

# MAINE STATE LEGISLATURE

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Education  
Attorney General

Does the painting of an existing school facility constitute a "major alteration" as defined in 20 M.R.S.A. § 3457?

**FACTS:**

Several inquiries have been received in the Department of Education involving an interpretation of the term "major alteration", as that term is defined in the Maine Revised Statutes:

"The term 'major alteration' as used in this section shall mean the cost of acquiring new equipment, the cost of converting an existing public school building to a new condition of completeness or efficiency from a worn, damaged or deteriorated condition whenever the plans for such an alteration have been approved in accordance with section 3623. The State Board of Education shall have full authority to approve or disapprove the plans for a 'major alteration' of a school building and equipping the same. Without State Board approval, the administrative unit may not claim state aid on the alteration project."

In your memorandum, we are informed that the United States Office of Education considers the activities of maintenance of grounds, building, and equipment to be maintenance of the plant.

**QUESTION:**

Does the cost of painting existing school facilities constitute a "major alteration" as defined in 20 M.R.S.A. § 3457?

**ANSWER:**

No.

**REASON:**

The Maine Statutes provide that eligible administrative units shall receive state aid for school construction whenever such construction qualifies as construction for "capital outlay purposes."

The Legislature, in defining the term "capital outlay purposes" makes use of the term "major alteration" in the language: "major alteration of a public school building". In turn, the term "major alteration" is defined as stated earlier herein.

If the painting of existing school facilities qualifies as a "major alteration", then the attending cost of such painting qualifies for state aid. It is our opinion that the reference painting does not constitute a "major alteration". The painting of existing school facilities certainly does not amount to the acquisition of new equipment, nor is it considered to be the cost of converting an existing public school building to a new condition of completeness or efficiency from a worn, damaged, or deteriorated condition. The given facts do not indicate that the painting of the existing school facilities worked the conversion of an existing public school building to a new condition of completeness or efficiency.

Whenever repairs are made to a worn, damaged, or deteriorated school building, and such repairs entail either exterior or interior painting of the repaired areas, the cost of painting does constitute a part of the "major alteration" of the school building.

The legislative intention expressed in the definition of the term "major alteration" signifies the idea that general upkeep through painting does not, ipso facto, convert the public school building to a new condition of completeness. The Legislature has not declared that a "major alteration" occurs whenever new paint is substituted for worn, damaged, or deteriorated paint.

In your memorandum, you note that the United States Office of Education considers that upkeep of grounds, buildings, and equipment is considered to be "maintenance of plant". If that is so, then the answer to this opinion is in accord with the position taken by the United States Office of Education.

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John W. Benoit  
Assistant Attorney General

JWB/eh