

# MAINE STATE LEGISLATURE

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5 M.R.S.A. 1222-6  
STATE OF MAINE

Inter-Departmental Memorandum Date April 26, 1978

To Gary King, Field Examiner Dept. Maine State Retirement System  
From Kay R. H. Evans, Assistant Dept. Attorney General  
Subject York County Compact: Social Security

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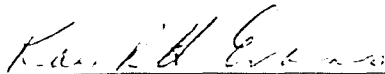
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As you have requested, via your communication of April 19, 1978, I have examined the question of the eligibility of the York County Special Education Compact to participate in Social Security under Chapter 103 of Title 5. The precise question, raised by HEW's Regional Attorney, is whether the Compact constitutes a juristic entity sufficiently separate and distinct to qualify as a political subdivision within the meaning of 5 M.R.S.A. § 1222(6).

As was stated in our opinion of October 6, 1977, the Compact is "under the authority and supervision of duly elected public school managers, notwithstanding that that authority and supervision is channeled and exercised in the unique manner." This uniqueness makes determination of the Compact status as a political subdivision a complex matter in which a clear-cut answer is difficult. In particular, the Compact is governed by its Organizational Plan of which paragraph 6 provides

Laws of the state and federal governments.  
The programs of this Compact shall be operated according to the appropriate laws of the State and Federal Governments as they apply to the operation of the schools of the member units.

The "member units" or "member administrative units," as they are referred to elsewhere in the Organizational Plan, are the school management bodies which operate the public schools in the various municipalities or other administrative areas within the Compact's geographical territory. Under state law, the different kinds of administrative units have somewhat different powers. It is thus a complicated matter to determine either the appropriateness or the application of the Compact of laws regarding the operation of schools of the member units. However, in general, those bodies which manage the public schools in Maine have at least some of the powers generally ascribed to a political subdivision which exists as a separate and distinct juristic entity. They may, sometimes within certain limits, hold and convey property; they may enter into contracts; they may, independently or together with the municipalities within which they function, sue and be sued. Accordingly, it is our opinion that the York County Special Education Compact constitutes a political subdivision for the purposes of 5 M.R.S.A. Chapter 103.

  
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KAY R. H. EVANS  
Assistant Attorney General

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