

# MAINE STATE LEGISLATURE

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RICHARD S. COHEN  
ATTORNEY GENERAL



#-19-151  
STEPHEN L. DIAMOND  
JOHN S. GLEASON  
JOHN M. R. PATERSON  
ROBERT J. STOLT  
DEPUTY ATTORNEYS GENERAL

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

July 27, 1979

Inge L. Foster, Chairman  
State Board of Education  
Dresden, Maine 04342

Re: Teacher Certification Regulations

Dear Mrs. Foster:

In your June 8, 1979, memorandum you have raised two questions regarding the authority of the State Board of Education to issue certain rules and regulations governing teacher certification standards. The relevant statute involved is 20 M.R.S.A. §59 which states that:

"The State Board of Education shall, in accordance with such rules and regulations as it may prescribe, authorize the Commissioner of Educational and Cultural Services to certify and seek in the administrative court to revoke the certification of teachers and other professional personnel for service in any public school in the state, or in any non-public school which accepts public funds for tuition or is approved for attendance purposes under §911."

The first question raised is whether "the Board's 'program approval' policy and related standards fall within the scope of its authority to prescribe rules and regulations as set forth in 20 M.R.S.A. §59." The program approval policy has been codified pursuant to the Administrative Procedure Act within 05-071 CMR 114 §§2 and 3 and within 05-071 CMR 115. These regulations were duly filed with the Secretary of State's Office and approved as to form and legality by myself as the Assistant Attorney General assigned to the Department of Educational and Cultural Services. In approving those regulations as to form and legality, it was my position that the State Board had the authority pursuant to 20 M.R.S.A. §59 to issue those regulations.

The second question raised is whether "the Board, within the scope of its statutory authority," could "prescribe eligibility requirements and/or admissions qualifications that would be directive as to the admission of students by institutions seeking to prepare candidates for the teaching profession." It is the opinion

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of this Office that the Board does not have such authority and that 20 M.R.S.A. §59 would not authorize the Board to issue regulations prescribing eligibility requirements and/or admissions qualifications for students seeking entrance to institutions which prepare candidates for the teaching profession. Pursuant to 20 M.R.S.A. §59 the State Board's authority is limited to establishing the standards which an applicant must meet before he will be eligible to receive a teacher's certificate. To that extent, it is appropriate that the State Board recognize in its rules and regulations that an individual, who has graduated from an approved institution, would be eligible for a teacher's certificate. However, the Board does not have the authority to establish the standards which a school must apply before it will admit applicants into the school or the program which has been approved by the Board.

Therefore, the State Board has the authority to adopt the rules presently in place, but it does not have the authority to adopt rules which would govern the admission policies regarding students entering institutions which offer approved programs.

Respectfully yours,



Waldemar G. Buschmann  
Assistant Attorney General

WGB:lm

cc: Richard W. Redmond  
H. Sawin Millett, Jr.