

MAINE STATE LEGISLATURE

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increase property education by state
Education; Children of Federal Property
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STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

Theodore Sky
Assistant General Counsel
for Education
Department of HEW
Office of the Secretary
Washington, D.C. 20201

Your letter of July 22, 1977, raises two questions. The first question is whether Maine law permits the use of state or local funds to provide a free public education for children living on federal property. The opinion expressed on June 4, 1943, by the then Attorney General Frank I. Cowan, is still valid today:

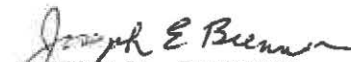
Since Maine law compels every child between the ages of 7 and 17 to attend an approved school and also states that every child between the ages of 5 and 20 shall have the right to attend school, it would appear that the legislature still intends that every child in the state, regardless of where he may live, shall have the right to attend a free public school.* See 20 H.R.S.A. Secs. 859 and 911.

* The opinion does not address the issue of jurisdiction over a child on a federal reservation should the child or the child's parents desire not to attend a public school or approved alternative.

During the first session of the 108th Legislature, Public Law 1977, Chapter 563, "An Act Relating to Approving and Financing School Construction," was enacted. (Copy enclosed) Pursuant to Chapter 502, "School Construction Projects," it appears that Maine law neither expressly permits nor prohibits public school facilities from being constructed with state or local funds on federal property pursuant to a lease or use permit. The State Board of Education, pursuant to its broad authority over the construction of school facilities, could prohibit, regulate or otherwise condition that construction on federal property. One condition which probably would be mandated would be that exclusive control of the school facility and of the property it sat upon would have to lie with the local educational agency.

If you have further questions on this matter, I suggest that you contact Waldemar Buschmann, the Assistant Attorney General assigned to the Department of Educational and Cultural Services. His telephone number is (207) 289-2321 and his address is care of the Department of Educational and Cultural Services, Augusta, Maine 04333.

Respectfully yours,


JOSEPH E. BRENNAN
Attorney General

JEB/ec
Enclosure
cc: Waldemar G. Buschmann