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Retirement: Local District Eligibility

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October 13, 1977

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

From: Kay R. H. Evans, Assistant Attorney General

Re: Eligibility of Maine Rural Rehabilitation Institute to
Participate in the Maine State Retirement System under
5 M.R.S.A. § 1092(1)

Your memo of September 7, 1977 requests an opinion as to whether the Maine Rural Rehabilitation Institute qualifies to participate as a local district in the Maine State Retirement System. The answer, based on the documentation submitted, is no.

Section 1001(11-A) defines "local district" as


. . . any county, municipality, quasi-municipal corporation, incorporated instrumentality of the State or of one or more of its political subdivisions, or any incorporated association of employees of the State or of such local districts, or incorporated association of such local districts, or any entity eligible to become a participating local district, or presently participating in the system, under this section as in effect immediately prior to January 1, 1976.

The only portions of the definition which are even arguably relevant to determination of the Institute's eligibility are ". . . quasi-municipal corporation, incorporated instrumentality of the State or of one or more of its political subdivisions. . . ."

The documentation submitted, a Certificate of Organization of a Corporation under Title 13, Chap. 81 of the Maine Statutes, provides no information which permits a determination that the Institute falls

into any of these categories. The Certificate alone is not sufficient to enable any entity established thereunder to qualify as a "local district" for the purposes of the retirement law. Nor is the mere fact that the Institute proposes to provide certain services which might be provided by the State or one of its political subdivisions sufficient to compel the conclusion that it is a quasi-municipal corporation or incorporated instrumentality of the State or of a local political body. Without some evidence of creation and/or function under State or local law (statute, Resolve, ordinance, etc.) authorizing the existence and/or activity of organizations of its nature and purpose, the Institute does not qualify as a local district. Mere permission to organize under Title 13, Ch. 81 is not sufficient; there must be evidence of a delegation, by the State, a municipality or some other political subdivision, of authority to 1/ perform a function which the delegating entity might itself perform.

Under the facts provided, the Maine Rural Rehabilitation Institute cannot be found to qualify as a local district capable of participation in the Maine State Retirement System.


Kay R. M. Evans
Assistant Attorney General

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1/ We point, for example, to the provisions of the Rehabilitation Act, 22 M.R.S.A. § 3051 et seq., but note that no relation of the Institute thereto is indicated in the documentation.