

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
STATE HOUSE STATION 6  
AUGUSTA, MAINE 04333

May 27, 1983

Honorable Charles P. Pray  
Senate Majority Leader  
Maine Senate  
State House Station #3  
Augusta, Maine 04333

Dear Senator Pray:

This will respond to your inquiry as to the meaning of "school year" as the phrase is employed in 20 M.R.S.A. § 3123(1) to determine the final year of eligibility of exceptional children for free education once they have attained the age of twenty. For the reasons which follow it is the opinion of this Department that the "school year" as contemplated within the meaning of 20 M.R.S.A. § 3123(1) means the period beginning on July 1st and ending on June 30th in which an exceptional child reaches his or her twentieth birthday.<sup>1/</sup>

20 M.R.S.A. § 3123(1) (Supp. 1982) defines "exceptional children" as . . . "any persons who reach the age of 5 years on or before October 15th of any school year and until the end of the school year in which such persons reach the age of 20 years who require special services in the area of vision, audition, speech and language, cerebral or perceptual functions, physical

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<sup>1/</sup> This Opinion is limited to the question of the identity of the final year in which a twenty year old exceptional child is eligible to receive a free public education. It does not address the question of how such a child's educational program should be structured, since that should be determined through the development of the child's individual educational program.

mobility functions, behavior, mental development or maturation, or multiples of these functions, as defined by the commissioner, so that their educational progress and potential may be realized." The problem which you raise stems from the fact that Title 20 contains no definition of "school year," and local school boards are given authority to establish their annual school calendars subject to certain constraints. For example, 20 M.R.S.A. § 855 (Supp. 1982) provides in part that ". . . every administrative unit shall make provision for the maintenance of all its schools for not less than 180 days annually of which not less than 175 shall be actual school days and no more than 5 may be devoted to in-service education of teachers, administrative meetings, parent-teacher conferences, records days and other such teacher work activities." Thus, local school boards are given broad latitude in establishing their annual calendars, the exercise of which would inevitably result in unequal treatment of twenty year old "exceptional children," if the term "school year" in Section 3123(1) is interpreted to mean the inclusive dates on which school is actually held in a particular school administrative unit in a particular year.

In resolving this question, it is useful to examine principles enunciated by the Maine Supreme Judicial Court regarding education. The Law Court has repeatedly affirmed the plenary authority of the Legislature to control the public school system of the state. In Squires v. City of Augusta, 155 Me. 151, 153 A.2d 80 (1959) the Court stated that "[t]he state controls the public schools," id. at 155, 153 A.2d at 83, and that "state educational policy cannot and must not be interfered with by any subordinated governing body." Id. at 159, 153 A.2d at 85. See also, School Committee of the Town of Winslow, et al. v. Inhabitants of the Town of Winslow, et al., 404 A.2d 988, 992 (Me. 1979). The Law Court has thus affirmed that it is the strong intention of the Legislature, as reflected in the structure of the state's statutes relating to education, that educational policy be set at the state level.

With regard to the education of "exceptional children," the state's policy is specifically enunciated in the relevant statute. 20 M.R.S.A. § 3121(1) states in part that "[i]t is the declared policy of the state that all children be provided with equal educational opportunities." In order to effectuate the declared policy of the state in this regard, it is necessary for there to be a uniform method of determining a twenty year old exceptional child's eligibility for available educational opportunities. If the final year of his or her eligibility were not given a consistent definition, then a

twenty year old child's eligibility would vary depending upon the community of his residence, and the state's policy of "equal educational opportunities" would be frustrated.

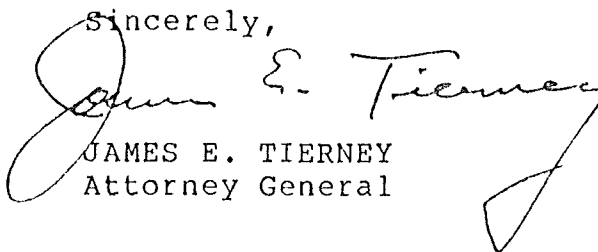
The only question remaining, therefore, is to fix the precise dates of the school year for purpose of Section 3123(1). A review of the legislative history does not provide a great deal of assistance as to the Legislature's intention on the point. As originally enacted, the section defined exceptional children as ". . . any person between the age of 5 and 20 determined to be mentally handicapped, emotionally handicapped, hearing impaired, speech and language impaired, learning disabled, visually impaired, physically handicapped or multiply handicapped, as defined by the Maine Department of Educational and Cultural Services." P.L. 1973, ch. 609, § 1. The Statement of Fact on the bill which resulted in this version of the statute stated in part that "[t]he purpose of this bill is to assure that equal educational opportunities are provided within regular programs, insofar as possible, with supportive assistance, for all exceptional children ages 4 (sic) through 20." L.D. 965, Statement of Fact (106th Legis. 1973). The current definition of "exceptional children" was enacted three years later. P.L. 1975, ch. 732, § 2 (1976). It now provides that "exceptional children" are "any persons who reach the age of 5 years on or before October 15th of any school year and until the end of the school year in which such persons reach the age of 20 years who require . . . ." No reason for the change in the definition of "exceptional children" can be found in the legislative history of the amendment. The Statement of Fact on the bill containing the amendment is silent on the point, L.D. 1956, Statement of Fact (106th Legis. 1976), and the Statement of Fact attached a Committee Amendment to the bill merely states that "[t]he purposes of this amendment are to: . . . [r]evise the definition of exceptional children . . . ." Comm. Amend. A to L.D. 1956, No. H-1083 (106th Legis. 1976). Therefore, no unambiguous legislative intent can be determined concerning the definition of "exceptional children" and thusly, the meaning of the term "school year" which is now contained in it.

In the absence of such an intent, this Department is of the opinion that the best interpretation of the term "school year" as it appears in Section 3123(1) is to read it to mean the fiscal year (July 1 through June 30) in which an exceptional child's twentieth birthday falls. Several provisions in Title 20 support this interpretation. The School Finance Act of 1978 defines "Year" by stating that "Year" means a fiscal year starting July 1st and ending June 30th of the succeeding year." 20 M.R.S.A. § 4743(24) (Supp. 1982). Municipal school

budgets must also be determined on the same basis. 20 M.R.S.A. § 3453-A (Supp. 1982) provides in part that "[n]otwithstanding any public or private statute or charter provision to the contrary, each administrative unit shall annually adopt a school budget for a period beginning on July 1st and ending on June 30th." Additionally, in the special education statutes "[t]he commissioner is authorized to make any rules and regulations necessary for the administration of this chapter." 20 M.R.S.A. § 3132 (Supp. 1982). Pursuant to this authority "Maine's Special Education Regulations" were adopted. Maine Department of Educational and Cultural Services Reg., 05-071 C.M.R. ch. 101. The state aid and review section of these regulations provides in part that "[e]xpenditures for special education, support assistance, tuition, or board and care will be authorized for inclusion within the state/local allocation for programs which cover up to forty-four (44) weeks within any school year (July 1-June 30)." Id. at § 101.11(C). Thus, to interpret the term "school year" to mean "fiscal year" in Section 3123(1) would be consistent with other education statutes and regulations.

I hope that this information will be useful to you. Please feel free to call upon me or my office if we can be of further assistance.

Sincerely,



JAMES E. TIERNEY  
Attorney General

cc: Senator Kenneth P. Hayes  
Representative Stephanie Locke  
Chairpersons, Joint Standing  
Committee on Education  
Representative Elizabeth H. Mitchell