

# MAINE STATE LEGISLATURE

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### SYLLABUS:

School authorized under New Hampshire law to confer Associate degree but not so authorized under Maine law, cannot legally offer courses in Maine for credit toward degree, wherever conferred, and cannot use in Maine word "college" in its name.

### FACTS:

Concord College is an institution located at Manchester, New Hampshire, and is authorized under New Hampshire law to grant the degree of Associate in Business Administration.

Concord College has not been authorized by Act of the Maine Legislature to confer academic, educational, literary or professional degrees; it has not been authorized to confer any of such degrees by temporary approval from the State Board of Education.

### QUESTIONS:

1. Can Concord College legally offer at Fryeburg (Maine) Academy courses for credit toward an Associate's degree to be awarded at its Manchester, New Hampshire home location?
2. Can Concord College legally advertise in Maine that it is a "college" or through use of the word "college" in its name otherwise hold itself out in Maine as a "college"?

### ANSWERS:

1. No.
2. Yes, provided use of term is not deceptive or otherwise unlawful.

### REASONS:

The factual situation here presented is explicitly covered by statutory law, but for the factor of a foreign state's authorization

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of degree-granting power to the school. 20 M.R.S.A. § 2202 states, in pertinent part:

"1. Application. No person, partnership, institution or corporation shall confer academic, educational, literary or professional degrees unless authorized by an Act of the Legislature....

"2. Use of name. No person, school board, association or corporation shall use in any way, the term 'junior college', 'college' or 'university' in connection with an institution, or use any other name, title or descriptive matter tending to designate that it is an institution of higher learning with the power to grant academic, educational, literary or professional degrees, unless the institution is operating under a license or a certificate of temporary approval from the State Board of Education or has been given the right to grant degrees in accordance with this section....

".....

"4. Exception. This section shall not apply to institutions authorized by the Legislature to grant degrees....."

The sweep of statutory control here cited applies to all instances where degree credit courses are offered within this State. Obviously the State of Maine is not attempting to regulate the operation of courses outside the State. Perhaps less obvious, Maine is not attempting to prohibit the advertising in Maine of courses offered outside Maine; less obvious because not explicit in § 2202, but generally proscribed as an unconstitutional interference with interstate commerce. 20 M.R.S.A. § 2202 would not apply to instances where degree credit courses are being offered outside Maine.

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The only way any institution offering courses in Maine may confer degrees legally is to be expressly authorized to do so by an act of the Maine Legislature.

The two ways any institution offering courses in Maine may use the word "college" in its name legally are:

- 1) to be expressly authorized by Act of the Maine Legislature to grant degrees; or
- 2) to be temporarily permitted to use the word "college" by the State Board of Education, pending express authorization by Act of the Legislature of degree-granting power.

JK/mf

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