

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

REASONS:

This opinion is based upon the finding that, by the provisions of 20 M.R.S.A. § 2356-B(2) and other related sections, the Legislature intended that State aid be granted by the Commissioner of Education, as reimbursement for costs of instruction in connection with approved part-time and evening adult vocational education programs, *only* when such programs are offered by an administrative unit at an approved regional technical and vocational center which is operated by said administrative unit.

The language found in the introductory paragraph of section 2356-B specifically provides that the Commissioner of Education shall make grants for construction and cost of instruction as described in subsections 1 and 2 of section 2356-B.

“when any administrative unit has constructed, subsequent to the effective date of this Act, an approved facility to be used as a *regional technical and vocational center* . . . or shall maintain and operate such a *regional technical and vocational center* in a facility . . . which is approved by the State Board of Education for the maintenance and operation of such a center.” (Emphasis supplied)

Furthermore, section 2356-F specifically provides that:

“ . . . any adult or out-of-school youth seeking to attend part-time or evening programs, where offered, whether such courses are free or are subject to payment of tuition charges either by the prospective student or by the administrative unit where he resides . . . may attend any *regional technical and vocational center* established under sections 2356-A and 2356-G *which serves his area*, as defined in section 2356-A . . . ” (Emphasis supplied)

This quoted language of section 2356-F indicates that it is intended that an adult seeking to attend a part-time or evening technical or vocational program should attend such a program at a State approved regional technical and vocational center established under section 2356-A and 2356-B, which serves the area of the State where he resides.

Finally, a reading of the entire legislative Act, by which the statutory provisions referred to and quoted from in this opinion were enacted, reveals that, when enacting this legislation, the Legislature made no provision for the granting of State aid for the instructional costs of a “satellite adult vocational education program”, such as the program which is the subject of this opinion, where the program would be conducted by a school administrative district at a location other than that of a State approved regional technical and vocational center. Therefore, under the facts presented, School Administrative District No. 61 in Bridgton could not receive State aid as reimbursement for its instructional costs resulting from its operation of an adult vocational education program located in a school building operated by S.A.D. No. 17 in South Paris, Maine.

CRAIG H. NELSON
Assistant Attorney General

November 22, 1971
State

Peter M. Damborg, Deputy Secretary of State

SYLLABUS:

A candidate for political office, who has won his own party's primary election, and who has won a second party's primary election by virtue of write-in votes, is not disqualified from accepting nominations of both parties.

FACTS:

The nomination of a candidate by a party for any state or county office must be made by primary election. 21 M.R.S.A. § 441. A person whose name does not appear on the ballot can be a "write-in candidate".¹⁾

A candidate for nomination by primary election must become qualified by filing a primary petition and written consent. 21 M.R.S.A. § 444. "Cross-filing" in more than one party by a single candidate in the primary elections has been prohibited by Chapter 89 of P.L. 1971. That statute provides:

"[A candidate for nomination by primary election] must be enrolled, on April 1st, in the party named in the petition. The registrar of voters in his municipality of residence shall certify to that fact upon the petition."

QUESTION:

Can a candidate accept the nomination of two political parties where, in the primary of his party of enrollment he has duly filed and circulated primary petitions to have his name on the ballot, and in the other party's primary he receives a winning number of write-in votes?

ANSWER:

Yes.

REASONS:

The intent of the Legislature in requiring a candidate's enrollment in the party named in the primary petition was to prevent cross-filing by a single candidate in the primary elections. But such intent must be presumed not to encompass write-in candidates. Of the many changes made in the election laws during the 105th Legislative session, none has disqualified a person selected by write-in votes from accepting the nomination, whether or not he is enrolled in that party, and even if he is also the nominee of another party.

JOHN KENDRICK
Assistant Attorney General

November 23, 1971
Maine Land Use Commission

James S. Haskell, Jr., Executive Director

Jurisdiction of Maine Land Use Commission over Mainland Plantations.

SYLLABUS:

Mainland, as well as island plantations are subject to the provisions of 12 M.R.S.A.

- 1) The election laws contain several provisions for write-in candidates, e.g. 21 M.R.S.A. § 1, sub-§ 45, § 451, including printed instructions which must appear at the top of each ballot. 21 M.R.S.A. § 701, sub-§ 2.