

MAINE STATE LEGISLATURE

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October 7, 1968

Asa Gordon, Assistant Commissioner

Education

Robert G. Fuller, Jr.

Attorney General

Subsidy eligibility of retarded pupil transportation expenses.

SYLLABUS:

The school committee of a municipality which provides no education program for retarded children may claim subsidy for expenses incurred by it to transport retarded children who are "exceptional" within the meaning of 20 M.R.S.A. § 3112 (1964) to an educational program for the retarded approved by the Commissioner and located in another municipality, if the transportation has been approved by the state board.

FACTS:

Beginning in 1966, the superintending school committee of a municipality has expended funds to transport retarded resident children to a public school, located in an adjoining municipality, operating an education program for retarded children. The schools in the municipality where the children live do not provide education programs for the retarded. The committee has reported these expenditures to the Commissioner / presumably pursuant to the directive of 20 M.R.S.A. § 3118 (1964) / and claims them as subsidizable transportation expenses.

QUESTION:

Where the school committee of a municipality provides no education program for retarded children, may it claim subsidy for its expenses incurred to transport retarded children to an educational program for the retarded operated by and located in another municipality?

ANSWER:

Yes, if (1) the children are "exceptional" within the meaning of the statute; (2) the program has been approved by the Commissioner; and (3) the transportation has been approved by the state board as necessary to carry out the purposes of 20 M.R.S.A. §§ 3111-3119 (1964).

OPINION:

An "exceptional child" is defined in 20 M.R.S.A. § 3112 (1964) as:

"...any child under 21 years of age able to benefit from an instructional program approved by the state board whose parents or guardian maintains a home for his family in any administrative unit within the State, and whose educational needs cannot be adequately provided for through the usual facilities of the public schools, because of the physical or mental deviations of such child."

School administrative units are responsible for appropriating sufficient funds to provide for the education of exceptional children. Me. Public Laws 1967, ch. 540, § 8. The appropriations are to be expended for programs approved by the Commissioner. 20 M.R.S.A. § 3116 (1964). Subsidies may be paid for certain designated expenses and for "any other purposes approved by the state board as being necessary to carry out the purposes of this chapter". 20 M.R.S.A. § 3115 (Supp. 1967).

CROSS REFERENCE

Exceptional children attending private school--liability of school administrative unit to private school for payment of local per capita cost of children resident in unit and attending private school, see 1963-64 Att'y. Gen. Rep. 128.

\$300 per-pupil limitation on subsidy for special education programs, see 20 M.R.S.A. § 3115 (Supp. 1967).

ROBERT G. FULLER, JR.
Assistant Attorney General

RGFJR: vbw