

MAINE STATE LEGISLATURE

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Educational & Cultural Services

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Salary payments for Vocational Technical Institute Instructors

The State Board of Education, representing the Vocational Technical Institutes (VTI), has a contract with the VTI Faculty Association regarding, among other matters, the salaries of the VTI faculty. These instructors are unclassified personnel but are paid in accord with the State pay schedule for classified personnel. You have asked whether or not the unclassified VTI employees must be paid in the same manner as State classified personnel with respect to longevity steps X and Y, which are pay raises automatically effective upon completion of certain numbers of total and continuous years of State employment. The short answer is that under the law such longevity pay for unclassified personnel was discretionary (although it was suggested) with the authority who determines the employees' wage rates, but under the contract, mentioned above, the longevity pay, including its automatic feature, is made mandatory.

Chapter 202 of the 1963 P. & S. Laws instituted longevity pay for classified personnel, but it only "requested" the authorities who determine wages for unclassified personnel to "consider" such similar treatment for the unclassifieds. Thus, for unclassifieds, longevity pay was discretionary. But the contract referred to above states that the Commissioner (of Education) will try to implement by July 1, 1973, an incentive-based point system for pay steps 18B through 25Y, but that if he does not do so, then the "longevity steps of state pay plan will be utilized." (Art. VI, A, § 9). The question then is what is meant by "longevity steps . . . will be utilized."

The contract has a general provision (Art. VI, A, § 3) for annual promotions "subject to satisfactory evaluation of their performance", which raises the possibility that all promotions are dependent on performance and are therefore discretionary. However, this is a more general provision than § 9 which specifically mentions "longevity steps". This fact, together with the fact that the essence of longevity steps is their automatic feature (otherwise they would be termed "merit steps"), means that the parties to the contract must have intended that steps X and Y be automatic, when they used the words "longevity steps". If discretionary pay raises to the X and Y levels were intended this could and would have been stated. But

the contractual provision as written requires that longevity pay for the VTI faculty be paid in the same manner as it is for classifieds under the State pay plan.

The memo also asks, if the above ruling is in favor of VTI faculty members, whether the funds for longevity pay should come from the legislative salary plan or each school's individual budget. We answer that the funds should come from the individual VTI budgets.

The 1963 Act providing for longevity pay did not specify any source for the pay increases so the normal source for pay and pay increases is presumed, and this would be the regular departmental (bureau, division, etc.) appropriations for personal services. The legislative salary plan, suggested in the question, only arose in connection with the 1973 cost-of-living pay raise for State employees (c. 99, 1973 P. & S. Law). Chapter 99 included appropriations for fiscal 1974 and 1975 to implement this raise for classifieds, and for unclassifieds, who were to receive a similar, mandatory raise. But there is no analogous "salary plan" providing funds for longevity pay in the longevity pay act. Therefore longevity pay must be funded through the regular VTI budget and appropriations process.

EF/mf

NOT A FORMAL OPINION