

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

trustees of an academy for the schooling of all or part of its pupils. Each superintending school committee may direct a general course of study being always mindful of legislative requirements. But this is not to say that all schools must have exactly the same course of study.

" . . . Equal and uniform privileges and rights should control over all the state, but this does not mean that each and every school shall have exactly the same course of study. . . . "

47 Am. Jur., Schools, § 10.

Courts are not prone to interfere with the exercise of discretion by school officials in matters confided by law to their judgment unless there is a clear abuse of discretion or a violation of law.

" . . . and they will not consider whether the regulations are wise or expedient, but merely whether they are a reasonable exercise of the power and discretion of the board. . . . "

In conclusion, we find no repugnancy between the school's regulation and the above cited statute relative to Carnegie units in high school graduation requirements.

JOHN W. BENOIT

Assistant Attorney General

July 30, 1963

To: Asa A. Gordon, Director, School Administrative Services

Re: Post-Graduate Student Tuition Fee

Your memorandum of July 19, 1963 is hereby acknowledged.

Facts:

A person under twenty-one years of age who was graduated from a public secondary school in this State desires to serve a post-graduate course in such school. Maine law provides that every person between the ages of five and twenty-one shall have the right to attend the public schools.

First Question Posed:

1. Is it legal and proper for an administrative unit to charge a fee for students attending a post-graduate course if the students are under twenty-one years of age?

We respectfully prefer to restate the first question thusly: Whether free tuition privileges in the public school system extend to post-graduate courses?

Answer — To Restated Question

Free tuition privileges in the public school system do not extend to post-graduate courses.

Reason:

We advance the following statutory excerpts as evidence of legislative intention that free tuition privileges in the public school system extend through grade twelve only.

" . . . that any youth who has satisfactorily completed the course of study of an approved secondary school in which the program of studies terminated before the 12th grade, as provided by section 98, shall be entitled to his free tuition, for the completion of grades 9 to 12 in an approved secondary school without the exami-

nation prescribed. . . . Any youth who otherwise meets the requirements of this section for admission to grade 9 shall be entitled to the payment of his tuition in any approved secondary school offering part or all of the program of grades 9 through 12. . . . " *R.S. 1954, c. 41, § 107.*

" . . . No school shall be given basic approval for attendance, tuition or subsidy purpose within the provisions of this chapter unless it meets the following requirements:

"
"VII. Consecutive grades. It is organized to include not less than 2 consecutive grades from 7 to 12. . . .

"VIII. The requirements for graduation include 16 Carnegie units earned in grades 9 through 12. . . . " *R.S. 1954, c. 41, § 98.*

And it is the Legislature that has the duty of requiring the various administrative units to provide "for the support and maintenance of public schools." Constitution of Maine, Article VIII.

Section 102 of c. 41, R. S. 1954, makes mention of a "course of study in the free high schools." A "graduate" is one who has received an academic certification signifying the completion of a prescribed course of study in a school. *Webster's New Collegiate Dictionary*, 1961. *Words and Phrases*, "Graduate." The person graduated from the public school system of the State has, by reason of such graduation, availed himself of the right provided by law. Our statutes have not yet created any right of tuition-free attendance to the public schools for the person graduated from such schools. And Chapter 41 of our Revised Statutes does not provide for graduate schools in our public school system.

Second Question Posed:

2. May a town refuse to pay tuition for a student to attend a post-graduate course in another town when the sending town operates no secondary school?

Because of the answer and reason given under the first question above, the second question is rendered moot.

JOHN W. BENOIT

Assistant Attorney General

August 2, 1963

To: Hayden L. V. Anderson, Executive Director,

Division of Professional Services

Re: Revocation of Teachers Certificates; Sufficient Cause; Documentation.

Your memorandum of July 24, 1963, is hereby acknowledged.

Facts:

A superintendent of schools has written a letter to your office containing a resume of facts which, if true, reveal misconduct on the part of a male school teacher towards high school girls. The letter indicates that the superintendent of schools, after hearing a rumor relative to this matter from a member of the superintending school committee, made an investigation