

MAINE STATE LEGISLATURE

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2/22/77

Education: Kindergarten programs approved

STATE OF MAINE

20 MRSA 859
20 MRSA 911
22 MRSA 8401

Inter-Departmental Memorandum Date June 15, 1977

To Asa Gordon, Deputy Commissioner

Dept. Educational & Cultural Services

From Waldemar G. Buschmann, Ass't Attorney General

Dept. Attorney General

Subject Kindergartens

FACTS: In 1976 the 107th Legislature enacted Public Law 1975, c. 709, section 2, which requires that nursery schools be licensed by the Department of Human Services. The Legislature provided for the licensing of programs which included three or more children 7 years of age or under, as set forth in 22 MRSA, section 8401. A kindergarten, which has been approved by the Commissioner of the Department of Educational and Cultural Services in either a private or public school, shall not be considered a nursery school.

QUESTION: If the Department of Educational and Cultural Services approves a 2 year pre-school program, labelling it as a kindergarten program, must that program also be licensed by the Department of Human Services?

ANSWER: No.

REASON: It is the opinion of this office that the Legislature specifically exempted kindergartens from the licensing requirements of Public Law 1975, c. 709, section 2. Although the Legislature referred to 20 MRSA, section 911 in exempting kindergartens which had been approved by the Commissioner of Educational and Cultural Services, it appears the reference to section 911 is an inaccurate citation. Section 911 does not deal with kindergartens; rather it deals with compulsory education for children who are between 7 and 17 years old. Section 859 of Title 20 does deal with kindergartens. Section 859 acknowledges the existence of a 2 year pre-school program for 4 and 5 year olds. This 2 year program has consistently been approved as a kindergarten program by the Department of Educational and Cultural Services and was approved as such at the time the Legislature was considering Public Law 1975, c. 709, section 2.

Therefore, the Legislature has exempted any public or private kindergarten program approved by the Department of Educational and Cultural Services from having to be licensed by the Department of Human Services as a nursery school.

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cc: Mollie Reynolds
Fred Douglas
Steve Ludwig
Joe Kozak