

MAINE STATE LEGISLATURE

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Handicapped Public Buildings
Public Buildings: Handicapped Access

Dean A

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December 21, 1978

To: Dean William C. Warren, Acting Director
Southern Maine Vocational Technical Institute

From: Waldemar G. Buschmann, Assistant Attorney General

Re: Elevator need in SMVTI's new building construction facility.

FACTS:

A new building construction facility is being built on the campus of S.M.V.T.I. There is access to the second floor of the building from the street level on the front of the building and access to the bottom floor of the building from street level on the back of the building.

The building will have a normal occupancy of less than 100 persons and will not normally be used for meetings or gatherings of the public at large.

The cost of an elevator installation in the new facility is in excess of \$25,000. Approximately \$20,000 could be removed from construction costs if the elevator is not required. The \$5,000 balance reflects the cost of installing the elevator shaft, which will be part of the new construction.

QUESTION:

Do either the federal or state laws require that an elevator be installed in the new building construction facility at the S.M.V.T.I. campus?

ANSWER:


Apparently both levels of the building construction facility are accessible to and usable by handicapped persons. In particular, the lower level is accessible through a street level entrance at the rear of the building and the upper level is accessible through a street level entrance at the front of the

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building. However, a handicapped individual who could not use the stairs between the two levels would have to travel several hundred feet outdoors to get from one entrance level to the other. This would probably be a hardship on a handicapped individual during periods of inclement weather or when the streets may be covered with ice or snow.

The regulations of Section 504 of the Rehabilitation Act of 1973 requires that the new facility "shall be designed and constructed in such a manner that the facility or part of the facility is readily accessible to and usable by the handicapped persons." 40 CFR §84.23(A). Therefore, it is my opinion that the Federal law mandates that an elevator be installed in the new building construction facility since both levels of the facility would not otherwise be "readily accessible to and usable by the handicapped persons."

Since Federal law mandates the installation of an elevator, there is no need to analyze applicable State statutes.


Waldemar G. Buschmann
Assistant Attorney General

WGB/lm

cc: Elwood Padham
Richard Knight