

# MAINE STATE LEGISLATURE

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Commissioner  
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Education  
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Residence of Student of State Educational Institution.

SYLLABUS:

Because place of "residence" is determined on the basis of both a physical presence at a place and present intention to permanently remain at that place, payment of non-resident tuition by college student signifies intention that non-resident status is being retained.

FACTS:

A freshman student who enrolled at Washington State College in the fall of 1968 was born in New York City; and he had lived with his mother in New Jersey prior to entering military service. The student's mother still resides in New Jersey. While this person was in the military service, he was assigned to the Bucks Harbor Naval Base at Machiasport, Maine; and he remained there until his discharge in August, 1967. In September, 1967, the subject enrolled at Washington State College at Machias. The student is either 22 or 23 years of age; and he paid tuition as a non-resident for the first semester. Since his enrollment at the College, the student has occupied an apartment off campus in Machias.

Recently, the student sought legal advice from Pine Tree Legal Assistance, Inc.; and an attorney representing Pine Tree has written a letter to the student advising him that he qualifies as a resident of the State of Maine (for tuition purposes) under the authority of Sanders v. Getchell, 76 Me. 158.

QUESTION:

Under the given facts, does the student qualify as a resident of the State of Maine for the purpose of payment of resident tuition at the reference State College?

ANSWER:

No.

REASON:

The subject student claims that he should not now be required to pay non-resident tuition; but resident tuition. 20 M.R.S.A. § 2304.

We are not concerned with "domicile"; but with "residence". In Attorney General Reports, 1951-54, p. 116, we recognized that "domicile" differs from "residence" in that "domicile" is a broader term than "residence"; and that the former includes the latter. See: 28 C.J.S., Domicile, § 2.

In order to determine whether the subject is a resident in Maine within the import of 20 M.R.S.A. § 2304, it is necessary to determine his intention relative to residence. The actual presence in a particular location coupled with an intention to remain there or to make that place one's home are the factors which determine a person's residence.

It is noted that this student was assigned to naval duty at Machiasport, Maine, and that he remained in such service until August, 1967. Generally, the residence of a soldier or sailor is neither gained nor lost by his being temporarily stationed at a particular state-side location. The fact, then, that the subject came to Maine by reason of a military assignment does not imply establishment of a new residence.

Some significance may be given the fact that the student paid tuition, as a non-resident, for the first semester. Payment of the non-resident tuition fee may imply an intention that the student is to be classified as a non-resident student.

On the other hand living off campus is not too significant. This could be accounted for because of his age or other personal reasons.

The given facts do not reveal clearly and indisputably that the reference student is entitled to pay resident tuition within the meaning of 20 M.R.S.A. § 2304.

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