

# MAINE STATE LEGISLATURE

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yes  
January 4, 1966

Nickerson, Deputy  
Commissioner

Education

John W. Benoit, Assistant

Attorney General

Tuition Privileges; Study of Mathematics, Science or a Foreign Language.

FACTS:

Case #1

Three secondary school students having residences in the Town of Winslow are attending Coburn Classical Institute for the purpose of studying Latin II. These same students were in attendance at the Institute during the preceding school year, i.e., 1964-65. The Town of Winslow maintains a secondary school; but the curriculum does not offer a course in Latin II. (The material presented with your memorandum is in conflict on this point. A student schedule form carries the designation "Latin 2" under the heading "Foreign Languages". However, a letter addressed to you on December 26, 1965 by Mr. Armand J. Albert of Winslow stated that Latin was not offered at Winslow High School for the present school year. Mr. Albert attached a copy of the schedule of courses offered at Winslow High School for the 1965-66 school year which supports his statement.) Your memorandum further stated that the subject students did not register at Winslow High School or make any inquiries there regarding the possibility of taking Latin II.

Case #2

A pupil who resides in Sidney has been attending Coburn Classical Institute and is presently enrolled in a course of study which includes Latin III. The Town of Sidney (now a part of School Administrative District #47 with the Town of Oakland) has had a contract with Oakland for secondary school privileges; and Williams High School in Oakland is the school which the Sidney students were privileged to attend. The Sidney superintendent of schools and the principal of Williams High School have stated that at the time of registration (spring, 1965), there was no request for Latin III or Latin IV by the students; that if a demand had been made, these courses would have been offered. It is an established fact that the outline of 1965-66 courses which was distributed to parents and prospective students did not include an offering of either Latin III or Latin IV. To date, no class in Latin III has been offered during the 1965-66 school year.

The 102nd Legislature enacted the following amendment at the end of the first paragraph of 20 M.R.S.A. § 1291:

"Any youth whose parent or guardian maintains a home for his family in an administrative unit that maintains, or contracts for school privileges in, an approved secondary school, and who has met the qualifications for admission to the high school in his town, may elect to attend some other approved secondary school in the State to which he may gain admission for the purpose of studying or of completing at least a 2-year course in mathematics, science or a foreign language not offered or contracted for by the administrative unit of his legal residence. Any pupil for whom tuition payment has been denied by the superintending school committee may appeal to the Commissioner of Education for a decision and any payment found to be rightly due shall be adjusted as provided for such cases in section 1292. Except in case of change in the legal residence of the student to a different administrative unit, transfer from one secondary school to another may be made only at the beginning of the school year."  
P. L. 1965, c. 319.

QUESTIONS:

1. Under the given facts, is the Town of Winslow responsible for the payment of tuition to Coburn Classical Institute regarding the three students attending the Institute in order to study Latin II?
2. Is School Administrative District #47 responsible for the payment of tuition to the Institute under the given facts?

ANSWERS:

We answer both questions in the affirmative.

REASON:

The given facts in both instances present but a single question, i.e., whether a student loses the privilege set forth in 20 M.R.S.A. § 1291 (as amended by P. L. 1965, c. 319) due to his failure to inquire whether the local administrative unit intends to offer courses in mathematics, science or a foreign language.

The Legislature has not written any such precedent condition into the reference statute.

In the case of the three Winslow students, it is our understanding that Latin II was not made available for the school year 1965-66. An examination of the schedule of courses offered at Winslow High School for the year 1965-66 does not indicate that Latin II was to be available. That being so, the subject Winslow students do not forfeit the privilege of attending Latin II at the subject Institute by reason of their passiveness concerning a request of the school officials that Latin II be made available.

As regards the Sidney student, it cannot be said that he loses the privilege set forth in 20 M.R.S.A. § 1291, as amended, by reason of the fact that Latin III would have been offered if he had demanded the same. The fact remains that the course was not offered. Too, there is some doubt whether, on the strength of his individual request, that in fact the course would have been offered.

For related opinions see those sent to the Department of Education under the dates of August 27, 1965 and September 20, 1965.

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John W. Benoit  
Assistant Attorney General

JWB/eh