

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date April 22, 1976

To P. R. Gingrow, Asst. Executive Director Dept. Maine State Retirement System

From Donald G. Alexander, Deputy Attorney General Dept. Attorney General

Subject Credit for Accrued Sick Leave

Your memorandum of March 26, 1976, indicates several different fact situations which certain teachers may face in being compensated for accrued sick leave. The particular problems you wish addressed are situations where School Administrative Districts may provide payment of a certain percentage of a teacher's salary for all days of accrued sick leave or else apply a certain dollar payment to each day of accrued sick leave.

In light of these facts, your question is whether such payments constitute the "payment" pursuant to 5 M.R.S.A. § 1094-16. If these payments are counted as payments under sub-§ 16, then the member would not receive additional retirement credits for the accrued days. As § 16 refers only to "payment", without indicating whether those payments are at a full rate of pay or any other rate of pay, a member should be considered to have received payment for any and all of accrued sick leave for which the member's participating local district provides some payment.

While this is our legal interpretation based on the question and our reading of the law, this is an area in which the Maine State Retirement System does have some flexibility through writing regulations. For example, the Maine State Retirement System may adopt a regulation which would determine the number of equivalent days of full salary covered by the payments and allow credit for membership service for the remainder of unpaid days. We are not at liberty to interpret the law in this manner without a regulation, but we believe a regulation dealing with this problem in the above specified manner or some other reasonable manner would be a reasonable interpretation of the law and sustainable as legal.



DONALD G. ALEXANDER,
Deputy Attorney General

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