

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 555

H. P. 450

House of Representatives, February 17, 1977

Referred to the Committee on Education. Sent up for concurrence and 1,800 copies ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Beaulieu of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Improve the Laws Relating to Exceptional Children.

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

Sec. 1. 20 MRSA § 3122, sub-§ 4, 2nd ¶, as enacted by PL 1975, c. 732, § 2, is repealed and the following enacted in its place:

Any child between the ages of 5 and 20 years, as defined in section 3123, subsection 1, diagnosed as deaf, shall be educated with regular students whenever possible and shall be educated under the principle of the least restrictive educational alternative as set forth in state and federal laws and regulations.

Sec. 2. 20 MRSA § 3126, as repealed and replaced by PL 1975, c. 732, § 2, is amended by inserting before the first paragraph the following:

The State shall adopt rules and regulations as provided in section 3132, which set forth all necessary criteria for evaluating the adequacy of an administrative unit's special education program, and its compliance with all state and federal special education and handicap laws and regulations.

If the State has reason to believe, or if 10 or more persons, associations or corporations in good faith allege to the State in writing, that an administrative unit has failed to comply with these criteria or with any applicable state or federal education or handicap law or regulation, the State forthwith shall notify the unit in writing of the unit's alleged noncompliance and set up a time and place for a public hearing. At the public hearing, all interested parties shall have all the due process rights set forth in section 3131. Within 10 days after the hearing, the State shall make written findings of fact and conclusions of law. If the State finds that an administrative unit has failed to provide an appropriate education for an exceptional child or children, as

defined by its criteria or any applicable state or federal law or regulation, it shall deny state aid as provided in section 3127, and order that necessary supportive services or assistance be given the administrative unit to establish an appropriate program as provided in section 3122 and order other necessary relief. Appeal from the state's order is available to any interested administrative unit, person, association or corporation under the Maine Rules of Civil Procedure, Rule 80B. The remedy provided in this section is in addition to, not in lieu of, any other available remedy in law or in equity.

Sec. 3. 20 MRSA § 3131, sub-§§ 1-A and 1-B are enacted to read:

1-A. Information and training. The State shall forthwith inform and train the local administrative units of the exceptional children's rights to due process under state and federal law and regulations and shall train the impartial hearing official to hear appeals presented to the State Board of Education.

1-B. Regulations and requirements. The regulations established by the commissioner under this section shall provide for the following:

A. A procedure for determining when a surrogate parent is needed and criteria for his selection;

B. Uniform time periods, applicable to all administrative units, within which a parent or guardian may request a hearing concerning the identification, evaluation and educational placement of the child, and within which the parent or guardian may appeal the decision of the hearing to the State Board of Education, and within which the parent or guardian may take a further appeal to a state court of competent jurisdiction or to a United States District Court;

C. That no local school board or local school committee may conduct the hearings required by this section; and

D. Criteria for selection of pupil evaluation team members, including but not limited to, requiring that all members of the team have a particular expertise in providing for a child's special need and that the interested parent or guardian be a member of the team.

STATEMENT OF FACT

The purpose of this bill is to bring the Maine special education laws in compliance with the applicable federal laws. The bill also sets up a procedure which the State must follow in evaluating a school district's compliance with the law and gives parents the right to petition the State where they have reason to believe the law is being violated.