

MAINE STATE LEGISLATURE

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Authority for State Board of Education to Contract with Non-Public Educational Agencies for Vocational Education.

FACTS:

In 1963, the 88th Congress of the United States enacted P. L. 88-216: The Vocational Educational Act of 1963. This Act provides, inter alia, for Federal grants to states to assist them to maintain, extend, and improve existing programs of vocational education and to develop new programs of vocational education.

P. L. 88-216, Part A, § 1, Section 5, Part A, of the Act defines the term 'vocational education' (in part) as follows:

"Sec. 5. For the purposes of this part--

"(1) The term 'vocational education' means vocational or technical training or retraining which is given in schools or classes (including field or laboratory work incidental thereto) under public supervision and control or under contract with a State board or local educational agency. * * *

The same section of the Act defines the term 'local educational agency' as follows:

"(8) 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 educational institution or agency having administrative control and direction of a vocational education program."

A circular letter dated May 18, 1965, forwarded to the State Board of Education by the Office of Education, U. S. Department of Health, Education and Welfare, proposed to clarify certain instructions given to the states to assist them in the development of state plans required by Section 5, Part A, of the Act. This reference letter stated, among other things, that state statutory

authorization, permitting "vocational instruction under contract", was not the sole basis upon which a state plan embodying vocational instruction could be predicated. The circular continued with a statement to the effect that if state law did not provide for this item of "vocational instruction under contract", a state plan might still be drafted encompassing it, provided that the same was authorized by an opinion of the State Attorney General, or by showing the existence of a practice of long standing involving "vocational instruction under contract." The circular letter also stated that the Vocational Education Act of 1963 should be given "the broadest possible interpretation."

QUESTION:

Whether the state plan prepared pursuant to the Act may contain a provision encompassing vocational instruction by contract between a non-public educational institution and a local educational agency.

ANSWER:

Yes.

REASON:

The Act defines the term 'vocational education' as vocational or technical training or retraining given in schools or classes which either are under (1) public supervision and control, or (2) are under a contract with the state board of education, or (3) possess a contract with a local educational agency. Because the reference institutions (non-public educational academies) are not under public supervision and control in this State, the first designation contained in the definition of the term 'vocational education' is not applicable. Also, the second designation stated in the definition of the term 'vocational education' does not apply because the public school laws of this State do not authorize the State Board of Education to contract with non-public educational institutions. It remains to be determined, then whether vocational technical training or retraining which is given in a class conducted in a non-public educational institution in this State satisfies the definition of the term 'vocational education' when such institution has contracted with a local educational agency. If, in the opinion of the Attorney General of this State, such a contract may exist, then the state plan may be drawn so as to include this facet of the designation contained in the definition of the term 'vocational education' set forth in Section 3, Part A, of the Act.

For the purposes of this opinion, we view the term 'local educational agency' to be synonymous with the term 'superintending school committee' of an administrative unit. 20 M.R.S.A. § 471 - 473.

The Maine laws relating to public schools provide, inter alia, for contracts between administrative units and trustees of any academy for the schooling of all or part of the pupils in the contracting administrative unit. 19 M.R.S.A. § 1209. In the event that the administrative unit does not support and maintain an approved secondary school and said administrative unit does not have a contract as is provided for in 19 M.R.S.A. § 1209, the pupils of said administrative unit may attend any approved secondary school to which he may gain entrance. 19 M.R.S.A. § 1201. Because the Maine Statutes relating to public schools permit youths in administrative units to attend non-public educational institutions (in certain circumstances) either by contractual arrangement between the institution and the administrative unit, or by the existence of those circumstances provided for in 19 M.R.S.A. § 1201, we conclude that the state plan to be drawn pursuant to Part 2, Section 5, of the Act may contain provisions encompassing 'vocational instruction under contract' between a non-public educational institution and a local educational agency, provided that such contract specifically embraces vocational or technical training or retraining given in such institution.

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JWB/eh