

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

**FIRST REGULAR SESSION**

December 5, 1984 to June 20, 1985

Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH  
MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 163-A,  
SUBSECTION 4.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1986

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

of the  
ONE HUNDRED AND TWELFTH LEGISLATURE

1985

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As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Educational institution. "Educational institution" means any public elementary or secondary school; any elementary or secondary private school approved for tuition whose school enrollment is at least 60% publicly-funded students as determined by the previous school year's October to April average enrollment; any nonpublic post-secondary school; or any vocational region.

2. Surplus property; private sale to educational institutions. Pursuant to this chapter and rules promulgated under section 1813, the Department of Finance and Administration through the Bureau of Purchases shall allow private sales of surplus property to educational institutions.

Effective September 19, 1985.

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## CHAPTER 159

S.P. 509 - L.D. 1369

AN ACT to Assure Advocacy Services for  
Children with Learning Disabilities.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §3551, last ¶, as enacted by PL 1979, c. 553, §2, is amended to read:

The Governor of the State shall designate an agency, independent of any state or private agency which provides treatment, services or habilitation to persons with developmental disabilities, to serve as the Protection and Advocacy Agency for the Developmentally Disabled in Maine pursuant to the United States Code, Title 42, sections 6001 through 6012. The agency so designated shall have the authority to pursue legal, administrative and other appropriate remedies to assure the welfare and protect the rights of persons with developmental disabilities and persons with learning disabilities.

Sec. 2. 22 MRSA §3552, sub-§1, as amended by PL 1983, c. 539, §2, is further amended to read:

1. Advocacy. "Advocacy" means speaking for, pleading for, supporting, advising, espousing the rights of or interceding on behalf of persons with developmental disabilities or exceptional students in facilities included in section 3558 or learning disabled children before public or private agencies, organizations, institutions or individuals serving developmentally disabled persons or other eligible persons.

Sec. 3. 22 MRSA §3552, sub-§4-A is enacted to read:

4-A. Learning disability. "Learning disability" means a specific learning function disorder exhibited by a person under age 22 in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations.

Sec. 4. 22 MRSA §3554, as amended by PL 1979, c. 645, §§3 to 7, is further amended to read:

§3554. Investigations

1. Complaint. When the agency receives a complaint which gives reason to believe that the rights of a developmentally disabled or learning disabled person have been or are being violated, an investigation may be conducted, subject to subsection 2, unless the complaint is beyond the scope of the office's authority or not within the office's priorities. The complainant shall be informed whether an investigation will be conducted, and if not, the reason therefor and whether any other appropriate mechanisms for remedy exist. A complaint may be referred to another person as appropriate.

2. Investigation. The agency may conduct investigations upon its own initiative if there is reason to believe that the legal rights of a developmentally disabled or learning disabled person have been or are being violated. Prior to initiating its investigation, the agency shall notify the developmentally disabled or learning disabled person or, if he is a minor or has been judged incompetent, his legal guardian, of the specific rights which the agency alleges have been or are being violated. If the developmentally disabled or learning disabled adult has not been judged incompetent, then the agency must first receive his written consent to the investiga-

tion. If the developmentally disabled or learning disabled minor is competent to understand the purpose, significance and result of the investigation, then the agency shall inform him of his right to stop the investigation. The investigation shall stop if he expresses a clear desire that it stop.

3. Entrance in and upon premises. In the course of an investigation, for the purpose of investigating actual or possible neglect, abuse, exploitation or violation of rights of the developmentally disabled or learning disabled person, authorized agency personnel may enter, at any reasonable time, in and upon the premises of any state agency, commission, board or office or any subdivision of the State or the premises of any private agency receiving state or federal funds for the provision of services to the developmentally disabled or learning disabled, to communicate with providers or recipients of service and to inspect and copy any information, materials or records relevant to an investigation within reasonable limits and in a reasonable manner, subject to section 3555. Communication with any service recipient shall be under circumstances which are not detrimental to the best interest of that individual.

4. Records. Any authorized agency personnel conducting an investigation shall have ready access to all records relevant to the alleged violation of the developmentally disabled or learning disabled person's rights. These personnel shall have the opportunity to consult with clients whenever necessary for the performance of their duties. Persons shall not refuse access to relevant client records, or the opportunity for consultation, as long as it is requested at a reasonable time and in a reasonable manner. A hospital, institution or mental health or developmental disability facility shall provide adequate privacy for the purpose of consultation with clients and examination of client records.

Authorized agency personnel inspecting information, materials and records pursuant to an investigation may copy them when personally identifiable material has been removed for the purpose of copying. Where personally identifiable data has not been removed, the agency personnel may copy them only after consent is received pursuant to section 3555.

Sec. 5. 22 MRSA §3555, sub-§3, as enacted by PL 1979, c. 645, §8, is amended to read:

3. Consent. Data that personally identifies the developmentally disabled or learning disabled person can be copied or disclosed only after receipt of that person's written consent or, if that person has been judged incompetent or is a minor, then written consent must be received from:

A. The parent or guardian of a developmentally disabled or learning disabled minor. If the person is a ward of the State, the public guardian shall give consent unless it shows that such consent would not be in the person's best interest;

B. The guardian of the developmentally disabled or learning disabled adult, provided the guardian has this power; or

C. The guardian ad litem of developmentally disabled or learning disabled person who is the subject of the information, materials or records.

If the developmentally disabled or learning disabled minor is competent to understand the purpose, significance and result of the use and disclosure of identifiable information, then the agency shall inform him of his right to stop that use and disclosure. The use and disclosure of identifiable information shall stop if he expresses a clear desire that it stop.

Sec. 6. 22 MRSA §3556, as enacted by PL 1979, c. 553, §2, is amended to read:

§3556. Review of guardianship

The appropriate court shall, upon an agency petition which alleges adequate grounds, review the guardianship of a developmentally disabled or learning disabled person.

Effective September 19, 1985.

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## CHAPTER 160

S.P. 202 - L.D. 552

AN ACT to Establish a Division of Deafness  
within the Bureau of Rehabilitation.

Be it enacted by the People of the State of Maine as follows: