

MAINE STATE LEGISLATURE

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no

September 19, 1963

Philip A. Annas, Exec. Dir.

Education

John W. Benoit, Assistant

Attorney General

Legal Services to State Employees.

Your memorandum of September 4, 1963, is hereby acknowledged.

FACTS:

Your hypothetical fact situation supposes that a student, who has suffered physical injury by reason of the occurrence of an accident in a shop (or laboratory) class at Northeastern Maine Vocational Institute, has brought suit against the instructor of the class to recover damages.

QUESTION:

Whether this office would defend the instructor (a state employee) is such a case?

ANSWER:

Generally, no; but the actual facts are controlling.

REASON:

As a general rule this office has not defended tort actions such as you hypothetically present. Of course, the actual facts are, and have been, controlling in this area. Thus, we must reply that in each instance the facts will determine whether representation by this office can be acquired by state employees.

John W. Benoit
Assistant Attorney General

JWB/slf