

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

April 12, 1961

To: Frances J. Banks, R. N.  
Maine State Board of Nursing  
363 Main Street  
Lewiston, Maine

Dear Mrs. Banks:

I have your letter of April 11th presented to me by Miss Mary Sullivan, R.N., a member of your board.

The answer to your question — “Can a member of the board be appointed and serve as acting executive director of an interim period?” is “No.” Chapter 69-A, section 3, III-M specifically prohibits such action.

I see no reason, however, why a member of the board acting in her capacity as a member of the board cannot perform such functions as will enable the board to continue to operate effectively under the law until such time as the post of executive director is filled. In the performance of such duties she may receive compensation as set forth under section 3, V of Chapter 69-A.

Very truly yours,

FRANK E. HANCOCK

Attorney General

April 14, 1961

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Occupational Course Law

This is in answer to your request for an opinion dated March 31, 1961.

As I understand the factual situation described in your memorandum, Town A, which maintains a standard secondary school but offers no occupational courses, proposes to send its students to Town B for the purpose of taking occupational courses of study offered by Town B. In return Town A is to offer driver education courses to the students of Town B.

You have inquired whether or not Town A under the provisions of Section 107, Chapter 41, Revised Statutes of 1954, has the authority to make such an arrangement. Section 107 provides in part as follows:

“ . . . Any youth whose parent or guardian maintains a home for his family in an administrative unit that maintains, or contracts for school privileges in, an approved secondary school which offers less than 2 approved occupational courses of study, and who has met the qualifications for admission to the high school in his town, may elect to attend some other approved secondary school to which he may gain admission for the purpose of studying an occupational course not offered or contracted for by the administrative unit of his legal residence.”

Town A, therefore, has authority under the law to send its students to Town B for the purposes of studying the occupational courses. There is no authority in

the law, however, to allow Town B to send its students to Town A for driver training course since driver training is not an occupational course.

Under Section 107 Town A and B may agree to a tuition charge for the occupational courses offered by Town B to the students of Town A. There is no authority to substitute an offer of a non-occupational course for a tuition charge.

You have also inquired whether or not Town A by virtue of such an agreement would be considered under the provisions of Section 107 as contracting for school privileges.

I am of the opinion that Town A would not be considered as contracting for school privileges within the meaning of Section 107. The words "or contracts for school privileges" as used in Section 107 refer to contracts for an entire curricular rather than for a limited number of occupational courses.

RICHARD A. FOLEY

Assistant Attorney General

April 20, 1961

To: Roderic O'Connor, Manager of Maine Industrial Building Authority

Re: Definition of Industrial Project as including an Engineering and Office Building

This is in answer to your request for an opinion dated April 6, 1961, as to whether or not a combination engineering and office building which will be adjacent to a manufacturing operation qualifies for state mortgage insurance under the Industrial Building Authority Law.

Revised Statutes of Maine of 1954, Chapter 38-B, Section 5, paragraph III defines "Industrial Project" as follows:

"III. 'Industrial project' shall mean any building or other real estate improvement and, if a part thereof, the land upon which they may be located, and all real properties deemed necessary to their use by any industry for the manufacturing, processing or assembling of raw materials or manufacturing products."

It is my opinion that the Industrial Building Authority is justified in making a finding of fact under Section 9-A of the law that a combination engineering and office building which is adjacent to and an integral part of a manufacturing operation is eligible for mortgage insurance as an "industrial project" within the meaning of Section 5, paragraph III, supra.

RICHARD A. FOLEY

Assistant Attorney General

April 20, 1961

To: Roderic O'Connor, Manager of Maine Industrial Building Authority

Re: Eligibility of Hatchery Plant

This is in answer to your request for an opinion dated April 6, 1961, as to whether or not a "hatchery" which is an integral part and adjacent to a poultry