

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1998

Legislative Document

No. 2143

H.P. 1521

House of Representatives, January 20, 1998

An Act to Restore Advocacy for Handicapped Students.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative WINN of Glenburn.

Cosponsored by Representative KONTOS of Windham, Senator: AMERO of Cumberland.

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

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Sec. 1. 20-A MRSA §7207-C is enacted to read:

§7207-C. Review of due process procedures; funding equity

1. Record-keeping system. The agency designated by the Governor under Title 5, section 19502, in cooperation with the department, shall develop a system to maintain records of the number and types of calls and other kinds of contacts regarding special education rights received by that agency, demographic information about the callers and other information regarding whether parents' rights to an effective and fair dispute resolution mechanism are being met and regarding whether parents unable to retain attorneys are unfairly disadvantaged in due process proceedings. At least once a year the department shall compare the information obtained from the agency with information obtained by the department to determine whether the special education dispute resolution mechanisms in place are effective and fair and whether parents unable to retain attorneys are unfairly disadvantaged in due process proceedings. The department may propose legislation or rules it determines desirable to improve the process.

2. Use of attorney's services. The department shall examine the use of state and federal funds to reimburse a school administrative unit for the use of an attorney's services to represent or advise the school administrative unit in due process proceedings under this subchapter or in any special education matter, whether or not the matter rises to the level of a due process proceeding. The department shall study ways to reduce the incentive for a school administrative unit to delay resolution of a complaint, including reducing the subsidy for an attorney or nonreimbursement to a school administrative unit if the unit does not prevail in the resolution of the due process proceeding and barring the use by a school administrative unit of an attorney in mediation or complaint proceedings. The department may adopt rules prohibiting the use of state funds for the reimbursement of a school administrative unit for the use of an attorney's services to represent or advise the school administrative unit in due process proceedings under this subchapter or in any special education matter whether or not the matter rises to the level of a due process proceeding. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

3. Funding equity. The Legislature shall appropriate funds for the agency designated by the Governor under Title 5, section 19502 in an amount equal to 50% or more of the amount spent in the previous year by all school administrative units for the use

2 of an attorney's services in any special education matter whether
3 or not that matter rises to the level of a due process
4 proceeding. The percentage must increase by at least 10% each
5 year, so that beginning in fiscal year 2002-03, the appropriation
6 must be equal to 100% of the amount spent in the previous year by
7 all school administrative units for the use of an attorney's
8 services in any special education matter whether or not that
9 matter rises to the level of a due process proceeding. The funds
10 appropriated to the agency must be used as follows.

11 A. Of the funds received by the agency under this section
12 that are used by the agency for representation, at least 80%
13 of the funds must be used to represent the interest of
14 students with learning disabilities, with any remaining
15 percentage to be used to represent the interests of students
16 with other disabilities who are otherwise ineligible for the
17 agency's representation. Use of funds received by the
18 agency under this section for representation may include
19 examination of records, consultation with parents and school
20 staff, attendance at pupil evaluation team meetings and any
21 actions necessary to enforce the rights of a student,
22 including representation in any complaint, hearing or court
23 procedure available to the parent.

24 B. Not more than 20% of the funds received by the agency
25 under this section may be used for administrative overhead
26 or staff development.

27 C. At least 15% of the funds received by the agency under
28 this section must be used to educate and to train parents
29 regarding their special education rights and to foster the
30 development of a network of volunteer advocates to assist
31 parents.

32 **Sec. 2. Appropriation.** The following funds are appropriated
33 from the General Fund to carry out the purposes of this Act.

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37 **1998-99**

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39 **MAINE ADVOCACY SERVICES**

40 **Maine Advocacy Services**

41 All Other \$80,000

42 Provides funds to permit advocacy for
43 students in the learning disabilities
44 project in special education matters.

SUMMARY

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This bill restores funding for advocacy for students with special needs in special education matters including the development of appropriate individual education plans. Representation includes consultation, attendance at pupil evaluation team meetings and such actions as are necessary to enforce the rights of a student. The bill also requires the Department of Education to study the practice of using attorneys as advocates for school administrative units in special education matters and permits the department to adopt rules prohibiting the use of state funds for that purpose.