

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

Section 215, second paragraph, authorizes the Board to make rules and regulations "prescribing the requirements for the . . . operation, maintenance . . . of any school of hairdressing and beauty culture." Hence, the Board may, by rule or regulation, provide for not giving credit hours to those students failing to make application. It might be noted that if the Board is satisfied that the failure to apply is the fault of the operator of the school, that students should not be penalized.

Question No. 3:

Is the operator or manager in violation of this section if he allows students to continue training without such certificates?

Answer:

Yes, as qualified.

Reasons:

The above answer carries the same qualification as the answer to No. 2.

The statute implies that the school will submit an enrollment record of new students on the first day of each month. The duty being placed on the school, the operator would be at fault if he fails to submit such a record. Failure to submit an enrollment record by the operator of the school would then be a violation of this section.

GEORGE C. WEST

Deputy Attorney General

October 9, 1963

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: State Subsidy on School Construction Located Upon Leased Land

Your memorandum of September 4, 1963, is acknowledged.

Facts

The officials of a school administrative district are contemplating the construction of a school building upon leased land. The lease is one for a ninety-nine year period commencing on September 2, 1949.

Question:

Whether the State should pay subsidy to the school district for capital outlay it expended in the construction of a school building upon leased land?

Answer:

Yes.

Reason:

State aid for school construction is paid pursuant to R. S., c. 41, § 237-H. The section defines a capital outlay expenditure as the cost of new construction, expansion, acquisition, or major alteration of a public school building; the cost of all land or interest in land of any nature or description for such construction. (We need not set out the other expenditures presented in the section.)

Your question, put another way, asks whether the State can look behind the cost of new construction of a public school building and withhold subsidy because of the fact that the building is determined to be located upon leased land. Section 237-H does not admit of such an examination.

We have informed your department (November 27, 1961) upon a related matter, that the law does not require the State to inquire into the source of the funds which the administrative unit expends for capital outlay purposes. In that opinion we stated, inter alia:

.....

“ . . . our state subsidy law does not require that we look beyond the expenditure of the funds by the school district for the construction. . . . ”

Further, the subsidy for school construction is paid on a principle of reimbursement to the administrative unit for capital outlay expenditures. Your Department, in such an instance, determines from filed reports whether the expenditure of the administrative unit was or was not for a capital outlay purpose. If the purpose of the expenditure was to pay a capital outlay expense then the project is entitled to reimbursement.

JOHN W. BENOIT

Assistant Attorney General

October 18, 1963

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

Re: Clarification of “municipal officials” in Section 111-J-1, Chapter 41, R. S.

Your memorandum of October 17, 1963 is acknowledged.

Facts:

R. S., c. 41, § 111-J-1 is as follows, in part:

.....

“Each municipality in a School Administrative District shall be represented at the meeting to determine the necessity for reapportionment by its municipal officers, district director or directors and 2 representatives from each municipality chosen at large by its municipal officials. . . . ”

Question:

What does the term “municipal officials” mean when used in this section?

Answer:

The mayor and aldermen of cities; the selectmen of towns; and the assessors of plantations.

Reason:

An applicable provision of our statutes is as follows:

“*Sec. 22 Rules of construction.* The following rules shall be observed in the construction of statutes, unless such construction is inconsistent with the plain meaning of the enactment.

.....

“XXVI. The term ‘municipal officers’ means the mayor and aldermen of cities, the selectmen of towns and the assessors of plantations.”

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