

MAINE STATE LEGISLATURE

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No ✓

February 19, 1965

Carl T. Russell
George C. West, Deputy

Maine State Apprenticeship
Council
Attorney General

Apprenticeship Council

Because you need answers soon and I have been unable to take care of this matter before this time, I shall have to make my answer brief.

QUESTION NO. 1.

Whether the Council could designate the Commissioner of Labor and Industry as a "hearing officer" and if so, should there not be a section in the plan spelling out what duties the hearing officer should perform? cf. section II-B.

ANSWER:

This question can be answered by stating that although the proposed regulations set up the Commissioner of Labor as a "hearing officer" there are no provisions for any type of hearing before the "hearing officer."

Having no knowledge as to what the "hearing officer" is to "hear" we cannot answer your question. We find no provision in the statute for any hearings and we cannot foresee what the Council may have in mind.

QUESTION NO. 2.

Whether the Council can require in the collective bargaining agreement covering the apprenticeship program, an agreement that is broader than the law, namely, that occupational irrelevant physical requirements would be included in the nondiscrimination part of the contract? cf. section IV-A and B.

ANSWER:

Please see the opinion of January 12, 1965. It is not possible to adopt or require an agreement that is broader than the law. The answer then is "No."

QUESTION NO. 3.

Can it require program field reviews when it has no field staff of its own? cf. section VIII.

ANSWER:

The answer depends on the definition of "program field reviews." If by this phrase is meant a review by field staff at the employer's place of business, it would appear useless to provide for such a program with no staff. However, it is not illegal to do so. It is solely a question of administrative judgment.

QUESTION NO. 4.

Can the Council request assistance of any private organization in its efforts to achieve equal opportunity and if the answer is "Yes", does it have the authority to give full facts and all information concerning a program that is not in conformity with the plan? cf. section IX-A.

ANSWER:

I do not understand the question. If section IX refers to joint apprenticeship committees as set up by T. 26, § 1006, the answer would be "Yes." If you expect such a group to assist the Council, it will have to have full information. Otherwise it cannot help.

QUESTION NO. 5.

Also, does section XIII have implications that the delegation of authority has been made to the Bureau of Apprenticeship and Training, U. S. Department of Labor and that a saving clause is necessary in order to preserve authority to have our own representatives to promote apprenticeship at some later date?

ANSWER:

Section XIII of the proposed regulations is worded as a mere statement of a fact. It does not require anyone to do anything. It is not actually a regulation. To be a proper regulation a statement must, like a law, set forth something that someone must do. This section does not. It is merely an informative statement of fact.

QUESTION NO. 6.

Finally, if the plan, or parts of it, are consistent with Maine law and meet with your approval, would it be necessary before the plan is put into effect to redraft it in the form of rules and such rules be submitted to public hearing before acceptance?

ANSWER:

The proposed rules or regulations seem to be in proper form. T. 26, § 1002, 6, authorizes the Council to issue rules and regulations. It does not provide a method. It might be well to have a public hearing, though we cannot say it is necessary.

George C. West
Deputy Attorney General

GCW:H