

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

transactions dealing with liquor must be for cash, it is very obvious that the Commission may not accept a credit card, Bancardcheck, gift certificate or any other form of postponed payment in place of cash.

FREDERICK P. O'CONNELL
Assistant Attorney General

October 31, 1968
Education

Kermit S. Nickerson, Deputy Commissioner

Subsidy for pre-school handicapped children

SYLLABUS:

The Commissioner of Education, with the approval of the state board, may make rules and regulations governing the education of pre-school speech-defective children. Special-education programs for such children which have been approved by the state board are eligible for subsidy.

FACTS:

20 M.R.S.A. §§ 3111-3119 (1964) are concerned with the education of physically handicapped and exceptional children. 20 M.R.S.A. § 3111 (1964) states the purpose of the sections as follows:

“The purpose of this chapter is to provide educational facilities, services and equipment for all handicapped or exceptional children below 21 years of age who cannot be adequately taught with safety and benefit in the regular public school classes of normal children or who can attend regular classes beneficially if special services are provided.”

20 M.R.S.A. § 3113 (1964) in part provides:

“He (the Commissioner of Education) shall employ . . . such qualified personnel as may be needed . . . to . . . approve . . . a program of special education for handicapped or exceptional children. The commissioner, with the approval of the state board, shall make necessary rules and regulations for the proper administration of this chapter.”

20 M.R.S.A. § 859 (1964) prohibits admission of children into the public school system who have not reached a certain age.

In the light of these statutes, you ask the following questions:

QUESTIONS:

1. May the commissioner make rules and regulations concerning the education of speech-defective children below the minimum age limits of 20 M.R.S.A. § 859 (1964)?
2. Are approved special education programs for speech-defective children below the minimum age limits of 20 M.R.S.A. § 859 (1964) eligible for state subsidy?

ANSWERS:

1. Yes.

2. Yes, provided the program meets the criteria of 20 M.R.S.A. §3115 (Supp. 1968).

REASONS:

1. 20 M.R.S.A. § 3111 (1964), as noted earlier, states that the purpose of the entire chapter on education of physically handicapped or exceptional children is to "provide educational facilities, services and equipment for all (such) children below 21 years of age . . .". We conclude that if the children meet the standards of §3111 and §3112, their age (as long as it is below 21) is immaterial. Therefore, the commissioner has jurisdiction to promulgate rules and regulations to properly administer the statute as it applies to such children, no matter what their age.

2. Appropriations made under the statute are to be paid according to 20 M.R.S.A. § 3115 (Supp. 1968). This statute is self-explanatory, and provides, *inter alia*, that subsidies are to be paid to designees of the commissioner for special-education programs approved by the state board. The age limitations of 20 M.R.S.A. § 859 (1964) are immaterial for the reasons advanced in support of Answer No. 1, *supra*.

ROBERT G. FULLER, JR.
Assistant Attorney General

November 7, 1968
Federal-State Coordinator

Walter E. Corey, III

Foreign-Trade Zones Enabling Act

SYLLABUS:

The portion of the Maine Foreign-Trade Zones Enabling Act, Me. Priv. & Spec. Laws 1963, ch. 178, which prohibits consignors or consignees of goods within the zone from owning warehouses therein, does not apply to an oil company, which proposes to erect storage tanks in the zone for storage of its own oil.

FACTS:

The Maine Port Authority proposes to establish a special-purpose foreign-trade sub-zone at Machiasport, Maine. An oil company has expressed interest in leasing space in the sub-zone and erecting storage tanks to be used for storage of such company's crude oil pending refining, and for its refined products pending sale.

The next-to-last sentence of the Foreign-Trade Zones Enabling Act reads: "The warehouse in which said goods, wares or merchandise are stored shall not be owned, either in whole or in part, by either the consignee or the consignor."

QUESTION:

Would the proposed activities of the oil company in the sub-zone violate the cited provisions of the Act?

ANSWER: