

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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"For the purpose of nominations, school directors shall be considered municipal officials and shall be nominated in accordance with Chapter 90-A or in accordance with a municipal charter, whichever is applicable."

The directors should be elected in the same manner as other municipal officials. Section 37, Chapter 90-A provides:

". . . the following provisions apply to the election of all town officials required by section 35 to be elected by ballot, . . ."

In subsection I of Section 37, it states:

". . . the town shall determine, by a separate article in the warrant, which other officials are to be elected according to this section, . . ."

School directors are elective officials, not appointive, therefore, it is not necessary to hold a meeting to designate them as officials to be elected by secret ballot, since they are covered by the provisions of Chapter 90-A.

GEORGE A. WATHEN
Assistant Attorney General

November 4, 1959

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Secondary Schools — Admission of Students

I have your request for an opinion regarding the admission of students to secondary schools.

Section 102, Chapter 41, provides that the superintending school committee

". . . shall make such examination of candidates for admission to said school as they consider necessary."

Section 44, Chapter 41, states:

"Subject to the provisions of this section and subject to such *reasonable* regulations as the superintending school committee. . . shall from time to time prescribe, every person between the ages of 5 and 21 shall have the right to attend the public schools in the administrative unit in which his parent or guardian has residence."
(Emphasis supplied)

Chapter 41 provides for compulsory education and also sets forth the duties of administrative units for support of free high schools.

The school committee has the authority to make reasonable regulations for admission to secondary schools and to examine those who wish to attend. It would seem to me that the examination and regulations would have to be set up based on the preparatory education offered by the administrative unit. If a child has satisfactorily passed the elementary courses, this is an indicia that he could profit from attendance in a secondary school. The school committee has authority to require further proof, but any tests should be commensurate with the program offered. I do not believe the tests should be a means of molding all students to one type of high school program. It is my understanding that the function of

education is to develop the capabilities of each child to the fullest for the benefit of society in general. I mention this to indicate what I believe is the basis of reasonable rules and tests to determine whether or not a child can profit from attendance at a school as set out in Section 102, Chapter 41.

GEORGE A. WATHEN
Assistant Attorney General

November 5, 1959

To: Perry D. Hayden, Commissioner of Mental Health & Corrections
Re: Sale of Surplus Products from State Institutions

I have your request for information concerning the authority of the Department of Mental Health and Corrections to dispose of surplus farm products produced at State Institutions.

It appears that the Bureau of Purchases has authority to dispose of this surplus property under Section 34, VI, Chapter 15A.

Section 36 provides that the purchasing agent with the approval of the Commissioner may adopt rules and regulations for certain purposes. Subsection VI states one of the purposes for which rules may be promulgated, to wit, providing for the transfer of surplus supplies, materials, and equipment from one department to another and the disposal by private or public sale of supplies, materials and equipment which are obsolete and unusable.

Section 39 provides that competitive bidding may be waived by the purchasing agent when the interest of the State would be best served thereby.

GEORGE A. WATHEN
Assistant Attorney General

November 5, 1959

To: Maine Employment Security Commission
Re: Amount Available for Construction of M.E.S.C. office building

We have your request for an opinion regarding two questions:

1. Should the expenditure of \$2,950 for architectural fees be charged against the funds provided under Chapter 150, Private & Special Laws of 1957?
2. How much money is available to the M.E.S.C. to complete the project?

Chapter 150, Private & Special Laws of 1957 provided that the Commission was authorized to requisition \$600,000 from the unemployment trust fund for the purpose of constructing an office building and other purposes incident thereto. Section 7 of Chapter 150 provided that the funds could only be used for expenses incurred after the date of enactment of the appropriation, and Section 8 provided that the moneys should be *expended* within a two-year period after the date of the enactment, which date was August 28, 1959.