

MAINE STATE LEGISLATURE

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Inter-Departmental Memorandum Date December 15, 1976

To W. G. Blodgett, Executive Director Dept. Maine State Retirement System

From Donald G. Alexander, Deputy Dept. Attorney General

Subject Entitlement of cost of living adjustment under 5 M.R.S.A. § 1128 for a certain superintendent of schools who in April, 1974, filed a letter of intent to retire at the completion of his contract, which contract ran to June 30, 1977

I have reviewed your memorandum of October 25, 1976, as supplemented by your memorandum of October 29, 1976, regarding the question of a superintendent who, in April of 1974, filed a letter of intent to retire at the completion of his contract, June 30, 1977. Between the date of filing of the letter of intent and the date on which the person in question's retirement is scheduled to take effect, the law regarding the effect of such letters of intent changed, P.L. 1975, c. 622, § 62. The Maine State Retirement System had interpreted the old law to allow a person who filed a letter of intent to be eligible for all cost of living increases in retirement benefits subsequent to the date of the letter of intent.* 5 M.R.S.A. § 1128 now clearly limits eligibility for cost of living increases to those within one year prior to effective date of the retirement. It is my view that persons who acted in reliance on the prior interpretation of the old law by Maine State Retirement System as the superintendent of schools in this case, are entitled to receive the benefits presumed under that prior law in computing their retirement allowances. Accordingly, as the superintendent of schools filed a letter in April of 1974, acting in reliance on the then existing interpretation of law which entitled him to all subsequent cost of living increases, he should be entitled to receive the cost of living increases as under the prior Maine State Retirement System interpretation of the law. The change in the law which took effect with enactment of Chapter 622 of the Public Laws of 1975 limiting eligibility for cost of living increases should be limited in its effect to letters of intent filed after the effective date of the amendment to 5 M.R.S.A. § 1128.

DONALD G. ALEXANDER
Deputy Attorney General

DGA/ec

* The legislative history of the old provision and its change indicates some legislative belief that even under the old law entitlement to cost of living benefits was limited to one contract year for teachers (and superintendents) and that the only effect of the change was to extend this one year retroactive right to all retirees. cf. 106th Legislature, L.D. 1818 and L.D. 1939, Statement of Fact of each; The Towne Report to Committee on Veteran and Retirement, 107th Legislature (which suggested the amendment eventually adopted). However, for the purposes of this opinion, the interpretation of the old law by Maine State Retirement System is accepted.