

MAINE STATE LEGISLATURE

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Kindergarten Program in S.A.D. #6; Payment of 10% Bonus.

FACTS:

School Administrative District #6 has been organized since January 1, 1959. This district has not at any time operated a program for 5-year old children, i.e., kindergarten or pre-primary. 20 M.R.S.A. § 3456. The district has failed to qualify for the 10% bonus specified in the reference provision of the statute because of the fact that the district has not operated a program for 5-year old children. This district is presently contemplating the establishment of the subject program sometime during 1966, and has inquired of the Department of Education whether the payment of the subject 10% bonus would be forthcoming in 1966 under arrangements as set forth in the questions below.

QUESTIONS:

1. If the district establishes a pre-primary or kindergarten program in 1966 at the beginning of the school year for its 5-year old children, will the district qualify for the full 10% bonus specified in 20 M.R.S.A. § 3456 when subsidy is paid in the fall of 1966?
2. Must a district offer a program for all of its 5-year old children in order to qualify for the 10% bonus under § 3456?

ANSWERS:

We answer both questions in the affirmative.

REASON:

The material statutory provision having reference to the applicability of the subject 10% bonus is 20 M.R.S.A. § 3456:

"§ 3456. Supplemental aid for reorganized districts.

"When administrative units are reorganized by the formation of 'School Administrative Districts' as provided in chapter 9, the state subsidy paid annually to each such district, as determined in section 3723, shall be supplemented by an additional 10% of that amount.

"In the event that the School Administrative District, within 4 years of the time of its formation, fails to provide the following, the additional bonus payable under this section shall not be paid the district thereafter until such time as such provisions are made:

1. Program. A program which includes pre-primary or kindergarten through grade 12.

2. Secondary facility. Whenever a district enrolls more than 700 pupils in grades 9 through 12, said district may operate more than one 4-year school. Said facilities may be constituted as schools, or combined with grades 7 and 8 to form a 6-year school or 2 or more 3-year schools, except for children living remote from a public school as provided in section 912."

The above-quoted section denominates that a newly-formed administrative district's subsidy shall be augmented by an additional sum of 10% (of the total amount of the district's subsidy). The section further provides for the divestiture of the "bonus" in the event that the district fails, within 4 years of the date of its organization, to provide "a program which includes pre-primary or kindergarten through grade 12". The district has informed the Department of Education that kindergarten or pre-primary instruction is being planned for the coming school year. An examination of the terms of the applicable statute admits of an interpretation that if the district establishes a kindergarten program for its 5-year old children at the beginning of the school year (1966), it will qualify for the 10% supplemental subsidy payment in 1966.

The final question for decision is whether the kindergarten or pre-primary program must be available to all the 5-year old children in the district before the district can be said to be entitled to the "bonus". Suppose, for example, that a building in one of the district towns is adequate for the purpose of housing only the 5-year old children in that town, and that, therefore, the program is not available to the district's school children residing in the other towns of the district. Under such facts, does the district qualify for the subject bonus? The kindergarten or pre-primary program must be made available on no less terms than are demanded of any other class

in the program. A reading of section 3456 will not admit of a construction that the kindergarten or pre-primary portion of the program may be said to be in existence although available only to a portion of the children in the district. Can it be successfully argued, for example, that a school program is complete although its 6th grade is available to but half of the eligible 6th grade students in the school system? In enacting the statutory provisions relating to school administrative districts, the legislature sought to establish an educational system which would provide a more "equalized educational opportunity for its pupils."

§ 211. Declaration of Policy.

"It is declared to be the policy of the State to encourage the development of school administrative units of sufficient size to provide a more equalized educational opportunity to pupils, to establish satisfactory school program * * * ."

20 M.A.S.A. § 211.

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