

MAINE STATE LEGISLATURE

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December 28, 1973

Carroll R. McGary, Commissioner

Educational & Cultural Services

Jon A. Lund, Attorney General

Attorney General

Request for an opinion on authority to close public schools

SYLLABUS:

The Commissioner of the Department of Educational & Cultural Services does not have authority to close the public schools due to the energy crisis. Absent a proclamation of emergency by the Governor, the only authority to close the public schools due to the energy crisis resides in the legislature.

FACTS:

Carroll R. McGary, Commissioner of the Department of Educational and Cultural Services, seeks advice as to the extent of his authority to act in response to the suggestion of closing the public schools due to the energy crisis.

QUESTIONS:

1. Does the Commissioner of the Department of Educational & Cultural Services have authority to close the public schools due to the energy crisis?
2. If not, what governmental authority is there for closing schools under such circumstances?

ANSWERS:

1. No.
2. Such authority exists only in the Legislature.

REASONS:

An analysis of the statutes defining the powers of the Commissioner and the Department of Educational & Cultural Services and the problem created for the public schools by the energy crisis does not disclose to us authority in either the Commissioner or the Department of Educational & Cultural Services to close the public schools. However, the statutes do provide the Commissioner and the State Board of Education with the ability to recommend new legislation or amendment to existing legislation to the Legislature for the efficient conduct of the public schools of the State. It is by this method that legal closing of the public schools may be effected.