

MAINE STATE LEGISLATURE

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RICHARD S. COHEN
ATTORNEY GENERAL



79-8
JOHN M. R. PATERSON
DEPUTY ATTORNEY GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

January 25, 1979

To: Gary R. King, Field Examiner III, Maine State Retirement System

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

Re: Eligibility of Passamaquoddy Tribe, Pleasant Point Reservation, to Participate in the Social Security Program as a Separate Political Subdivision

Your memo of December 19, 1978, asks whether the Tribal Council which governs the Pleasant Point Reservation of the Passamaquoddy Tribe has the powers of a separate political subdivision for the purpose of covering the employees of that Reservation under the Social Security Program. The question arises because the Passamaquoddy Tribe exists on two reservations, only one of which seeks Social Security coverage for its employees at this time. You state in your memo that the Social Security Regional Attorney's Office has advised you that unless Tribal Council of the Pleasant Point Reservation is vested with powers similar to those provided cities and towns, it may not separately cover its employees under the Social Security Program.

While some functions of Passamaquoddy governance are carried out by the Tribe acting as a whole, the Tribal Council of each Passamaquoddy Reservation is separately elected by persons living on each reservation. Each Council has authority and is responsible for the conduct of "the affairs of the tribe on each reservation," 22 M.R.S.A. § 4831-A, and is specifically vested with certain powers, e.g., adoption of ordinances and law enforcement, 22 M.R.S.A § 4717; appointments (or advice and consent to appointments made by the reservation governor), 22 M.R.S.A. §§ 4706, 4716, 4734. It appears from these provisions that the Tribal Council of each of the Passamaquoddy Reservations is separately vested with powers similar to those exercised by the municipal governments of the towns and cities of the State, and that each is therefore a separate political subdivision.

Kay R. H. Evans

KAY R. H. EVANS
Assistant Attorney General

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