

MAINE STATE LEGISLATURE

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April 17, 1974

Nicholas L. Caraganis, Director

Personnel

John W. Benoit, Jr., Deputy

Attorney General

Interpretation of Personnel Rule 11.7 Respecting "Continuous Service"

You have asked whether or not the Personnel Board possesses authority under Rule 11.7 to give credit for unclassified service, when determining the extent of a classified employee's "continuous service" for purposes of computing earned vacation leave. The answer is no.

Pertinent parts of the Rule are as follows:

"Each employee in the classified service . . . shall earn vacation with pay on the following basis: one work day . . . for each completed full month . . . of service during the first five years of employment with the state. Thereafter, provided the last five years of service shall have been continuous, vacation shall be earned on the following basis: for each completed full month . . . of employment with the state, one and one fourth (1 1/4) days"

(Emphasis supplied)

We are advised that the underlined words have long been interpreted by the Personnel Department to refer to classified service with the State; not to civil service in general. Such long-standing interpretation is generally given weight by courts when attempting to determine the meaning of regulations of governmental agencies. Your memorandum states that: "Inasmuch as the Personnel Law applied (sic) to Classified Service employees only . . . , the State Personnel Board and Department have considered this employee and others with similar employment histories/patterns as having interrupted (non-continuous if you will) service." Your memorandum also reports that the Personnel Board "is sympathetic in the matter of giving a favorable ruling on 'continuous service' but is concerned that it may be exceeding its statutory authority."

As presently written, Rule 11.7 does not contain language authorizing the Personnel Board to give credit for unclassified service when determining the extent of a classified employee's

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"continuous service" regarding computation of vacation leave time. We understand that the Board proposes changes in Rule 11.7 that would permit recognition of unclassified service when computing leave time and we intimate no view as to the legality of the proposed change.

John W. Benoit, Jr.
Deputy Attorney General

JWBJr:H

AN INFORMAL OPINION