

# MAINE STATE LEGISLATURE

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August 26, 1964

Dean Fisher, Commissioner, Department of Health and Welfare  
Att: C. Owen Pollard, Director, Division of Eye Care and Special Services

Frank W. Davis, Assistant Attorney General

Legal Interpretation of Certain Aspects of the Education Services to Visually Handicapped and Blind Children.

FACTS:

A. The State of Maine, Department of Health and Welfare, Division of Eye Care and Special Services, has, under Chapter 25, Section 319, always paid all costs of blind children being sent by the Department of Health and Welfare to special schools for the blind out-of-state, such as Perkins Institution and Massachusetts School for the Blind, Watertown, Massachusetts. The Division of Eye Care and Special Services now asks if it has a right to bill Administrative Units (meaning municipalities, school districts, etc.) for costs of same under Chapter 41, Section 207-F. *rejection*

B. The said department and division wish to know which of the following statutes, namely: Chapter 25, Section 319 (Health and Welfare) or Chapter 41, Section 207-D (Education) govern the sending of blind children to the above out-of-state schools for the blind, and as to whether the Commissioner of Health and Welfare or the Commissioner of Education has the final approval.

QUESTION:

A. Can the Department of Health and Welfare collect from Administrative Units the same per capita expenditure for the education of a blind child, as is provided for the education of a normal child, when the Department of Health and Welfare deems it necessary to educate a blind child outside of the Administrative Unit in which he resides?

B. Which Commissioner has the right to approve attendance of a blind child to an out-of-state school for the blind?

ANSWER:

A. No.

B. Each Commissioner (Health and Welfare and/or Education) has the right under his own statute and one does not control the other.

OPINION:

A. Chapter 25, Section 319 states: . . . "and the sums necessary for the support and instruction of such pupils in such institution, including all travel-

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ing expenses of such pupils attending such institution, shall be paid by the state.". . .

Therefore, the Department of Health and Welfare cannot collect said costs from an Administrative Unit.

B. Chapter 25, Section 319 shows that any parent or guardian may request the Department of Health and Welfare to send a blind child of theirs, deemed a fit subject for education, for a term not exceeding ten years, and thereafter at the discretion of the Commissioner of Health and Welfare, to an out-of-state school for the blind. This is not subject to approval by the Commissioner of Education.

Chapter 41, Section 207-D shows that the Commissioner of Education may approve attendance of handicapped or exceptional children at special schools, including special out-of-state schools for blind children, and this would include all other children who do not make special request, as shown above, through the Commissioner of Health and Welfare. Decisions of the Commissioner of Education in cases like this do not need the approval of the Commissioner of Health and Welfare.

