

# MAINE STATE LEGISLATURE

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Tuition Payments Private Schools  
Education & Tuition Payments - Out of State

20 MRSA § 1291

1292

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August 29, 1977

Memo to: James J. Vickerson, Jr.  
Deputy Commissioner

From: Waldemar G. Buschmann  
Assistant Attorney General

Subject: Tuition Payments to Private Schools

FACTS:

The Town of Blue Hill does not have a secondary school. It has a contract with George Stevens Academy for the schooling of a majority of the secondary school students who reside in Blue Hill. The authority for such a contract exists under 20 MRSA §§ 1291 and 1292. The balance of the secondary students in Blue Hill are free to make their own arrangements to attend secondary schools other than George Stevens Academy.

On May 7, 1975, the Blue Hill school committee adopted a policy governing the payment of tuition for secondary school students. Pursuant to paragraph 5 of that policy, "the school committee will not pay tuition to students attending out of state schools if there is a contract between the town and a secondary school within the state." However, paragraph 6 of the policy states that "the school committee will pay tuition for a secondary student out of state if there is no contract between the town and a secondary school within the state."

At least two secondary school age children who reside in Blue Hill attend private secondary schools outside the State of Maine. The Blue Hill school committee has refused to pay the tuition<sup>1</sup> of

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<sup>1</sup>The maximum allowable tuition charge for all public and private secondary schools is computed according to a formula set forth in 20 MRSA § 1292. If the private school's tuition rate exceeds that figure then the student must pay the additional amount, unless the private school has a contract with the administrative unit which the student resides in to provide secondary school privileges for all secondary school students in that unit. 20 MRSA § 1292. The maximum tuition amount in 1976-77 was \$1,224.96.

these students because of its contract with George Stevens Academy.

QUESTION:

Does the Commissioner of the Department of Educational and Cultural Services have a role in ensuring that tuition is paid to out of state schools when an administrative unit does not support, contract for or maintain an approved school?

ANSWER:

Pursuant to 20 MRSA § 1292, the Commissioner of the Department of Educational and Cultural Services shall pay delinquent tuition bills for tuition students, "or so much thereof as he shall find to be rightly due, to the treasurer of the receiving administrative unit, academy, institute or seminary." "Superintendents of schools and principals of private schools shall notify the Commissioner of Education whenever a sending unit is delinquent in its tuition payments and the Commissioner shall withhold such delinquent tuition in the monthly apportionment set out in the preceding paragraph."

Pursuant to the Maine Constitution, the town of Blue Hill must "make suitable provision . . . for the support and maintenance of public schools." MRSA Const. Art. VIII Section 1. Since Blue Hill does not maintain an approved secondary school for its secondary school age children, it has the authority to enter into contracts to provide for the education of those children. 20 MRSA § 1289. However, if Blue Hill does not have a contract to provide for the education of all of the secondary school age children living in Blue Hill, then, pursuant to section 1291, those students may attend an approved secondary school of their choice. Pursuant to section 1292, Blue Hill has the authority to pay the tuition for any secondary school age child who attends an approved secondary school in another state or country so long as Blue Hill does not have a contract to provide for his education.

Since Blue Hill's contract with George Stevens Academy covers only a majority of the secondary school age students in Blue Hill and does not cover all of the students, it is my opinion that the contract with George Stevens Academy does not meet the constitutional requirement that Blue Hill make suitable provision for all of its secondary school age children. The Blue Hill school committee has effectively acknowledged this fact by paying tuition for students attending secondary schools in Maine other than George Stevens Academy. Such payments would not be permissible if Blue Hill contracted with George Stevens Academy for the education of all of the secondary

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students living in Blue Hill. Therefore, if a secondary school age child in Blue Hill attends an approved<sup>2</sup> secondary school other than George Stevens Academy, Blue Hill would be required to pay for that student's tuition. It is irrelevant whether the child attended an approved secondary school in state or out of state.

  
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Assistant Attorney General

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<sup>2</sup>An approved secondary school is a secondary school in the State of Maine which has received basic approval from the Department of Educational and Cultural Services. 20 MRSA § 102.7. The Department of Educational and Cultural Services also recognizes out-of-state secondary schools which have been approved by their states' departments of education or are in good standing in the Independent Secondary School Division of the New England Association of Colleges and Secondary Schools. The legislature recognized the reliability of the New England Association by referring to it in 20 MRSA § 102.7.