

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 183

S.P. 117

In Senate, February 15, 1989

Submitted by the Department of Educational and Cultural Services pursuant to Joint Rule 24.

Reference to the Committee on Education suggested and ordered printed.

A handwritten signature in cursive script, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator ESTES of York.

Cosponsored by Representative NORTON of Winthrop and Representative SMALL of Bath.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Ensure Coordinated Investigations of Complaints Regarding
Special Education.



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

3 **Sec. 1. 20-A MRSA §7206, sub-§1,** as enacted by PL 1981, c.
5 693, §§5 and 8, is amended to read:

7 **1. Complaint.** An interested party may file with the
9 commissioner a written complaint alleging that a school
11 administrative unit ~~is not in compliance~~ or private school
13 servng exceptional students, within 180 days preceding receipt
15 of the complaint, has failed to comply with this chapter.

17 **Sec. 2. 20-A MRSA §7206, sub-§1-A** is enacted to read:

19 **1-A. Determination of jurisdiction.** Within 15 days of the
21 receipt of a complete complaint, the commissioner shall determine:

23 **A. The school administrative unit or private school serving**
25 **exceptional students with responsibility for compliance;**

27 **B. The specific laws and applicable rules with which the**
29 **school administrative unit or private school serving**
31 **exceptional students allegedly is in noncompliance; and**

33 **C. If any other state or federal agency is investigating or**
35 **has investigated any similar allegations within 180 days of**
37 **receipt of the complaint. If the commissioner determines**
39 **that another state or federal agency is or has been involved**
41 **in a similar allegation of noncompliance, the commissioner**
43 **shall coordinate the department's investigation activities**
45 **with those other agencies.**

47 **Sec. 3. 20-A MRSA §7206, sub-§2,** as amended by PL 1983, c.
49 130, §1, is further amended to read:

51 **2. Investigation; written report.** The commissioner shall
initiate, and complete within 30 45 days, an investigation and a
written report:

A. On receipt of a complaint and the determinations set out
in subsection 1-A; or

B. If the commissioner has reason to believe that a unit is
not in compliance with this chapter.

Sec. 4. 20-A MRSA §7206, sub-§3, ¶¶A and B, as enacted by PL
1981, c. 693, §§5 and 8, are amended to read:

A. Upon determination that probable cause exists, the
commissioner shall resolve the matter to the satisfaction of
the interested parties through mediation and consultation.
The commissioner shall write a report of these efforts and
notify all interested parties that the report has been

1 written specify in writing the necessary corrective actions
2 and time frames to resolve the matter to the satisfaction of
3 the interested parties.

5 B. If ~~eoneiliation~~ compliance has not been achieved within
6 45 days after the determination of probable cause, the
7 commissioner shall notify all interested parties of the time
8 and place of a local hearing to be held to determine whether
9 the school administrative unit or private school is in
10 violation of this chapter.

13 **STATEMENT OF FACT**

15 The Department of Educational and Cultural Services, the
16 Maine Human Rights Commission, the United States Office of Civil
17 Rights in the United States Department of Education and the
18 Office of Special Education Programs in the United States
19 Department of Education all have statutory authority to
20 investigate allegations of discrimination by a school
21 administrative unit against an exceptional student.

23 This bill will:

25 1. Establish the department's authority to investigate
26 private schools serving exceptional students;

27 2. Establish a 180-day time frame, consistent with the
28 United States Office on Civil Rights standards, in which a
29 complainant must file an allegation;

31 3. Require the commissioner to determine, prior to
32 initiating an investigation, which unit or school is responsible
33 for compliance, the specific allegations of noncompliance, if
34 another federal or state agency has been involved with similar
35 allegations and coordinate any investigation activities with that
36 agency; and

37 4. Extend the time frame in which to complete the
38 investigation consistent with the federal Education Department
39 General Administration Regulations.

43 This bill, while establishing a complaint investigation
44 process consistent with federal requirements of Education
45 Department General Administration Regulations, would prevent the
46 duplication of complaint investigations by the department and
47 other agencies. Additionally, it requires the department to
48 determine and provide the school administrative unit or private
49 school with notice of the alleged noncompliance prior to
50 initiating a complaint investigation.