

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

New draft: H. P. 1711, L. D. 1817  
SECOND REGULAR SESSION

---

---

ONE HUNDRED AND NINTH LEGISLATURE

---

---

**Legislative Document**

**No. 1980**

H. P. 1918

House of Representatives, March 7, 1980

Reported by the Minority from the Committee on Education and 2,500 ordered printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk of the House

---

---

STATE OF MAINE

---

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

---

**AN ACT to Exempt Church-sponsored Schools and Schools of Religious Charter from Approval of the Department of Educational and Cultural Services.**

---

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

20 MRSA c. 121 is enacted to read:

**CHAPTER 121**

**CHURCH-SPONSORED SCHOOLS AND SCHOOLS  
OF RELIGIOUS CHARTER**

**§ 1601. Purpose**

In accordance with the first amendment of the Constitution of the United States and with the Constitution of Maine, Article 1, Section 3, and since historically (Northwest Ordinance-1787) "religion, morality and knowledge" are "necessary to good government and the happiness of mankind," it is the public policy of this State that "schools and the means of education shall forever be encouraged," without infringing upon individual rights of conscience and religious liberty.

**§ 1602. Definitions**

As used in this chapter the following terms have the following meanings.

1. Church-sponsored school. "Church-sponsored school" means a school

which exists for religious purposes and about which one or the more of the following is true:

- A. The school is owned by and operated as a ministry of a church or group of churches;
- B. The school operates in church-owned or leased facilities;
- C. The school serves especially or solely the student constituency of a church or a group of churches;
- D. A substantial portion of school costs is borne by a church or group of churches;
- E. The legal responsibility for the school rests with church or denominational corporations or officers;
- F. The religious emphasis and practices in the school are a direct result of the teachings and practices of a church or group of churches; or
- G. The total number or a substantial number of staff members of the school are members of a church or churches involved in operating the school.

2. Department of Educational and Cultural Services' approval. "Department of Educational and Cultural Services' approval" means the current power of the Commissioner of Educational and Cultural Services to control or have input in church-sponsored schools or schools of religious charter prerogative and policy, as reflected in this Title and the departmental documents, including, but not limited to: "Procedures and Standards for Basic Approval of Schools-Public and Private," January 15, 1976; "Procedure for Implementing Self-evaluation of School Programs," March, 1977; "Secondary School Self-evaluation Manual," April 1977; and "School Self-evaluation Manual K-8," March, 1976.

3. Parental consent. "Parental consent" means that each exempt church-sponsored school or school of religious charter shall obtain permission of parents before submitting required attendance and test information to the Commissioner of Educational and Cultural Services, or before transferring student records. Objecting parents shall provide the required information directly to the person or agency to whom the school would supply the information, if there were no parental objection. Exempt schools shall notify parents of this responsibility if objection is expressed.

4. Religious purpose. "Religious purpose" means the intention and practice of a school to advocate and transmit to students the religious doctrine, values and traditions of a church, group of churches or a group of parents.

5. School of religious charter. "School of religious charter" means a school which exists for religious purposes and about which one or both of the following is true:

A. The school is not under the substantial legal or financial auspices of a church or group of churches; or

B. The school operates and is controlled by a parent board.

#### § 1603. Exemption

A church-sponsored school or a school of religious charter shall be exempt from approval by the Commissioner of Educational and Cultural Services by transmission of an official letter to the commissioner which states religious conviction against that approval. The letter shall be on official letter-head of the church or school and it shall be signed by the pastor, school administrator or board chairman of the particular school. The letter shall attest that the school meets the following standards:

1. Basic curriculum. The provision of a basic curriculum taught in the English language consisting of reading, writing, spelling, grammar, mathematics, American history, civil government, including the privilege and responsibility of citizenship and Maine history and geography;

2. Teacher certification. The teaching of the curriculum in subsection 1 by teachers who have a college degree or who possess certification by a nationally recognized private education association;

3. School year. Observance of a school year of at least 180 days; and

4. Fire, health and safety laws. Conformity with state and local fire, health and safety laws.

A child shall be excused from attending a public day school if he attends a school exempt under this chapter. Children shall be credited with attendance at an exempt school if a certificate showing their names, residence and attendance at an exempt school, signed by the person or persons in charge of the school, subject to parental consent, is filed with the school officials of the administrative unit in which the children reside.

The exemption may be declared during or between school terms or before a new school opens. An exemption is permanent unless a school notifies the Commissioner of Educational and Cultural Services of release of exemption by an appropriate official letter. Schools exempt from approval by the Commissioner of Educational and Cultural Services shall not be subject to any other educational provisions of this Title, except that, in cases of transferring students, exempt schools shall forward appropriate records of the affected students, subject to parental consent, to receiving school officials.

#### § 1604. Standardized testing

Each exempt church-sponsored school or school of religious charter shall administer a nationally standardized test or a nationally standardized equivalent measurement to all students regularly attending grades 1, 2, 3, 6 and 8. The test or measurement shall be selected by the particular exempt school administration

and shall measure achievement in English, grammar, reading, spelling and mathematics. As applicable, before the beginning of each school year, each exempt school shall submit to the Commissioner of Educational and Cultural Services an official report detailing the academic achievement of grades 1, 2, 3, 6 and 8 students tested the previous school year, subject to parental consent.

**§ 1605. High school competency testing**

Each exempt church-sponsored school or school of religious charter shall administer a nationally standardized test or equivalent measurement to all students regularly attending grade 11. The test or measurement shall be selected by the particular exempt school administration and shall measure basic skill and knowledge competencies in the verbal and quantitative areas. As applicable, before the beginning of each school year, each exempt school shall submit to the Commissioner of Educational and Cultural Services an official report detailing the competency results of grade 11 students tested the previous school year, subject to parental consent.

**§ 1606 Initiation; termination notice**

A new church-sponsored school or school of religious charter shall notify the Commissioner of Educational and Cultural Services in writing of intent to operate at least 3 months prior to opening. This notice shall include the name and address of the school, the name of the school's owner and chief administrative officer and the proposed opening date. An exempt school which ceases to operate shall notify the commissioner in writing, and shall forward appropriate records of affected students, subject to parental consent, to the local public superintendent, in the case of graduating students, and to the principal of the receiving school, in the case of continuing students.

**§ 1607. Financial aid**

Schools which declare exemption shall, as soon as administratively possible, forfeit any current receipt of state aid or federal aid administered by the State. Exempt schools are not eligible for participation in any direct State or Federal Government subsidy programs for any purpose.

**STATEMENT OF FACT**

This bill addresses the relationship between schools which are ministries of churches, or otherwise operated for religious purposes, and the Department of Educational and Cultural Services with regard to the separation of church and State and compelling state interest. This bill makes approval optional for church-sponsored schools or schools of religious charter. These schools could elect to be exempt, thereby becoming ineligible for state aid or federal aid administered by the State. These schools would not be subject to approval, curriculum, certification, accreditation or graduation requirements of the Department of Educational and Cultural Services. Exempt schools would be in compliance with

applicable fire, health and safety laws and would provide attendance information, subject to parental consent, to the Department of Educational and Cultural Services. Exempt schools would submit to the commissioner annually standardized test results, subject to parental consent.