

# MAINE STATE LEGISLATURE

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November 15, 1974

Donald E. Cates, Chief, General  
Classification and Pay

Personnel

Charles R. Larouche, Assistant

Attorney General

Effect of Sec. 3, C. 221, R & S.L. 1973 on Personnel Board Power  
to Correct an Unlawful Classification

This replies to your memorandum request of November 8, 1974,  
concerning the subject.

Your request for an opinion by this Office is premised upon a request that we assume that the Personnel Board makes a finding that the classification of female domestic workers constitutes a discrimination on account of sex since they do the same work and under the same conditions as custodial workers, but are paid less. You ask, whether or not the Personnel Board is prevented by Section 3, Chapter 221, P. & S.L. 1973, from correcting the unlawful classification of domestic workers. The answer to that question is negative.

Section 3 of Chapter 221 R & S.L. 1973 in pertinent part provides:

"The State Personnel Board on a continuing basis shall review all reclassification and range change requests and regularly report those which it approves in omnibus bill form to each subsequent session of the Legislature, through the Appropriation and Financial Affairs Committee, for final determination."

Title 5, § 4572 provides that it shall be unlawful employment discrimination to discriminate on account of sex in the matter of compensation. This provision applies to the State and to any agency of the State.

The above-quoted portion of Section 3, Chapter 221, P. & S.L. 1973 can not reasonably be construed as prohibiting the Board from correcting an unlawful classification. These two statutory provisions must be read together; while on the one hand the Board cannot finally approve requests for reclassification, it is compelled on the other hand to avoid and eliminate discrimination on account of sex in the matter of compensation.

Therefore, the Personnel Board is empowered to declare the classification of female domestic workers invalid and to state that the classification of custodial workers applies to male as well as female workers who are doing the same work under the same conditions.

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

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CHARLES R. LAROCHE  
Assistant Attorney General

CRL:mfe