

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date April 6, 1976

To David Redmond Dept. Executive Council
From Donald J. Gasink, Asst. Atty. Gen. Dept. Employment Security Commission
Subject Teacher Aides and Unemployment Compensation

Your question to the Attorney General has been referred to me for an answer. Your question is:

May teacher aides be eligible for employment compensation during the times they are not working during the school year, such as the Christmas, winter, and spring vacations?

In order to be entitled to unemployment compensation benefits, an employee must be "unemployed." 26 M.R.S.A. § 1192. That term is not defined in the Employment Security Law. An additional difficulty in this area is that teacher aides in Maine are not employed under one contract arrangement. A School Administrative District may have an arrangement with its aides which is unlike the arrangements which other Districts have with their aides. Given the lack of uniformity and the general language of your question, I will answer your question by explaining the approach of the Employment Security Commission, an approach which I accept as a reasonable construction of the meaning of "unemployed" in 26 M.R.S.A. § 1192.

The Commission understands that, although there is a lack of uniformity in teacher aide employment agreements, there are two general classes of agreements. First, teacher aides may be employed at an hourly wage rate. With respect to this class,

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the Commission has allowed unemployment compensation benefits during the school year vacation weeks if the aide performs no services for the school and has received no wages for that period. Second, the teacher aides may be employed under an academic year contract specifying the salary for the academic year. With respect to this class, the Commission has disallowed unemployment compensation benefits based on the view that they remain under the contract during the vacation weeks and that they receive wages during the vacation weeks, and, thus, are not unemployed.

It should be borne in mind that the Commission's approach may be challenged by a claimant or employer by appealing a Commission decision to Superior Court. I expect that the court would accept the logic of the Commission's approach.

DJG:er

Enclosure