



STATE OF MAINE  
DEPARTMENT OF EDUCATION  
23 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0023

PAUL R. LEPAGE  
GOVERNOR

THOMAS A. DESJARDIN  
ACTING COMMISSIONER

April 10, 2015

John D'Anieri, Head of School  
Carrie Branson, Asst Head of School  
9 Ash Point Rd  
Harpowell, ME 04079

Dear Mr Anieri and Ms Branson:

The Department has been made aware over the last week of MSAD 75's refusal to allow public charter school students to participate in interscholastic activities. We understand that these students live in the District and attend a Public Charter School which doesn't have sports. Under the Statute these students are eligible to try out for teams in MSAD 75. At the center of this is a difference in interpretation of the word capacity contained in the Statutes.

The Department of Education has interpreted the statute to mean that the SAU has capacity as long it does not have to buy a new uniform or create a new spot on a team or arrange for any new transportation. The fact that more students try out for a limited amount of slots does not mean that the public charter school student can be summarily turned away. Public charter school students must be treated in the same manner as the non-charter school student for the purposes of tryouts. The abilities of the students are to be measured without discrimination as to which public school the student attends.

The Department of Education has an Assistant Attorney General assigned to advise us on the many decisions we need to make. Sarah Forster, Esq. has examined this statute and this interpretation and has advised that the interpretation is both reasonable and defensible. Courts in Maine afford "great deference" to an agency, in this case the Department of Education, to interpret and implement statutes.

I understand negotiations are underway between HCA and SAD 75. I do note that tryouts and team formation are taking place right now. I urge the parties to move toward resolution. I understand that there is legislation being contemplated by several legislators who have been contacted by their constituents. Should legislation come forward the Department will testify as outlined above.

Thank you for reaching out to the Department.

Please contact me again if you need further assistance or clarification.

Sincerely,

Tom Desjardin  
Acting Commissioner  
Department of Education

CC:  
Bob Kautz, Executive Director, Maine Charter Commission  
Bradley Smith, Superintendent of Schools, MSAD 75