

MAINE STATE LEGISLATURE

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STATE OF MAINE

INTER-DEPARTMENTAL MEMORANDUM

Date July 24, 1964

To: Harold S. Nickerson, Commissioner Dept. Education
From: Courtland P. Barry, Asst. Atty. General, Dept. Attorney General
Subject: Entitlement of Schools Within the Department of Mental Health and Corrections to Assistance Under Title III of the NDEA.

FACTS:

The Department of Education is trying to establish eligibility for schools under the jurisdiction of other State agencies under Title III, NDEA of 1958, P.L. 864 (85th Congress), which provides Federal financial assistance in mathematics, science, and modern foreign language instruction.

In the preparation of a possible revision of the Maine State Plan to include such schools, it is necessary to know whether the following schools are included in the public elementary and secondary school systems of the State:

1. Governor Baxter State School for the Deaf
2. School at Pineland Hospital and Training Center
3. Boys Training Center
4. Stevens Training Center
5. School at Maine State Prison

An opinion was issued by this office under date of April 9, 1964. The view was expressed that the schools in question are not part of the public elementary or secondary school system of the State and are, therefore, not properly included in the "State Plan" for the purposes of Title III of the National Defense Education Act.

Title 20 U.S.C. Chapter 17, §403, Part k was amended by P.L. 88-210, 88th Congress, December 18, 1963, which amendment was overlooked in the preparation of the above opinion, said amended part reads as follows:

"The term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public institution or agency having administrative control and direction of a public elementary or secondary school."

(Amendment
Underlined)

Kenneth S. Nickerson, Commissioner

July 24, 1964

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QUESTION:

Does the amendment above cited render the listed schools eligible for inclusion within the "State Plan" under Title III of the NDEA?

ANSWER:

Yes, Governor Baxter State School for the Deaf and the School at Pineland Hospital and Training Center.

No, Schools at Boys Training Center, Stevens Training Center and Maine State Prison.

OPINION:

Although, they are not a part of the public elementary or secondary school system of the State it is our opinion that the amendment to Part k of §403, *sapra*, renders the Governor Baxter State School for the Deaf and the School at the Pineland Hospital and Training Center eligible for inclusion in the "State Plan" for the purposes of Title III of the NDEA. A school, within this State, in order to be considered public is open to all persons subject to age and residency limitations. Admission to Governor Baxter State School for the Deaf is subject to the additional limitation that the student be unable to benefit from the normal public school program because of hearing deficiency. Inasmuch, as the Governor Baxter School is open to all persons satisfying the above conditions, it is our opinion that for the purposes of Title III of the NDEA it is a public elementary and secondary school.

Admission to the school at the Pineland Hospital and Training Center is subject to the student's degree of retardation and the availability of accommodations; however, it is open to all persons, subject to these conditions; thus, the school at Pineland is, in our opinion, a public elementary school for the purposes of Title III of the NDEA.

The schools at the Boys Training Center, Stevens Training Center and the Maine State Prison, although, within public institutions have no criteria for admission and are open to no segment of the public. The schools at the Training Centers are a part of the rehabilitation program provided for juvenile offenders committed thereto, and the school at the Maine State Prison is a part of the prison program provided for convicts sentenced thereto, none of which, in our opinion, is a public elementary or secondary school for the purposes of Title III of the NDEA and all are, therefore, ineligible for inclusion in the "State Plan."

Courtland D. Perry
Assistant Attorney General

CDP/t