

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date July 10, 1968

yes ✓

To Joseph P. Youngs, Jr., Superintendent

Dept. Gov. Baxter State School for the Deaf

From Courtland D. Perry, Asst. Atty. Gen'l.

Dept. Mental Health and Corrections

Subject Governor Baxter State School for the Deaf - Tuition Charges for

Four Year Old Student

FACTS:

The Governor Baxter State School for the Deaf has billed for a tuition charge with respect to a four year old student who came to the Governor Baxter State School for the Deaf from a town in which only a one year childhood education program prior to Grade 1 is offered, which program is available only to children of the age of five years on or before October 15 of the school year.

QUESTION:

Is the town in which the parent of this four year old child resides liable for this tuition charge?

ANSWER:

No.

OPINION:

Statutes controlling in the resolution of this question are as follows:

Title 34, § 2906. Costs - "For each child admitted to the school, the town in which the child is entitled to school privileges in accordance with Title 20, section 859 shall pay to the State, to be credited to the General Fund, an amount equal to the per capita cost of instruction and equipment in a public elementary school for a normal child in that town."

Supplement, Title 20, § 859. School age; kindergartens - "In the public schools of the State only those children who are or will become 6 years of age on or before October 15th of the school year shall be admitted to grade one.

"In schools which offer a one-year childhood education program prior to grade one, only those children who will be 5 years of age on or before October 15th of the school year shall be admitted.

"In schools which offer a 2-year childhood education program prior to grade one, only those children who will be 4 years of age on or before October 15th of the school year shall be admitted.

"Subject to the provisions of this section and subject to such reasonable regulations as the superintending school committee or school directors shall from time to time prescribe, every person between the ages of 5 and 21 shall have the right to attend as a full-time student, or with the consent of the superintending school committee or board of directors, as a part-time student,

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the public schools in the administrative unit in which his parent or guardian has residence. Residence as used in this section shall mean the administrative unit where the father maintains a home for his family. If the parents of the child are separated, residency shall be considered to be the administrative unit where the person having custody of the child maintains his or her home. Nothing in this section shall negate the provisions of the compulsory education prescribed in section 911.

"Notwithstanding the provisions of this section, summer schools operated by public school administrative units may charge tuition, not exceeding the school's per capita cost for the preceding summer. The per capita cost shall be determined in accordance with regulations established by the State Board of Education. In the first summer of its operation a school's tuition rate shall not exceed the average cost per pupil in all approved public summer schools of the State for the preceding summer. The tuition rate in a public summer school shall be the same for all pupils in attendance at that school who are legal residents of Maine,"

As is seen from a reading of Section 2906 a town becomes liable for the cost of education of a child at the Governor Baxter State School for the Deaf when the child in question is entitled to school privileges in such town as provided for in Title 20, § 859. When a town has no childhood education program for children of the age of four years on or before October 15 of the school year as may be the case under the provisions of Section 859, it is our opinion that no child of such age is entitled to public school privileges in that town under the language of Section 859. It is our further opinion that a child of the age of four years coming from such town to the Governor Baxter State School for the Deaf is similarly situated, i.e., he has no entitlement to school privileges within such town and, therefore, such town is not liable for the cost of his education at the Governor Baxter State School for the Deaf under Title 34, §2906.

The cost of support and instruction of such four year old child under the provisions of Title 34, Section 2904, would be borne by the state, which we construe to mean would be paid for from the appropriation to the Governor Baxter State School for the Deaf.

If a town from which a child four years of age on or before October 15 of the school year enters the Governor Baxter State School for the Deaf, has in operation a childhood education program for children of such age permitted under Section 859, it is our opinion that such town would be liable to the Governor Baxter State School for the Deaf under Title 34, Section 2906, for the per capita cost of education of such child, as prescribed by the latter section. We construe the language of Title 20, §859, to base entitlement to public school privileges upon residency of the parent or guardian subject to other provisions of that section, which include the provisions relative to the pre-primary childhood education programs made optional by this section; that is, that some towns may have programs for five year olds only, and others may have the two year program for four year olds and five year olds. If the lower age program is not a part of the overall school program of a particular town, entitlement of that age group to public school privileges is nonexistent.

Courtland D. Perry
Assistant Attorney General