

# MAINE STATE LEGISLATURE

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August 28, 1964

William T. Logan, Jr., Commissioner, Department of Education

Frank W. Davis, Assistant Attorney General

Eligibility of Schools Operated by the Department of Health and Welfare Under Title III, National Defense Education Act of 1958.

**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. Indian Island School
2. Passamaquoddy Indian Reservations
  - a. Pleasant Point School
  - b. Peter Dana Point School

Title 20 U. S. C. Chapter 17, §. 403 Part (i) was amended by P. L. 88-210, 88th Congress, December 18, 1963 and reads as follows:

"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."

(Underscoring indicates new language added by amendment.)

**QUESTION:**

Do the schools listed above meet the eligibility requirements for participation in the National Defense Education Act, Title III, Sections 301-304, P. L. 864?

**ANSWER:**

Yes.

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OPINION:

Although they are not a part of the public elementary or secondary school systems of the State, it is my opinion that the amendment supra renders each of the above schools eligible for inclusion in the "State Plan" for the purposes of Title III of the NDEA.

The definition of a public school, within this State, is one that is open to all persons, subject to age and residency limitations. Therefore, since the Indian Island School (Penobscot Tribe), Old Town, Maine, the Pleasant Point School (Passamaquoddy Tribe), Perry, Maine, and Pater Dana Point School (Passamaquoddy Tribe), Princeton, Maine, satisfy the above conditions, namely, open to all persons of proper school age and subject to residency limitations that they be residents of the specified reservations, it is my opinion that for the purposes of Title III of the NDEA they each are public elementary and secondary schools.

It also might be noted, that whenever it shall be shown that any of the children (of the three schools named above) shall have completed the course of study for elementary schools as prescribed, or shall have passed the examination prepared by the Commissioner of Education for entrance into high school, such children shall be granted entrance into any high school in this State to which said children may apply under the same conditions as pupils residing in towns that do not maintain a free high school, as provided in Chapter 41, Section 107.

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Frank W. Davis  
Assistant Attorney General

FWD:imd