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State Employee: Residency Requirement
5 M.R.S.A. § 556

June 24, 1976

Honorable William J. Hennessey
Maine House of Representatives
R.F.D. #1
West Bath, Maine 04530

Dear Representative Hennessey:

This responds to your recent inquiry regarding the six-month residency provision of the Personnel Law.

Resident for purposes of the six-month residency requirement of 5 M.R.S.A. § 556 is defined as ". . . a person who is domiciled in Maine" [5 M.R.S.A. § 552(7)]. Domicile is defined in Maine law as ". . . the habitation fixed in any one place without any present intent of removing therefrom. . . ." Mather v. Cunningham, 105 Me. 326 (1909). In order to establish a domicile in Maine, a person must be physically within the State and have a concurrent intention to remain. Belanger v. Belanger, Me., 240 A.2d 745 (1968).

Here the question seems to be to what extent must the employing State agency inquire in order to satisfy itself that the residency requirements of Section 556 (5 M.R.S.A.) have been met. Your inquiry suggests that "Pineland Center requires more than just a person's word that he has been a resident for six months as a precondition of that person's applying for employment."

The determination of eligibility for employment under Section 556 rests exclusively with the Personnel Board, but may be waived by the Board upon the request of the appointing authority. The Department of Personnel policy is to accept a person's word as to residency unless there is reason to

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believe the person may not qualify for employment under Section 556. Where the Department questions residency, it seeks, with the assistance of the prospective employee, to objectively determine that the individual has actually established a domicile in the State of Maine.

I am attaching a copy of our opinion of July 2, 1974, to the Department of Personnel in which we determined that the six-month residency requirement is a precondition of employment as opposed to a precondition for applying for employment.

If I may be of further assistance in this matter, please feel free to contact me.

Very truly yours,

ROBERT J. STOLT
Assistant Attorney General

RJS/ec
Enclosure