

MAINE STATE LEGISLATURE

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Yes ✓
January 26, 1966

Kernit S. Nickerson, Deputy
Commissioner
John W. Benoit, Assistant
Driver Education; Tuition.

Education
Attorney General

FACTS:

A municipality in this State has been conducting driver education classes after regular school hours and has charged a fee to those enrolled in these classes. (Your memorandum uses the word "tuition" in describing these fees.) This program includes both a classroom phase and behind the wheel training.

The laws relating to public schools recite the following purpose for driver education:

"The purpose of this chapter is to develop the knowledge, attitudes, habits and skills necessary for the safe operation of motor vehicles, through classroom instruction and behind the wheel driving and observation in a dual control automobile by encouraging superintending school committees or school directors of the several administrative units of the State to make provision for this instruction in all the public secondary schools and academies." 20 M.R.S.A. § 2451.

Special subsidies are paid to administrative units regarding driver education as follows:

2. Special subsidies. Special subsidies shall be paid in September to the administrative units for all courses in driver education according to the following plan: \$10 for each pupil satisfactorily completing the driver education course during the preceding school year. Such driver education course shall meet the approval of the commissioner in regard to teacher qualifications, limitations as to the number of pupils and the course of study offered." 20 M.R.S.A. § 2452.

In your memorandum, you quote from § 858 of Title 20 wherein it is stated that an administrative unit may raise and appropriate money for the support of evening schools, etc.

"Any administrative unit may, in addition to the sum raised for the support of the public schools, raise and appropriate money for the support of evening schools, day schools, classes and educational activities, which shall admit persons over 16 years of age, who are not in attendance at another public school, and shall be under the direction and supervision of the superintending school committee or school directors, and shall give such courses of instruction as said committee or school directors may determine. Pupils in such schools shall be subject to the same conditions, rules and regulations as are provided for public schools." 20 M.R.S.A. § 858.

Your memorandum informs us that the reference administrative unit appears to be relying on 20 M.R.S.A. § 2404, as follows:

"Whenever the superintending school committee or school directors of any administrative unit shall have maintained during the school year evening schools, day schools, classes and educational activities for adults as provided by section 858, said administrative unit shall be reimbursed by the State a sum equal to 1/2 the amount paid for instruction and activities contributing to learning in such classes. Such schools shall meet the approval of the commissioner in regard to the qualifications of instructors, length of term, class attendance and subjects offered.

"The superintending school committee or school directors may establish and furnish facilities for day and evening educational and recreational activities for adults not supported by public school funds and not

reimbursed by the State. Such courses and activities may be financed by tuition fees, by funds voted by the administrative unit or by funds from other proper sources or by any combination of these." 20 M.R.S.A. § 2404.

QUESTION:

After telephone conversation was had relative to your memorandum, it is decided that the following question is posed:

Whether, under the given facts, State subsidy should be paid pursuant to 20 M.R.S.A. § 2452?

ANSWER:

See REASON.

REASON:

The Maine Laws relating to public schools seek to establish a program of driver education in the public secondary schools and academies of this State. Specifically, the Legislature intended to encourage superintending school committees to provide the subject instruction as a part of the regular school program. This is clearly stated in 20 M.R.S.A. § 2451, quoted above. The legislative purpose is manifested in 20 M.R.S.A. § 2452, to wit, the payment by the State of "special subsidies" to administrative units "for each pupil satisfactorily completing the driver education course during the preceding school year." Before this special State subsidy is paid to an administrative unit, the driver education program must have met the approval of the Commissioner of Education in those areas specified in 20 M.R.S.A. § 2451. Thus, if the subject course of study has been approved by the Commissioner, and the administrative unit has followed the same, then the special subsidy should be paid to the administrative unit.

Because 20 M.R.S.A. § 858 and § 2404 relate to educational activities involving "persons over 16 years of age, who are not in attendance at another public school" (section 858) and involve "educational activities for adults as provided by section 858" (section 2404), these sections are not controlling in the disposition of this matter.

Your memorandum does not state, as fact, that the Commissioner of Education has approved the subject driver education course of study together with its attending charge exacted against participating students. We have been informed that your Department, only recently, learned that the subject fee was being charged to those students in the driver education course of study.

A reading of the driver education statute indicates that the Legislature has neither directly authorized nor prohibited the establishment of such a fee in the driver education program. It does appear, however, that the driver education statute has not authorized an administrative unit to treat this program, as to costs, any differently from the ordinary course of study. It may be that the special subsidy should not be paid the subject administrative unit for the reason that the students' fee appears to be payment in lieu of subsidy.

John W. Benoit
Assistant Attorney General

JWB/ah