

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
ATTORNEY GENERAL

for the calender years

1961 - 1962

R. S. 1954, c. 41, § 237-H provides in part as follows:

“To provide further incentive for the establishment of larger school administrative districts, the commissioner shall allocate state financial assistance to School Administrative Districts on school construction approved subsequent to the formation of such districts, . . . ”

Section 237-H goes on to provide that if the district has contributed money to defray all or part of the cost of capital outlay construction, the commissioner shall determine the amount of subsidy payable to the district for this expenditure.

From the above section it is clear that the subsidy is paid on the construction and there is no requirement that the source of the funds would preclude state aid on such construction. Under the federal law the grant-in-aid to the school district becomes the property of the district for their use for educational purposes and our state subsidy law does not require that we look beyond the expenditure of the funds by the school district for the construction. It is our conclusion that state construction aid is payable even though the funds used for the construction may have been received through a federal grant-in-aid.

RICHARD A. FOLEY

Assistant Attorney General

November 27, 1961

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Union Superintendent of Schools, Apportionment of Salary

This is in answer to your request for an opinion interpreting the provisions of Section 79 of Chapter 41, Revised Statutes of 1954. Section 79 provides in part as follows:

“ . . . Said joint committee shall determine the relative amount of service to be performed by the superintendent in each town, including the minimum number of visits to be made each term to each school, fix his salary, apportion the amounts thereof to be paid by the several towns. . . . Said joint committee, at the time of its organization, or as soon thereafter as possible, and whenever a vacancy shall occur, shall, *subject to the conditions hereinafter provided*, choose by ballot a superintendent of schools for a term of not more than 5 years and the term for which a superintendent is elected shall, in all cases, end on the 30th day of June of the year in which the contract expires. . . . The election of a superintendent of schools, as herein provided, shall not be effective unless said election shall be approved by the superintending school committee of the town in the said union having a majority of the teachers in the towns comprising the union and paying not less than 1/2 of the salary aforesaid, exclusive of any sums paid by the state for the purpose. . . . ” (Emphasis supplied)

You inquire whether or not the proviso that the superintending school committee of the town having a majority of the teachers in the towns comprising the union relates to the election of the superintendent only or both the election of the superintendent as well as the services to be performed, number of visits to

each school fixing the salary and apportioning the amounts of the salaries to the several towns.

It is our opinion that the proviso relates only to the election of the superintendent and not to his other duties.

RICHARD A. FOLEY

Assistant Attorney General

November 28, 1961

To: Joseph J. Devitt, Chief, Bureau of Secondary Education

Re: School Principals, Responsibilities of

You have inquired whether or not a principal may permit a law enforcement officer to question a student who is a minor on the school premises relative to the commission of a crime.

Two situations are presented — first, where the student is a witness to the crime and second, where the student is accused of a crime.

There would be no violation of a statute by the principal to permit a law enforcement officer to question a student who may have witnessed a crime on the school premises nor is there any law forbidding a principal to permit law enforcement officers to question a student who is accused of a crime when the student is under the immediate charge of the principal.

Whether or not there would be any civil liability on the part of a principal for permitting the law enforcement officers to question a student accused of a crime, this office gives no opinion. The relationship of principal to his pupils is in the nature of in loco parentis. The teacher is the substitute for the parent, see *Brooks v. Jacobs*, 139 Me. 371. But this relationship appears to be for educational purposes only and if the law enforcement officers request an opportunity to question a student who is a minor when that student is accused of a crime, the safest course to follow would be to inform the parent immediately of the request, and request the law enforcement officials to defer questioning until the arrival of the parent.

RICHARD A. FOLEY

Assistant Attorney General

November 29, 1961

To: Ransford M. Smith, Chief Examination Division of Personnel

Re: Interpretation of Chapter 192, Public Laws of 1955

The following interpretation is given for the provisions of Chapter 63, § 17 II, of the Revised Statutes of 1954, and Chapter 192, Public Laws of 1955. For the purposes of clarity, the two provisions are broken down as follows:

*Chapter 63, § 17 II-A.* This provision allows all veterans who have a service connected disability of greater than 0% a ten-point veteran's preference. The Veterans' Administration has three types of preference certificates they issue. They are as follows:

1. A certificate stating that the Veterans' Administration is unable to