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Maternity Leave
20 M.R.S.A. § 3755

February 2, 1978

Representative Swift Tarbell, III
State House
Augusta, Maine

Re: Maternity Leave Benefits

Dear Representative Tarbell:

You have posed a question concerning the applicability of certain non-discrimination provisions to the Bangor Regional Learning Center. Specifically your question concerns whether teachers at the Learning Center, which is neither a state nor a municipal institution, may utilize accrued sick leave during pregnancy if employees can use their accrued sick leave for other temporary disabilities.

As you are aware, in the last session of the Legislature, Title 20 M.R.S.A. § 3755 was passed which provided that the Commissioner of Educational and Cultural Services must insure that any Federal or State funds distributed to any school administrative unit are spent in compliance with certain provisions which are outlined in the act including the provisions of the Federal law concerning revenue sharing, Title 9 of the Education Amendments of 1972, Title 6 of the Civil Rights Act of 1964, the Maine Human Rights Act and the Code of Fair Practices and Affirmative Action. The provisions discussed above, however, apply principally to those funds which go to school administrative units, which are defined in 20 M.R.S.A. § 3452(1) as ". . . all municipal or quasi-municipal corporations responsible for operation or constructing public schools." Whether or not the provisions of the revenue sharing act or the provisions of Title 9 would apply to the Learning Center would depend principally on the Learning Center's funding.

You have indicated that 10% of the school's funding is federal Title I money from the Department of Educational and Cultural services. If the Learning Center receives education funds from the Department of Health, Education and Welfare, those funds would be subject to the provisions of Title 9. One of the regulations promulgated pursuant to Title 9 provides as follows:

Pregnancy as a temporary disability. A recipient shall treat pregnancy, child birth, false pregnancy, termination of pregnancy, and recovery therefrom and any temporary disability resulting therefrom as any other temporary disability for all job related purposes, including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment.

It would appear under this regulation, that if the Learning Center is the recipient of HEW funding for education, the Learning Center is required to permit teachers to use accrued sick leave during the time of pregnancy and delivery if the use of accrued sick leave is permitted for any other temporary disability.

I have not addressed here the question of whether the Learning Center somehow falls within the definition of "school administrative unit" which would presumably cause the burden of enforcement to fall on the Department of Educational and Cultural Services. However, it may be that the funds contributed by the school districts which send pupils to the Learning Center are "funds distributed to any school administration district" within the meaning of § 3755.

Very truly yours,

KATE CLARK FLORA
Assistant Attorney General

KCF:jg