

# MAINE STATE LEGISLATURE

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March 27, 1975

H. Sawin Millett, Jr., Commissioner

Educational and Cultural Serv.

Robert J. Stolt, Assistant

Attorney General

Appeal of a Discharged Superintendent

This replies to your memorandum of March 5, 1975, concerning this subject.

I understand your questions to be:

1. Whether a superintendent of schools discharged for cause by the directors of a school administrative district can appeal said discharge to the Commissioner without first having been present at the discharge decision of the school directors? The answer is yes.

2. Whether there is a statutory time limit on the initiation of such an appeal? The answer is no.

20 M.R.S.A. § 152 provides:

"[The school directors of a school administrative district], by a majority vote of their full membership, after due notice and investigation, may, for cause, discharge a superintendent of schools before the expiration of the term for which he was elected, and after such discharge the salary of said superintendent shall cease. Such superintendent of schools may appeal from the decision of such directors to the Commissioner for a public hearing."

The statutory requirements of a "for cause" discharge of a superintendent of schools are that the discharge be a result of: (1) the majority vote of the full membership of the school directors; (2) after due notice of the impending discharge to the superintendent; and, (3) investigation as to the alleged cause(s) for discharge.

When the above criteria have been met and the school directors have issued their decision, the matter is ripe for appeal to the Commissioner. There is no statutory requirement that the superintendent be physically present or otherwise contest his discharge at the discharge meeting of the school directors prior to bringing an appeal. Further, there is no statutory time

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limit placed on the right of a discharged superintendent to bring such an appeal. It is well settled that where a statute is silent as to the time within which an act must be done, it is imputed that the statute intended the act to be done within a "reasonable time." A "reasonable time" is 30 days.

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ROBERT J. STOLT  
Assistant Attorney General

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