

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

for the calender years

1961 - 1962

Answer: If the school administrative district constructed the schools, then the district only should be reimbursed under section 235 for the cost of the school plans. Because of limitations of funds available under section 235, the Commissioner has ruled that no more than \$2,000 will be allocated to an administrative unit for school plans for any one year. Even though the school plans may involve several separate buildings in the administrative unit, the commissioner can properly limit the allocation to the administrative unit of the grant under section 235 based upon the aggregate cost of the school plans rather than considering the plan for each building as a separate plan requiring the allocation of a grant under section 235 for each such plan.

RICHARD A. FOLEY

Assistant Attorney General

September 19, 1962

To: Warren G. Hill, Commissioner of Education

Re: Educational Television Programs

You have inquired whether the Department of Education has the authority under Chapter 121 of the Resolves of 1961 to contract with and pay to T. V. Station WCBB for the transmission of educational television programs under the Department's sponsorship. The resolve provides funds ". . . to produce or contract for educational television programs . . ."; this language clearly authorizes the proposed contract with WCBB.

RICHARD A. FOLEY

Assistant Attorney General

September 21, 1962

To: E. L. Walter, Assistant Executive Secretary, Maine State Retirement System

Re: Payment of Deceased Member's Retirement Account and Group Life Insurance

A member of the retirement system designated his wife as beneficiary for his retirement account. Subsequent to this act a divorce took place. Apparently there were no children. The member died without changing the designated beneficiary.

Question: Who is eligible to receive any retirement benefits available from his retirement account?

Answer: The designated beneficiary.

Chapter 63-A, section 9, provides in part:

"I. Should a member die any time before attaining eligibility for retirement, one of the following payments shall be made.

A. The amount of his contribution to the members' contribution fund together with not less than 3/4 of the accumulated regular interest, as the board of trustees shall allow, shall be paid to *such person*, if any, as he has nominated by written designation duly acknowledged and filed with the board prior to his death." (Emphasis supplied)

There is no requirement that the *person* nominated by written designation have any specified relationship to the member. Therefore, the divorced wife, being the *person* nominated by written designation of the member is entitled to a refund of the deceased's contributions.

Question: The member also had group life insurance but did not designate a beneficiary. Who may properly claim the group life insurance?

Answer:

Chapter 63, section 24, III, designates the persons eligible to receive the deceased's group life insurance.

1. Designated beneficiary. — There is none.
2. If no designated beneficiary, the widow. — There is none as the couple were divorced prior to the member's death. The divorced wife is not his widow.
3. If none of the above, children. — There are none.
4. If none of the above, the parents. — Parents are deceased.
5. If none of the above, executor or administrator of deceased's estates.
6. If none of the above, next of kin entitled under the laws of domicile of the deceased at time of his death.

The only possible eligibles are #5 and #6. If no executor or administrator is appointed, payment would go to persons qualifying under #6.

An estate may be administered any time within 6 years after death, if there is no will. If the deceased left a will, it may be probated any time within 20 years of the death.

An executor or administrator duly appointed within these time limits would be entitled to payment of the group life insurance. Payment to next of kin, under #6, would not relieve the trustees of responsibility of payment to an executor or administrator.

Therefore, it would be inadvisable for the trustees to pay out any money under the sixth provision of section 24, III, within these time limits.

GEORGE C. WEST

Deputy Attorney General

September 25, 1962

To: Ross Parsons, Deputy State Auditor

Re: Clerk of Courts Naturalization Fees

You have verbally requested an opinion as to whether or not a Clerk of Courts may retain naturalization fees or if they must be turned over to the county treasurer.

The Clerk of Courts does not turn over to the County Treasurer any portion of naturalization fees. Revised Statutes 1954, chapter 89, section 98, reads in part:

"The clerks of the judicial courts in the several counties shall receive annual salaries as set forth in section 254.

"The salaries of the clerks of the judicial courts shall be in full compensation for the performance of all duties required of clerks including those performed by them as clerks of the supreme judicial court, the superior court and the county commissioners, or by clerks pro