

MAINE STATE LEGISLATURE

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Stevens School Uses

STATE OF MAINE

Inter-Departmental Memorandum

34 M.R.S.A. 1.
34 M.R.S.A. 3051
15 M.R.S.A. 2712
Date August 23, 1976

To: Richard Bachelder, Director
Howard McCartney
From: Donald G. Alexander, Deputy

Dept. Bureau of Public Improvements
"
Dept. Attorney General

Subject: Facilities at Stevens School

You have posed the question as to whether the Bureau of Public Improvements may negotiate with the Department of Mental Health and Corrections to permit use of a portion of the facilities at the Stevens School in Hallowell by the Department of Marine Resources.

A review of the statutes discloses no provision that would absolutely prohibit such negotiations or, if the negotiations proceeded, the use of a portion of the Stevens School facilities by the Department of Marine Resources as assigned by the Bureau of Public Improvements pursuant to 5 M.R.S.A. § 1742-18. However, this answer must be qualified as indicated below.

The authority of the Department of Mental Health and Corrections over its facilities, authority similar to that which the Bureau of Public Improvements generally exercises over State facilities, is specified at 34 M.R.S.A. § 1, as last amended by P.L. 1975, c. 756, §§ 10 and 11. Under these provisions it is clear that the Department of Mental Health and Corrections has primary authority over facilities such as the Stevens School.

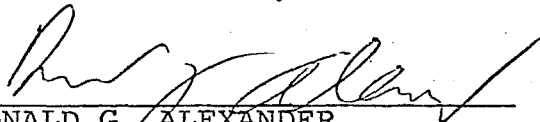
As to the Stevens School specifically, this authority is confirmed by 34 M.R.S.A. § 3051, enacted by P.L. 1975, c. 756, § 23. This section gives the Department of Mental Health and Corrections control over the Stevens School. Further, it directs the Commissioner of the Department of Mental Health and Corrections to consult with certain other agencies (Human Services and Educational and Cultural Services) to determine and perhaps make arrangements for the use of the Stevens School to provide "a broad range of educational, psychological and other related services to children with severe emotional, mental and behavioral disturbances." Thus this provision conveys the legislative intent that examination and consultation with the named departments as to this use of the Stevens School should be a matter of first priority. Further, 15 M.R.S.A. § 2712 authorizes use of facilities at the Stevens School to relieve overcrowding at certain other correctional facilities.

Thus, the Department of Mental Health and Corrections has been given certain directions with regard to potential uses of the Stevens School, but not direct prohibitions to other uses.

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Accordingly, it would appear that before the Department of Mental Health and Corrections could negotiate with the Bureau of Public Improvements for use of the Stevens School by the Department of Marine Resources, it would first have to reach a determination that all or some of the facilities at the Stevens School are not appropriate for use as suggested in 34 M.R.S.A. § 3051 and that all or some of the facilities will not be needed to relieve overcrowding as specified in 15 M.R.S.A. § 2712.

The Department could then identify the buildings which were not needed and grant to the Bureau of Public Improvements authority to use these buildings. The Bureau of Public Improvements could then apportion use of these buildings under its authority in 5 M.R.S.A. § 1742-18.


DONALD G. ALEXANDER
Deputy Attorney General

DGA/ec
cc: John Rosser
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