

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

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

furnish a preference certificate which implies that there is no degree of disability.

2. A certificate entitled "Present Existence of Disability for Preference Purposes." This certificate implies that for preference purposes the veteran has greater than 0% but less than 10% service connected disability. The veteran does not receive any compensation and the only practical purpose of this certificate is to enable the veteran to have the ten-point preference, whereas he is not entitled to compensation which he would receive with a 10% service connected disability.
3. A certificate entitled "Receipt of Compensation" or "Entitlement to Receive Compensation." The purpose of this certificate is to show that the veteran is receiving at least 10% compensation for a service connected disability or that he is entitled to receive the same compensation but for one reason or another has declined receipt of it. In either instance, the veteran still falls within the category of those receiving at least 10% compensation.

Chapter 192, Public Laws of 1955, entitled "An Act Permitting Reopening of Examinations for State Employment by Disabled Veterans." The provisions of this act permit a veteran to reopen an open competitive examination if he has a service connected disability to a compensable degree. The intent of the legislature in this matter is closely akin to that of the federal government and permits only those veterans who have at least a 10% service connected disability the privilege of reopening an open competitive examination.

The two provisions are clearly consistent in that the first provision gives *all* veterans with a disability rating of more than 0%, a ten-point preference; whereas the laws of 1955 extend a further privilege to only those veterans with a disability rating of 10% or greater.

Therefore, the words found in the Public Laws of 1955, Chapter 192, "*to a compensable degree*" clearly mean that the veteran must not only have a service connected disability, but must have at least a 10% disability rating to be considered a *compensable* disability.

WAYNE B. HOLLINGSWORTH

Assistant Attorney General

November 30, 1961

To: Governor John H. Reed
Re: Legislative Finance Officer

In your letter of November 30, 1961, you state:

"Upon the election of a Governor in the November General Election, and prior to the convening of the next Legislature, meetings or hearings are conducted by the incoming Governor, with representatives of the various departments in which the anticipated needs of the departments, for the forthcoming biennium, are projected. As a result of these meetings or hearings the Governor prepares his recommendations to be made to the incoming Legislature."

You now ask:

"In your opinion, will sub-section XV-B of the proposed Act au-