

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date September 23, 1974

To Richard W. Tripp, Asst. Director

Dept. Personnel

From Charles R. Larouche, Assistant

Dept. Attorney General

Subject Educational Leaves to Attend Employee Representative Activities

This replies to your Memo of July 9, 1974, concerning the subject.

You ask whether or not the Personnel Board/Department would be exposed to a charge of engaging in an unfair labor practice by granting "educational leave" to employees who (1) desire to attend employee representative group sponsored educational programs, and (2) who desire to participate in employee representative group activities, such as membership drives, negotiations, etc. By "educational leave" we understand that you are referring to the "educational leave" which the Legislature authorized by Chapter 500, P.L. 1973, adding a new Chapter 60 to Title 5 M.R.S.A.

It appears to me that the educational leave authorized for State employees by that statute is limited to "increase knowledge and skills and to improve work techniques and procedures" in the discharge of his State employment. 5 M.R.S.A. § 722.

This construction of the statute appears to be consistent with the administrative interpretation placed upon it by the Educational Leave Advisory Board in its "Guidelines" issued July 2, 1974. The "Guidelines" specify that the knowledges and skills to be derived from the leave program must be those which are shown to be of direct benefit to his State agency and to the State, Pages 1 and 2. The "Guidelines" also refer to "Needs of the agency for additional expertise," (Page 4) and to "Reasonable expectation of tangible benefits accruing to the agency involved as a result of the proposed training." (Page 5) It concludes with the statement: "Educational Leave will be granted only for a course of study which is job related or related to a classification to which the employee may reasonably aspire." (Page 6)

Accordingly, I conclude that the "Educational Leave" authorized by the statute does not encompass the granting of leave to employees who (1) desire to attend employee representative group sponsored educational programs, and (2) who desire to participate in employee representative group activities, such as membership drives, negotiations, etc. Therefore, since there is no authority to grant educational leave for such purposes, your question concerning whether it would be an unfair labor practice would seem to be moot.

With regard to your request for a general guideline in this area, we can only suggest that you adopt and scrupulously follow a position of absolute neutrality with regard to any and all union organizations:

Richard W. Tripp, Assistant Director

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one should neither be favored nor disfavored, encouraged nor discouraged.

If I can be of any further help to you in this matter, please advise me.


CHARLES R. LAROUCHE
Assistant Attorney General

CRL:mfe