

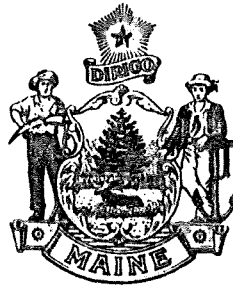
MAINE STATE LEGISLATURE

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79-158

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

August 17, 1979

W. G. Blodgett
Executive Director
Maine State Retirement System
State Office Building
Augusta, Maine 04333

Re: Creditable Service for Augusta Adult Education (Evening School) Teacher.

Dear Mr. Blodgett:

In your memo of June 28, 1979, you relayed the request of the Board of Trustees for confirmation of the legality of an action taken at its meeting on June 13, 1979, by which the Board voted to grant six months creditable service for the academic year 1978-79 to Barbara Homer, an adult education (evening school) teacher with the City of Augusta. The granting of this amount of creditable service represents an exception to Maine State Retirement System regulations, effective September 1, 1978, governing creditable service for adult education (evening school) teachers. In my opinion, the Board's action is within the scope of its discretionary authority and is therefore proper under the retirement law.

In the spring of 1978, the Board was considering revised regulations governing membership and creditable service. As a part of the notice and hearing procedure by which the revised regulations were proposed and finally adopted,^{1/} the Board was made aware, by the appearance at the hearing of individuals representing adult education (evening school) teachers, that a very few teachers were within two years of retirement under the

^{1/} The revised regulations were adopted April 14, 1978; those in question were effective September 1, 1978.

prior creditable service regulations ^{2/} and would be required to teach an additional several years in order to earn sufficient credit to be eligible for a benefit under the new regulations. The Board indicated its willingness to make an exception for such teachers as were then identified to the System as so affected. Barbara Homer and one other teacher ^{3/} were identified.

On the basis of its actions in adopting the revised regulations, the Board may now grant the exception from those regulations to Barbara Homer, who has met the conditions specified for the granting of such an exception, that is, that she be within two years of retirement at the time the revised regulations were adopted and that she be so identified at that time.

Very truly yours,

KAY R. H. EVANS
Assistant Attorney General

KRHE/ec

^{2/} Prior regulations granted six months of creditable service for each school year taught in an adult education (evening school) program, in accordance with 5 M.R.S.A. § 1094(4).

^{3/} The other teacher, Lucille Hannon of Portland, has since indicated that her retirement status is unaffected by the changed regulations.