

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

any case, and considering the function of Probation and Parole officers, particularly with reference to their relationship to the Courts, would be within the exclusion found within 16 M.R.S.A. § 600, since the same are "investigative" records.\*

\*Reaching this conclusion there is no need for discussion of the confidential nature of records of the Probation and Parole Division rendered confidential under 34 M.R.S.A. § 1. This subsidiary issue was raised by the agency making the request for this opinion and is not explored nor developed due to our conclusion.

COURTLAND D. PERRY  
Assistant Attorney General

December 9, 1969  
Governor Baxter State School for the Deaf

Joseph P. Youngs, Jr., Supt.

Applicability of P.L. 1969, Chapter 320 to Governor Baxter State School for the Deaf in Providing Certain Services to Students.

*SYLLABUS:*

Provision of group auditory amplification equipment to deaf students for classroom use is not subject to control under 32 M.R.S.A. Chapter 23 A. The Governor Baxter State School for the Deaf may purchase and sell to students at cost hearing aid batteries and cords without violating any provision of 32 M.R.S.A. Chapter 23 A, but any other hearing aid accessories must be purchased from a licensed hearing aid dealer.

*FACTS:*

The Governor Baxter State School for the Deaf provides group auditory amplification equipment to deaf students for use in classroom instruction.

The Governor Baxter State School for the Deaf purchases and makes available to students at cost, hearing aid accessories, e.g., batteries and cords.

*QUESTIONS:*

Are either of the following practices violative of any provision of 32 M.R.S.A. Chapter 23 A, P.L. 1969, Chapter 320:

1. Provision of group auditory amplification equipment to deaf students for classroom use?
2. Purchase and resale at cost to students of hearing aid accessories, i.e., batteries and cords?

*ANSWERS:*

1. No.
2. No.

*REASON AS TO QUESTION NO. 1:*

32 M.R.S.A. §.1658, subsection 3 provides as follows:

“As used in this chapter, unless the context requires otherwise:

.....

“3. Hearing aid. ‘Hearing aid’ shall mean any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing, and any parts, attachments or accessories, including earmold, but excluding batteries and cords . . . .”

The above quoted subsection defines auditory instruments subject to control under 32 M.R.S.A. Chapter 23 A and makes specific reference to “wearable” instruments. It is our opinion that group auditory amplification equipment such as that provided for use in classrooms in the Governor Baxter State School for the Deaf, although the receiver thereof may be temporarily worn on the person during classroom session, falls outside the purview of Chapter 23 A and is thus, not subject to its provision. Instruments intended to be controlled by Chapter 23 A are the personal hearing aids individually fitted to specification and individually worn by the owner and carried entirely upon the person. Furthermore, the provision of such group auditory amplification equipment for the use of deaf students in the classroom can not be said to be fitting and dealing in hearing aids within the contemplation of 32 M.R.S.A. Chapter 23 A, the practices subject to control thereunder.

*REASON AS TO QUESTION NO. 2:*

Batteries and cords are specifically excluded from the definition of hearing aids which includes other accessories. It is, therefore, our opinion that batteries and cords may continue to be sold to the Governor Baxter State School students at cost, but that any other accessories not specifically excluded are required to be sold by a dealer licensed under 32 M.R.S.A. Chapter 23 A. The purchase by any student of any such other accessories shall only be from a licensed dealer.

COURTLAND D. PERRY  
Assistant Attorney General

December 10, 1969  
Environmental Improvement  
Commission

George C. Gromley, Supervision Engineer

Pollution Abatement Facility Planning Grants

*SYLLABUS:*

1. The vote to proceed with a pollution abatement construction program, which is a prerequisite under 38 M.R.S.A. § 411, sub- §3, as amended, to a planning grant, must include a vote to raise the local share of the construction cost.

2. The 30% planning grant referred to in 38 M.R.S.A. § 411, sub- § 3, as amended, does not apply to “sewage surveys” mentioned in 38 M.R.S.A. § 412.

3. There is no statutory requirement that plans eligible for grants under 38 M.R.S.A. § 411, sub- §3 receive federal approval before the state grant may be made.