administrative District would qualify for grant for the same reason that a municipality qualified.

Section 236 of Chapter 41 of the Revised Statutes of 1954 defines an administrative unit "including all municipal or quasi-municipal corporations responsible for operating public schools".

Section 111-F defines a School Administrative District as a body politic and corporate. A School Administrative District is a quasi-municipal corporation set up for the limited purpose of providing education for the children of two or more municipalities. Therefore, it is an agency of the state and eligible for the federal grant under the terms specified in your memo. (Also see *Kelley v. Brunswick*, 134 Me. 414).

GEORGE A. WATHEN
Assistant Attorney General

February 9, 1959

To: Honorable Clinton A. Clauson, Governor of Maine

Re: Beach Erosion Survey

We are returning herewith the letter of Mayor Deschambeault dated January 12, 1959, and the attached copy of an application of the City of Biddeford to the Federal Government for a Beach Erosion Survey on certain portions of shores of the City of Biddeford, which papers were submitted to you for your approval under the provisions of Chapter 90-A, Section 8, Revised Statutes of 1954.

For convenience in considering this problem, we set out in its entirety said Section 8: —