

# MAINE STATE LEGISLATURE

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*State Employees' Pay Plan*

August 16, 1976

Richard W. Tripp, Acting Director

Personnel

Donald G. Alexander, Deputy

Attorney General

Fulltime Employee Status under P. & S.L. 1975, c. 147, Part D, § 4.

This responds to your memorandum of August 4, 1976. In that memorandum you posed two questions:

- "1. Are employees who work less than 40 hours per week (designated officially in Personnel records as part-time and paid hourly) eligible for the appeals period allowance?
2. If affirmative, under what conditions?"

The answer to question 1 is that employees who work less than 40 hours per week may under certain conditions be eligible for the \$40 monthly allowance under Part D, § 4. This matter was basically resolved by our opinion of July 30, 1976, indicating that where the normal work week within an agency is less than 40 hours, persons working that normal work week are eligible for the so-called appeal period allowance.

The conditions for such eligibility would be that the less than 40 hour work week is the normal work week for the department or agency in question and that the department or agency in question considers the employees fulltime permanent or limited period employees, such as would be eligible for the Part D, § 4 allowance.

While these general guidelines can be established, determination in individual situations would clearly be matters of fact for the individual agency in consultation with the Director of Personnel to decide. Thus, for example, if within an agency there is a standard work week of 38 1/2 hours and all the employees of that agency work that time period, it would appear that such employees would be eligible for the Part D, § 4 allowance. However, if there was a small agency having one or two employees who work, for example, 3 days a week for a total of 24 hours during the week, it is unlikely that such employees could properly be construed by the agency or the Director of Personnel as permanent fulltime employees. Thus, we can provide the general outlines of law on this subject, following up on the interpretation of Part D, § 4. However, we emphasize again that determination of individual fact situations is a matter for the department or agency in consultation with the Director of Personnel.

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DONALD G. ALEXANDER  
Deputy Attorney General

DGA/ec

cc: Richard Dieffenbach