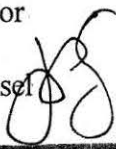


Memo




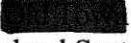

Date: August 28, 2006

To: Patricia Ryan, Executive Director

From: John Gause, Commission Counsel 

Re: 

PA/ED06-0314

Given what we know at this point, I still think that the complaint should proceed against the City of . The City has stated in its limited response that "The City of  is not a party to the actions taken by the  School District." They have not formally asked that the case be dismissed, however. In any event, given the fact that the City of  is responsible for funding the  school system, I think that the employees of the School System are properly considered "agents" and "employees" of the City for purposes of the Maine Human Rights Act.

The MHRA prohibits discrimination by a "place of public accommodation" or "any person who is the owner, lessor, lessee, proprietor, operator, manager, superintendent, agent or employee of any place of public accommodation. . . ." 5 M.R.S.A. § 4592(1) (emphasis added). In *Curran v. Portland Superintending School Committee*, 435 F. Supp. 1063, 1073 (D. Me. 1977), the United States District Court for the District of Maine held that, for purposes of a motion to dismiss, an employee of the Portland School System was also an "employee" of the City of Portland for purposes of a Title VII claim. The court reasoned as follows:

The City argues strenuously that it is not plaintiff's "employer" under Title VII, since it has no connection with the actual employment of teachers and other school personnel. It is true that the School Committee and the Superintendent are given the responsibility and authority for the employment of teachers and other personnel, 20 M.R.S.A. §§ 161(5), 473, and the City is not permitted by its charter to become involved in the actual administration and management of the School System. See The Charter of the City of Portland, Art. I § 2 and Art. III § 4. The authority of the School Committee is limited, however, by the role of the City in appropriating funds for the support of the public school system, including salaries of personnel. *Sawin v. Town of Winslow*, 253 A.2d 694, 699 (Me. 1969); Charter, Art. III § 4. In such circumstances, it cannot seriously be doubted that the City is sufficiently involved in, and, in fact, necessary to, the total

employment process that it must be considered plaintiff's employer for purposes of jurisdiction under Title VII.

Id.

Similarly, here, although the [REDACTED] School Board has the sole authority to govern the school system and determine how the funds are allocated, the city council appropriates the school's funding. See [REDACTED] Charter, Art. VI § 3, excerpt attached. Therefore, according to *Curran*, the [REDACTED] High School coaches and Principal should also be considered "employees" of the City of [REDACTED] for purposes of the MHRA.