

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date December 30, 1974

To W. G. Blodgett, Executive Director

Dept. Maine State Retirement System

From Charles R. Larouche, Assistant

Dept. Attorney General

Subject A Year of Service by a Tutor

This replies to your memo dated November 7, 1974, concerning this subject.

You state that there are some persons who^{are} engaged in the public schools as tutors and who spend only one-half day per week doing such work. You contemplate that some persons may be hired to tutor for as little as 1 hour per week.

I understand your question to be: Are tutors entitled to a full year of service credit regardless of the amount of time spent tutoring, as long as their work is on a regular basis? The answer to that question is negative.

5 M.R.S.A. § 1094, subsection 4 provides:

"The board of trustees shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to one year of service, but in no case shall it allow credit for a period of absence without pay of more than a month's duration if a full-time position, nor shall more than one year of service be creditable for all service in one calendar year. Service rendered for the full normal working time in any year shall be equivalent to one year's service. For the purpose of determining prior service credits, actual time worked in any year shall be deemed to be the normal working time. For evening school credits, any teacher who teaches a full accredited year in any evening school duly accepted and approved by the Department of Education shall be allowed not more than 1/2 a year's credit toward retirement for each school year so taught. Any period of time during which an evening school teacher teaches less than a full so-called accredited year shall be allowed toward retirement on a pro rata basis only."

This statute empowers the Board of Trustees to "fix and determine" how much service in any year is equivalent to one year of service. It provides the following guideline:

"Service rendered for the full normal working time in any year shall be equivalent to one year's service."

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The Board can and should obtain assistance and advice from other cognizant State agencies relative to what constitutes "the full normal working time" for a particular position.

Relative to "teachers," the statute provides some further guidance:

"For evening school credits, any teacher who teaches a full accredited year in any evening school duly accepted and approved by the Department of Education shall be allowed not more than 1/2 a year's credit toward retirement for each school year so taught. Any period of time during which an evening school teacher teaches less than a full so-called accredited year shall be allowed toward retirement on a pro rata basis only."

Thus, an evening school teacher is entitled to no more than one-half a year's credit. It would seem that the Department of Educational and Cultural Services should be able to provide to the Board of Trustees some specific information as to the correlation between day teaching, evening teaching and "tutoring." They may also be able to advise you concerning what constitutes the normal working time of a public school "tutor."

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


CHARLES R. LAROUCHE
Assistant Attorney General

CRL:mfe