

# MAINE STATE LEGISLATURE

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August 18, 1972

Kermit S. Nickerson, Deputy Commissioner      Education

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Disposal of School Property in Unorganized Territory

You have inquired as to whether the sale of unused school buildings located in the unorganized territory of the State should be carried out by the Commissioner of Education, pursuant to Title 20 M.R.S.A. § 1459, or by the State Purchasing Agent, pursuant to Title 5 M.R.S.A. §§ 1812 and 1813.

The pertinent provisions of Title 5 M.R.S.A. §§ 1812 and 1813 read as follows:

"§ 1812. Scope of purchasing authority

The terms 'services,' 'supplies,' 'materials' and 'equipment' as used in this chapter, shall be held to mean any and all services, articles or things which shall be used by or furnished to the State or any department or agency thereof, and any and all printing, binding, publication of laws, journals and reports. Except as provided in chapters 141 to 155, any and all services, supplies, materials and equipment needed by one or more departments or agencies of the State Government shall be directly purchased or contracted for by the State Purchasing Agent, as may be determined from time to time by rules adopted pursuant to chapters 141 to 155, which rules the Department of Finance and Administration is authorized and empowered to make. It is the intent and purpose of this chapter, that the State Purchasing Agent shall purchase collectively all services, supplies, materials and equipment for the State or any department or agency thereof in a manner that will best secure the greatest possible economy consistent with the grade or quality of the services, supplies, materials and equipment best adapted for the purposes for which they are needed." (Emphasis supplied).

"§ 1813. Rules and regulations

The State Purchasing Agent, with the approval of the Commissioner of Finance and Administration, may adopt, modify or abrogate rules and regulations for the following purposes:

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"6. Surplus property. Providing for transfer of supplies, materials and equipment which are surplus from one state department or agency to another which may need them, and for the disposal by private and public sale of supplies, materials and equipment which are obsolete and unusable;" (Emphasis supplied).

And Title 20 M.R.S.A. § 1459 provides that,

"§ 1459. Disposal of property or equipment

School property or equipment in unorganized territory may be sold, transferred or otherwise disposed of by the commissioner.

When such property is sold, the proceeds shall be expended as provided in section 1458 for the benefit of the children in the unorganized unit where the property is located." (Emphasis supplied).

It would appear from the foregoing statutory provisions that the State Purchasing Agent is authorized to purchase, contract for and dispose of only "services, supplies, materials and equipment" which are needed by or have been used by any State department or agency; however, there does not appear to be any provision in sections 1812 and 1813 which would give the Purchasing Agent the authority to purchase, contract for or dispose of school buildings or any other type of building.

The answer to your inquiry must, therefore, be that, pursuant to the provisions of Title 20 M.R.S.A. § 1459, the Commissioner of Education is authorized to dispose of, by sale, unused school buildings in the unorganized territory and to expend the proceeds therefrom as provided by that section.

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Note: Wherever the words "Commissioner of Education" appear, they mean "Commissioner of Education and Cultural Services." P.L., 1971, c. 610

J.W.B.Jr.

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