

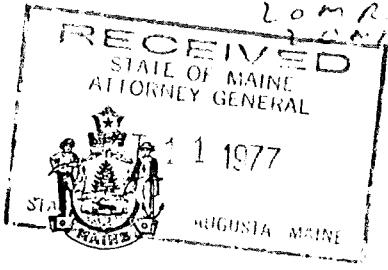
MAINE STATE LEGISLATURE

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E. Education Tuition Payments
20 MRSA 1291
20 MRSA 1292



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AUGUSTA, MAINE 04333

October 7, 1977

Mr. James J. Vickerson, Jr.
Deputy Commissioner
Dept. of Educational & Cultural Services
State House Complex
Augusta, Maine 04333

Re: Appeal to Commissioner under 20 MRSA §§ 1291
and 1292 for Delinquent Payments

Dear Mr. Vickerson:

FACTS:

Mrs. Granger, a resident of Blue Hill, has filed an appeal with the Commissioner pursuant to the provision in 20 MRSA § 1291 which allows "Any pupil for whom tuition has been denied by the school committee" to "appeal to the Commissioner of Education for a decision and any payment found to be rightly due shall be adjusted as provided for such cases in section 1292."

Section 1292 states in part that

"when pupils are sent from one administrative unit to an approved secondary school in another, if any accounts for tuition for such pupils are not paid within 30 days of the billing date, the Commissioner shall pay such accounts, or so much thereof as he shall find to be rightly due, to the treasurer of the receiving administrative unit, academy, institute or seminary at the next subsequent monthly apportionment, and the Commissioner shall charge any such payment against the apportioned fund of the sending administrative unit. 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 from the monthly apportionment as set out in the preceding paragraph."

Mrs. Granger is seeking reimbursement for tuition amounts she paid to Deerfield Academy on behalf of her secondary school aged child. Payments have been made in full to Deerfield Academy by Mrs. Granger.

QUESTION:

Does the Commissioner have authority under 20 MRSA §§ 1291 and 1292 to reimburse Mrs. Granger for the 1975-76 and 1976-77 tuition payments which she voluntarily paid to Deerfield Academy?

ANSWER:

No. Although 20 MRSA § 1291 authorizes the pupil, who has been denied tuition payments by the school committee, to appeal that decision to the Commissioner, the Commissioner must look to section 1292 to determine whether he has authority to make the tuition payments. Pursuant to section 1292, the Commissioner has authority to pay delinquent tuition bills only "if any accounts for tuition of such pupils are not paid within thirty days of the billing date." In this instance there is no evidence that there are any delinquent bills which need to be paid. Section 1292 also requires that the receiving school, Deerfield Academy, notify the Commissioner that Blue Hill is delinquent in its tuition payments before he could "withhold such delinquent tuition from the monthly apportionment" of Blue Hill. The Commissioner has not received any such notification from Deerfield Academy.

Also, since the Commissioner only has authority to make the payments directly to the private school, he has no authority to reimburse Mrs. Granger for tuition payments which she has voluntarily made to Deerfield Academy. C.F. Albert vs. Inhabitants of Town of Winslow, (1972) Me., 286 A2d 600.

In conclusion, the Commissioner has no authority to reimburse Mrs. Granger for the tuition payments which she has voluntarily paid, nor does he have any authority to make payments to Deerfield Academy.

Respectfully yours,



Waldemar G. Buschmann
Assistant Attorney General