

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

December 18, 1974

Asa Gordon, Deputy Commissioner

Educational and Cultural Serv.

Harrison B. Wetherill, Jr., Ass't.

Attorney General

S.A.D. #71 Reapportionment

You have asked several questions concerning the reapportionment plans submitted by the reapportionment committee of SAD #71 to the State Board of Education for approval, pursuant to 20 M.R.S.A. §§ 301-301-A. The Committee has submitted one plan designated as the preferred plan and two plans designated as alternates. The Committee has also submitted complete minutes of all of its meetings and a minority report signed by two members of the Committee of six.

I will answer first your second question, which is whether the State Board may bypass the preferred plan if it meets the statutory criteria and designate one of the alternative plans as the approved plan. The answer to this question is no.

Under 20 M.R.S.A. § 301, "the committee shall . . . adopt a plan of representation, including total number of directors and members from each municipality or section that meets the requirements of any method set forth in this section. A majority of the committee shall constitute a quorum and a plan shall be adopted by majority vote of those present. The committee may submit as many alternate plans as it wishes." Under § 301-A, "Plans adopted by the committee shall be submitted to the State Board of Education for approval. The board shall approve or disapprove of an adopted plan. . . . If no plan has been adopted by the committee or approved by the board within the 90-day period, the commissioner shall prepare a suitable plan and submit it to the board for approval. . . . The approved plan shall be effective immediately."

Under the above procedures as set out in §§ 301 and 301-A, the responsibility of the State Board of Education is only to approve or disapprove of an adopted plan based upon compliance with the statutory guidelines. It is entirely up to the reapportionment committee to name the particular adopted plan or plans which it would like the State Board to consider and the committee may, if it desires, name the order in which it would like the State Board to consider any adopted plans submitted.

In the case of SAD #71, one plan was adopted by the Committee to be sent to the State Board as the "preferred plan." The two other plans were voted on and submitted only as "alternate plans." The apparent intention of the Committee in choosing this method of submitting its plans was that the preferred plan be approved if it meets the statutory requirements and that the alternate plans be considered only if the preferred plan could not be approved.

The State Board has no authority to substitute its judgment for that of the Committee other than to determine whether an adopted plan, as submitted, meets the relevant statutory requirements.

Returning now to your first question, you have asked whether each of the three plans submitted to the State Board by the reapportionment committee of SAD #71 is within the guidelines established by § 301. Based upon the figures you have furnished, the plan submitted as the preferred plan appears to meet the statutory criteria set out in Method B of § 301. Since the plan submitted as the preferred plan meets the statutory guidelines, there is no need to consider whether the two alternate plans would also meet the guidelines.

The third question you have asked is whether the State Board may consider the relative number of persons on the reapportionment committee that may have voted in favor of the preferred plan or of the alternatives. The answer to this question is no. Such a consideration is not related to whether a particular plan meets the criteria of § 301.

HARRISON B. WETHERILL, JR.
Assistant Attorney General

HBWJr.ec