

MAINE STATE LEGISLATURE

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July 27, 1971

Whitney B. Newcomb, Coordinator

V - T Education

George C. West, Deputy

Attorney General

SYLLABUS:

An unclassified employee of the Department of Education is entitled to a pay increase based on his salary of the date such increase is effective. All increases must be similar and equitable but not in excess of 11 1/2%.

FACTS:

Your inquiry relates to unclassified personnel of the Department of Education who are employed on an annual contract. The contract schedule has a prearranged scale of salaries covering 9 years.

Private & Special Laws, 1971, Chapter 117, section A provides in part for an 11 1/2% increase for all classified employees effective the first pay period in October, 1971. It additionally states:

"With respect to unclassified employees whose wage rates are not subject to determination by the Governor and Council, the authorities responsible for determining the wage rates of such employees shall grant similar and equitable treatment."

Private & Special Laws, 1971, Chapter 146, section C, § 8 additionally states:

"That part of Section A of chapter 117 of the private and special laws of 1971 which pertains to "STATE EMPLOYEES' SALARIES" is amended by inserting before the last paragraph the following new paragraph:

Unclassified employees shall receive no more than the 11 1/2% increase which is the average increase under the state employees' pay plan. The authority responsible for establishing the pay of the unclassified employee shall see that the above 11 1/2% average is not exceeded for the year 1971-72."

QUESTION 1.

Does the Commissioner of Education have the authority to implement a pay schedule for unclassified personnel in which percentage increases would vary between employees?

QUESTION 2.

Is the 11 1/2% referred to in L. D. 1811 related to contract salary for fiscal year 1970-71, that is, would the maximum increase of 11 1/2% for any employee be based on the difference between that person's contract salary for 1970-71 and the amount paid for this contract year (71-72)?

ANSWER 1.

Yes as qualified.

ANSWER 2.

See Opinion.

OPINION:

The provision of P & S L 1971, Chapter 117 supra, speaks of "similar and equitable treatment". P. & S. L 1971, Chapter 146 supra, simply puts a ceiling on the increase allowed. No unclassified employee may receive more than 11 1/2% under the general pay increase provision of Chapter 117. There is no definition of "similar and equitable treatment" given. Therefore, it must be determined by the authority determining the wage rates.

Hence, we conclude that the Commissioner (actually, the Board of Education) may vary percentage increases between employees but not in excess of 11 1/2%.

This percentage increase will be applicable to the salary which an employee is receiving on the date when the increase becomes effective. It is my understanding that the Personnel Board has set this date as the pay period beginning September 27, 1971.