

# MAINE STATE LEGISLATURE

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program requirements formed the basic curriculum offerings for the N.E.E.T.S.'s instructional programs which lead to the Biddeford High School diploma. All instruction was to be performed by N.E.E.T.S.'s personnel. Each airman-graduate would be awarded a Biddeford diploma for which the Biddeford School Committee received \$25 to be utilized in expanding the program activities in adult education. To date, approximately 200 diplomas have been awarded under the program. Neither the State nor Biddeford incurs costs in the N.E.E.T.S. operation.

The State expends no subsidy to the Biddeford School System concerning the course of study administered by N.E.E.T.S. in New Hampshire and at overseas military bases in Europe. There is, of course, State participation, through payment of subsidy to Biddeford for the adult education program administered by the Biddeford School Committee in the Biddeford School System pursuant to applicable State law.

QUESTIONS:

1. Does the Commissioner's approval of Biddeford's adult education program, being administered in the Biddeford School System, pursuant to State law, also constitute approval of the program being administered by N.E.E.T.S.?

2. Does the Commissioner have authority to notify the Biddeford School Committee that his approval of the Biddeford adult education program should not in any way be interpreted as approval of the N.E.E.T.S.'s program?

ANSWERS:

1. No.

2. Yes.

REASONS:

1. Any administrative unit may conduct an evening school admitting persons over 16 years of age, "under the direction and supervision" of the school board.

"§ 858. Money raised for day and evening schools;  
adult education

"Any administrative unit may, in addition to the sum raised for the support of the public schools, raise and appropriate money for the support of evening schools, day schools, classes

and educational activities, which shall admit persons over 16 years of age, who are not in attendance at another public school, and shall be under the direction and supervision of the superintending school committee or school directors, and shall give such courses of instruction as said committee or school directors may determine and furthermore any administrative unit may raise and appropriate money for payment of tuition for residents in attendance at such classes in another administrative unit for courses not offered by the unit of residence. Pupils in such schools shall be subject to the same conditions, rules and regulations as are provided for public schools." 20 M.R.S.A. § 858.

There are no facts evidencing "direction and supervision" (Ibid.) by the Biddeford School Board of N.E.E.T.S.'s program conducted in New Hampshire and at military installations in Europe. There are in fact no costs to Biddeford in the matter (except costs of printing diplomas). The only visible action taken by Biddeford in the program is issuance of diplomas to airmen-graduates of N.E.E.T.S.

The Commissioner has approved of Biddeford's adult education program conducted in the unit pursuant to 20 M.R.S.A. § 2404,

"The superintending school committee or school directors may establish and furnish facilities for day and evening educational and recreational activities for adults not supported by public school funds and not reimbursed by the State. Such courses and activities may be financed by tuition fees, by funds voted by the administrative unit or by funds from other proper sources or by any combination of these."

but that approval cannot be interpreted to encompass the adult education program administered by a private corporation in a sister State or in foreign countries by virtue of a contractual arrangement between the corporation and the administrative unit. The Commissioner is not a party to the contract. Neither does it appear he has approved the qualifications of N.E.E.T.S.'s instructors. (Ibid.)

2. Because of the nature of the response to Question #1, the Commissioner is justified in notifying the Biddeford school officials that his approval of Biddeford's adult education program does not constitute approval of N.E.E.T.S.'s program conducted outside the State. The provisions of 20 M.R.S.A. § 858 authorize Biddeford ("any administrative unit") to

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" . . . raise and appropriate money for the support of evening schools, day schools, classes and educational activities, which shall admit persons over 16 years of age, who are not in attendance at another public school, . . . " (Emphasis supplied.),

but there is no evidence that Biddeford has raised and appropriated any funds for N.E.E.T.S.'s operation. Neither is there proof of attendance by N.E.E.T.S. students in the Biddeford adult education program within the meaning of section 858. The fact Biddeford has loaned its name along with its diploma-granting power\* to N.E.E.T.S. does not mean the Commissioner's approval of Biddeford's adult education program has, or could, legally be loaned by Biddeford.

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\* We do not mean to imply that Biddeford has the authority to lend its diploma-granting power to a private corporation.