

# MAINE STATE LEGISLATURE

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November 7, 1967

Kermit S. Nickerson, Deputy Commissioner      Education

Phillip M. Kilmister, Assistant              Attorney General

Tuition Liability.

**FACTS:**

20 M.R.S.A. § 1291 as amended by Chapter 319 of the Public Laws of 1965 permits a student to go to a school outside of residence for the purpose of taking or completing a two year sequence of study in a foreign language, science or mathematics when these subjects are not offered in the "home" school. In your memorandum addressed to this office under date of September 26, 1967 you have asked two questions based on the following facts:

The course of study distributed in the spring by School Administrative District #64 did not contain any Latin courses. Prior to the opening of school, a course of study was developed which included Latin I and Latin II, however. This revised course was distributed to students on the opening day of school and a course in Latin I was begun. There were no enrollees for Latin II and consequently no class has been in operation.

Several students enrolled at Higgins Classical Institute signing up for Latin I. It is the contention of these students that Latin I was not included in the curriculum distributed in the spring by District #64 and therefore they are entitled to attend Higgins Classical Institute with tuition paid by the District. The District officials, on the other hand, maintain that they offered Latin I when school opened and consequently were not obligated to pay tuition elsewhere. You request an opinion of this office as to whether or not the District must pay tuition where the courses taken by students in another school are in fact offered by the "home" school at the beginning of the school year.

The second question relates to the depth of curriculum being offered in S.A.D. #64. It is stated that District #64 offers a program of science as follows: first year, earth science; second year, biology; third year, chemistry and fourth year, physics. Higgins Classical Institute offers a course in earth science the first year, one in general biology the second year, and a course in "advanced biology" (physiology) in the third and fourth years. Several students are currently enrolled at Higgins in "advanced biology." You inquire as to whether or not said students are eligible for tuition payments by the District.

The questions, rephrased, are as follows:

QUESTION #1:

May a student enroll at a school outside of his District for the purpose of studying a foreign language and have his tuition paid for by said District, when in fact the same language is being offered as a course of study at his "home school" at the beginning of the regular school year?

ANSWER:

No.

QUESTION #2:

Is a student entitled to tuition payment by a school district when said student desires to study or complete a two year sequence of a course in science in a school outside of his district, which 2 year science course is not offered by a school within his district?

ANSWER:

Yes.

The answers to the above-stated questions are derived wholly from a reading of the statutory language of 20 M.R.S.A. § 1291 as amended.

20 M.R.S.A. § 1291 reads in part as follows:

"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. . . ." (Emphasis supplied.)

Courses in first and second year Latin were in fact offered to students by School Administrative District #64 at the commencement of the school year. This being the case, there is no basis for the payment of tuition fees by the District on behalf of students who desire to pursue the same course of study at a school outside the District. To hold otherwise would contravene the clear meaning of the statutory language.

The intent of the legislature in enacting the above-quoted statutory language was to assist students desirous of completing at least a two year course of study in certain academic subjects when such subjects are not available for study as part of the curriculum of the students' "home school."

We answer the second question in the affirmative. If second year Latin were not offered to students of School Administrative District #64 who had completed a course in first year Latin, it is clear that students desirous of studying second year Latin at a school outside of the District could do so and have the cost of tuition for attending the "outside school" borne by the District. (See Atty. Gen. Opinion of August 27, 1965.)

In view of the language of 20 M.R.S.A. § 1291 we believe that the same situation holds true when an advanced course in science or mathematics, which is part of a two year sequence of study, is offered by a school outside the District but is not offered for study as part of the curriculum of the student's "home school."

Phillip M. Kilmister  
Assistant Attorney General

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