

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

We are left, therefore, with "hot water supply and hot water heating boilers located in schoolhouses." We must note that the statute says "located in schoolhouses" not "located in buildings used for school purposes." The next step is to define a "schoolhouse" as used in this statute.

This has been done by the legislature in Chapter 404, P.L. 1955, as follows:

"The term 'schoolhouse' as used in this chapter shall include, but shall not be limited to, any structure used by schools or colleges, public or private, for the purpose of housing classrooms, gymnasiums, auditoriums, or dormitories."

The key words in this definition are "any structure used by schools and colleges." In other words, the test or standard to be applied to a building is whether the building is "used by schools and colleges." Apparently the legislature felt that the test or standard to be used should be *who* used the building not necessarily *for what* it was used.

Applying this test or standard to the questions asked we come up with the following conclusions:

Question: Are hot water supply and hot water heating boilers located in buildings used in entirety as "day schools" for religious instruction *only* subject to inspection under Chapter 30?

Answer: A building used as a so-called "day school" exclusively for religious instruction is not a "schoolhouse" within the statutory definition. A building thus used is really a church building.

It follows from this that buildings used on a partial basis for classes in religious instruction *only* are not schoolhouses within the statutory definition.

It appears that the last sentence of our opinion of December 3, 1953, was not materially changed by section 1, Chapter 404, P.L. 1955 in defining "schoolhouses."

GEORGE C. WEST

Deputy Attorney General

November 27, 1961

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Subsidy Payable to Towns and Community School District in Former School Administrative District #2

This is in answer to your request for an opinion relating to the payment of state subsidy to the towns of Perham, Washburn and Wade as well as the community school district composed of the towns of Castle Hill, Chapman and Mapleton as successors to School Administrative District No. 2 which was officially dissolved on September 25, 1961.

Since School Administrative District No. 2 is no longer a legal entity, the remaining one-third payment of the subsidy payable in December of 1961 cannot be paid to the school administrative district. The question arises whether or not the remaining one-third payment of the subsidy may be paid to the towns and community school district formerly comprising School Administrative District No. 2.

Section 237-D, Chapter 41, R. S. 1954, provides in part as follows:

"The foundation program allowance for each administrative unit,

except community school districts, which do not offer education 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 this section.”

The above information is filed with the Commissioner of Education and on the basis of that information, state subsidy is paid. The above information is available from School Administrative District No. 2 for the two preceding years, but is not available from the towns and community school district comprising the school administrative district.

School Administrative District No. 2 earned the subsidy on the basis of the average daily membership of the pupils attending school in the district, as well as expenditures for tuition, pupil transportation and board. The expenditures by the school administrative district for tuition, pupil transportation and board were derived from the taxes from the various towns comprising the district. The tax burden to each town within the district is apportioned in accordance with state valuation, see section 111-L of Chapter 41.

It is our conclusion that the one-third subsidy payable to the district may be apportioned among the towns and community school district comprising the former school administrative district in proportion as their state valuation bears to the total state valuation of all the participating municipalities in the former district.

Since the district is no longer an entity, however, the 10 per cent bonus payable to a school administrative district under section 237-G of chapter 41 should not be included within the subsidy to be apportioned to the various towns comprising the former School Administrative District No. 2.

RICHARD A. FOLEY

Assistant Attorney General

November 27, 1961

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Subsidy on Capital Expenditures

This is in answer to your request for an opinion as to whether or not school district construction may be used as a basis for construction aid under Revised Statutes, Chapter 41, Section 237-H, where funds for the district school construction were obtained through a federal grant-in-aid.

United States Code, Title 20, Sections 236 through 240, provides for federal grant-in-aid to areas impacted with federal employees.