

MAINE STATE LEGISLATURE

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January 24, 1974

Bernard Saper, Ph.D.
Superintendent
Bangor Mental Health Institute
P.O. Box 926
Bangor, Maine 04401

Dear Doctor Saper:

I am in receipt of your letter of December 20, 1973, which queries the length of the term you are serving as Superintendent of the Bangor Mental Health Institute. I have concluded that you are currently serving the second year of a two-year appointment which is also "during the pleasure of the Commissioner and the Advisory Committee on Mental Health."

You were appointed to the position as Superintendent in October, 1971. At that time 34 M.R.S.A. § 2102, the authority for your appointment, provided for a term of four years or "during the pleasure of the Commissioner and the Advisory Committee on Mental Health." In October, 1973, by the enactment of C. 326 of the P.L. 1973, the Legislature amended that statute and changed the length of the appointment from four to two years. The law in this state is settled that the Legislature has the authority to effect any changes it deems appropriate in public offices including shortening the term of office. The issue in the Peter Bowman situation is not the issue you have raised here.

You have also asked whether your position as Superintendent precludes you from teaching at the University of Maine for remuneration. I have concluded that it does not. Your appointment as Superintendent

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is an unclassified position and, therefore, Rule 5.2-d of the Personnel Rules, which Rules have the force of law, would not operate to preclude you from receiving remuneration for any teaching you might do at the University of Maine. For your information, Rule 5.2-d states in part, "Any salary paid to an employee in the classified service shall represent the total remuneration for the employee, not including reimbursements for official travel."

I cannot answer your second question completely. There is an administrative answer that only the Commissioner can answer. If he believes that teaching at the University of Maine interferes with your duties at the Mental Health Institute, he may prohibit you from teaching.

Yours very truly,

JON A. LUND
Attorney General

JAL/jwp

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