

MAINE STATE LEGISLATURE

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JAMES E. TIERNEY
ATTORNEY GENERAL



88-8

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

September 28, 1988

Honorable John R. McKernan, Jr.
State of Maine
State House Station #1
Augusta, Maine 04333

Dear Governor McKernan:

I am writing to confirm advice which was given recently by my staff to yours concerning the term of office of members of the Board of Trustees of the Maine Vocational-Technical System who are appointed from the State Board of Education and the Board of Trustees of the University of Maine System. The question was whether the term of such members on the Vocational-Technical Board expires if they cease to be members of either the Board of Education or the University of Maine Board, or whether they continue to serve a full four-year term of office. For the reasons which follow, it is the opinion of this Department that persons appointed to the Vocational-Technical Board under such circumstances serve for a full four-year term.

The constitution of the Board of Trustees of the Maine Vocational-Technical System is established by 20-A M.R.S.A. § 12705. That section, in pertinent part, provides:

1. Membership. The board of trustees shall consist of 9 appointed voting members and 2 ex officio, voting members as follows:
 - A. One from the State Board of Education;

B. One from the Board of Trustees of the University of Maine System;

C. Seven from the field of business and industry, the field of labor, the field of education and the general public;

D. The Commissioner of Educational and Cultural Services, or his successor, who shall serve ex officio; and

E. The Commissioner of Economic and Community Development, or his successor, who shall serve ex officio.

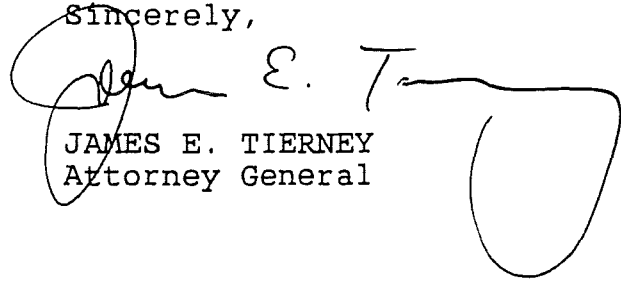
2. Appointment; terms. Members of the board of trustees shall be appointed by the Governor to 4-year terms of office, subject to review by the joint standing committee of the Legislature having jurisdiction over education and to confirmation by the Legislature. . . .

* * *

The legislative history of this provision is silent as to whether members who are appointed pursuant to subparagraphs 1(A) and (B) are to serve full four-year terms on the Vocational-Technical Board, or are to serve on that board only as long as they continue to serve on the Board of Education or the University of Maine Board. Nonetheless, it seems clear that the Legislature, by requiring that such members be confirmed anew for a four-year term on the Vocational-Technical Board, intended that the term of office of such members not terminate with the end of their service on the Board of Education or the University of Maine Board. Any other interpretation of Section 12705 would read out of the statute the four-year term provision as it applies to members of the Vocational-Technical Board who are appointed from the Board of Education or the University of Maine Board. Needless to say, the Legislature is quite free to provide otherwise, and provide that persons appointed by the Governor from the membership of the State Board of Education and that of the University of Maine Board should serve on the Vocational-Technical Board only so long as they continue to serve on one of the other two. In the view of this Department, however, it simply has not done so.

I hope the foregoing satisfactorily resolves this question. Please feel free to let me know if any further advice is required.

Sincerely,

A handwritten signature in black ink, appearing to read "James E. Tierney". The signature is written in a cursive style with a large loop at the end.

JAMES E. TIERNEY
Attorney General

JET/ec

cc: Sen. Stephen C. Estes

Rep. Stephen M. Bost

Co-Chairman, Joint Standing Committee on Education

Eve M. Bither

Commissioner, Department of Educational and
Cultural Services

Audni Miller-Beach

Executive Director, Maine Vocational-Technical
Institute System