

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date 16 October 1968

To Joseph P. Youngs, Jr., Supt.
From Courtland D. Perry, Asst. Atty. Gen'l.

Dept. Mental Health and Corrections
(Governor Baxter State School for the Deaf)
Dept. Mental Health and Corrections

Subject Computation of Tuition Charges for Students Attending the Governor Baxter State School for the Deaf.

SYLLABUS:

Tuition charges for students attending the Governor Baxter State School for the Deaf are payable in accordance with 34 M.R.S.A., 1964, §2906, this being a statute specifically applicable to the Governor Baxter State School for the Deaf. The provisions of T., 20, M.R.S.A., 1964, §3117, as amended by P.L., 1967, c. 540, §10, are inapplicable since the Governor Baxter State School for the Deaf is neither an administrative unit nor a private school.

FACTS:

Recently, the Governor Baxter State School for the Deaf received from the Department of Education a blank form entitled, Financial Report of Special Purpose Private Schools, which form is to be prepared in implementation of 20 M.R.S.A., 1964, §3117, as amended by P.L., 1967, c. 540, §10. In view of the existing law 34 M.R.S.A., 1964, §2906 applicable specifically to the Governor Baxter State School for the Deaf, inquiry was made of this office relative to the applicability of 20 M.R.S.A., 1964, §3117, to the Governor Baxter State School for the Deaf and the necessity for that institution completing the above cited form.

QUESTION:

Are the provisions of 20 M.R.S.A., 1964, §3117, as amended by P.L., 1967, c. 540, §10, applicable to the Governor Baxter State School for the Deaf, as the controlling statute pursuant to which computation is to be made -- effective 2 January 1969 -- for tuition charges?

ANSWER:

No.

OPINION:

34 M.R.S.A., §2906 provides as follows:

"For each child admitted to the school, the town in which the child

(over)

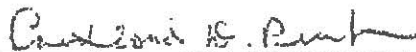
is entitled to school privileges in accordance with Title 20, §859 shall pay to the State, to be credited to the General Fund, an amount equal to the per capita cost of instruction and equipment in a public elementary school for a normal child in that town."

20 M.R.S.A., §3117, as amended by P.L., 1967, c. 540, §10 provides in pertinent part as follows:

"...The sending unit shall pay to the receiving unit or private school the actual per pupil cost incurred in the operation of the program for handicapped or exceptional children during the preceding school year. The per pupil tuition charge shall be computed on the basis of financial reports filed by the administrative unit or private schools. Such financial reports shall be filed July 1st of each year in such form as the state board may require, and the allowable tuition charge may not exceed the per pupil operating cost as determined by the state board from the financial reports of the preceding school year...."

It is the opinion of this office that 34 M.R.S.A., §2906, being a specific enactment of the Legislature, applicable only to the Governor Baxter State School for the Deaf, remains in full force and effect and controls the determination of tuition charges payable by school administrative units in respect of their students attending the Governor Baxter State School for the Deaf.

The recent enactment contained in P.L., 1967, c. 540, §10, and appearing as an amendment to 20 M.R.S.A., §3117, is a general provision applicable to the education of exceptional and handicapped children in other administrative units or private schools, into neither of which categories falls the Governor Baxter State School for the Deaf. The two statutes are not repugnant to one another; the later enactment does not supersede 34 M.R.S.A., §2906, and the two statutes -- one specific and the other general; one specifically inclusive and the other by implication exclusive, as to the Governor Baxter State School for the Deaf, exist together.


Courtland D. Perry
Assistant Attorney General