

MAINE STATE LEGISLATURE

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July 28, 1964

Kernit S. Nickerson, Deputy Commissioner

Education

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Attorney General

Approval of Plans for Athletic Facilities

FACTS:

The City of South Portland has submitted plans to the Department of Education for approval. The plans contain specifications for grading, drainage and miscellaneous site work concerning outdoor playing areas for tennis, football, baseball, basketball, softball, field hockey and track.

The applicable provision of law cited in your memorandum is as follows:

²⁵
*Sec. 25. Heating, lighting and ventilating; readiness for occupancy and specifications; inspection and alterations; liability of administrative unit. Where the plans and specifications prepared by the Commissioner are not used, all superintending school committees, school building committees, school directors or school district trustees where new schoolhouses are to be erected shall make suitable provision for the heating, lighting, ventilating and hygienic conditions of such buildings, and all plans and specifications for any such proposed school building and plans for the reconstruction or remodeling of any school building, the expense for which shall exceed \$500., shall be submitted to and approved by the Commissioner and the Bureau of Health before the same shall be accepted by the superintending school committee, school building committee, school directors or school district trustees of the administrative unit in which it is proposed to erect, reconstruct or remodel such building." R. S., c. 41.

July 28, 1964

QUESTION:

Whether R. S., c. 41, § 26 requires the Commissioner to approve plans for site work concerning the construction of an athletic field?

ANSWER:

No.

REASON:

According to the statutory law applicable to Education, the Commissioner of Education must possess plans and specifications of certain school buildings. The Commissioner is, according to the provisions of the same law, required to lend those plans to local school committees for their use in erecting new school buildings. R. S., c. 41, § 25. When the plans of the Commissioner are not utilized by the school committees, then the latter must perform the duties prescribed in R. S., c. 41, § 26. Those duties include the making of "suitable provision for the heating, lighting, ventilating and hygienic conditions of such buildings"; and the submitting of "all plans and specifications for any such proposed school building" to the Commissioner for his approval.

The tenor of the reference statutes make no demand upon the Commissioner that he approve plans for athletic fields.

See: State v. Crouse, 117 Me. 363, where our Supreme Judicial Court defined a building as a structure or edifice erected by man, composed of stone, wood, brick, marble or other proper substance and intended for use or convenience.

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JWB/slf