

# MAINE STATE LEGISLATURE

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June 27, 1972

Asa A. Gordon, Assoc, Comm.

Education

John W. Benoit, Jr., Deputy

Attorney General

Limitation upon the Number of Tuition Students Accepted by  
Receiving Town.

In your April 21, 1972 inter-departmental memorandum, you informed us that a school administrative district recently voted (150 yes, 29 no) upon the following question:

"To see if the voters of School Administrative District No.        will vote to authorize the School Directors to accept secondary school tuition pupils."

Due to space limitations at the secondary school in the district, the board of directors recently voted to limit the number of secondary school tuition students to a maximum of 50 students on a first-come, first-serve basis.

It is apparently the understanding of the Department of Education that the vote taken in the district represented a blanket authorization for the school directors to accept tuition students at the secondary school level from any or all towns.

Your memorandum poses three questions. First, if the voters of a district grant blanket authorization to the directors respecting receipt of tuition pupils at the secondary level, may the directors limit the number of tuition students? Next, must the board of directors give a two-year notice to all sending towns before it can refuse to enroll any tuition students at the secondary level? Finally, is a vote of the district not to accept secondary school tuition students a prerequisite to the two-year notice to municipalities?

It does not appear that State issues are presented for opinion by this office; and for that reason, we respectfully decline to issue a formal opinion. Once the voters of an administrative unit in the State authorize school officials to accept students from outside the administrative unit, then the decision as to the number of such students to be received in the school system is a decision for the school officials. Surely a "blanket authorization" voted by the

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administrative unit does not mean that the school officials must accept each and every tuition pupil that makes application for admission. Nothing appears in 20 M.R.S.A. § 1286 forcing school officials to accept tuition students at the secondary level from any or all towns.

In answer to the second question presented in your memorandum, the school officials would be required to give the statutory two-year notice to all sending towns once a tuition program had been implemented and it was the position of the receiving administrative unit not to accept such students in the future.

The third question in your memorandum asks whether a vote of the administrative unit, not to accept secondary school tuition students in the future, is a condition precedent to the giving of the statutory two-years notice to the sending municipalities. Nothing in the statutes requires such a vote by the administrative unit; such a decision could apparently be made by the school officials and the requisite notice thereafter given. The provisions of 20 M.R.S.A. § 3457 only require the giving of such notice.

" \* \* \* Any administrative unit qualifying for school construction aid under this section which receives tuition students from surrounding municipalities must render at least 2 years' notice to the sending municipalities before discontinuing such acceptance. \* \* \* ."

The statutory two-year notice could come about by virtue of either a decision by the school officials not to accept further tuition students or; cancellation by the voters of the administrative unit authorizing school officials to accept such tuition pupils.

JWBJr./ec

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