

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2074

H.P. 1453

House of Representatives, March 30, 1999

An Act to Allow Local School Officials Greater Freedom in Disciplining Students.

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 FULLER of Manchester. (By Request)
Cosponsored by Representatives: BAKER of Bangor, DESMOND of Mapleton, GAGNE of Buckfield, SKOGLUND of St. George, STEDMAN of Hartland, TRUE of Fryeburg,
Senators: CATHCART of Penobscot, MITCHELL of Penobscot.

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

2
4 **Sec. 1. 20-A MRSA §1055, sub-§11** is enacted to read:

6 11. Methods of discipline. A superintendent shall
8 establish methods of discipline that may be used by teachers and
10 principals in a school administrative unit. The superintendent
12 shall publish a guide to circumstances for and methods of
14 discipline approved by the superintendent and lawyer for that
 school district or administrative unit and make that guide
 available to teachers, principals, students and the public. A
 superintendent may retroactively approve a method of discipline
 used by a teacher or principal that does not appear in the guide
 if the superintendent finds the method appropriate.

16 Methods of discipline include, but are not limited to:

18 A. Reimbursement or restitution for damages caused by a
20 truant student;

22 B. Detention for any time of the day or day of the week;

24 C. Physical training, school maintenance work, extra school
 work or community service;

26 D. Loss of privileges, including, but not limited to,
28 recess, extracurricular activities and school or class
 trips; and

30 E. Grooming and clothing restrictions.

32 **Sec. 2. 20-A MRSA §4009, sub-§5** is enacted to read:

34 5. Discipline. A teacher or principal may not be held
36 civilly liable for the use of a method of discipline that is
 approved by the superintendent of the school administrative unit
 in which the teacher or principal is employed.

38 **Sec. 3. 20-A MRSA §§4010 and 4011** are enacted to read:

40 §4010. Discipline procedures

42 The following provisions govern the discipline of students
44 by teachers and principals using the methods established by the
46 superintendent pursuant to section 1055, subsection 11.

48 1. Documentation. The teacher or principal dispensing the
 discipline shall document in writing the form of and reason for
 the discipline.

2 2. Notice. The teacher or principal dispensing the
3 discipline shall notify the parent or parents of the disciplined
4 student in a timely manner.

5 3. Failure to comply with discipline. If a student fails
6 to comply with the assigned discipline, the following remedies
7 are available to the superintendent, at the choice of the
8 superintendent. The superintendent may:

9 A. Treat that student as an habitual truant, subject to the
10 provisions of chapter 211, subchapter II;

11 B. Bring a civil suit against the parent or parents of the
12 student; or

13 C. Pursuant to section 7207-A, have a surrogate parent
14 appointed.

15 4. Interpretation. The court or mediator shall interpret
16 narrowly the laws and any rules adopted pursuant to statute that
17 involve the discipline of students.

18 **§4011. Parental objections to discipline**

19 A parent or legal guardian may contest a method of
20 discipline applied by a teacher or principal to the child of that
21 parent or the child under the custody of that legal guardian by
22 submitting a complaint to binding arbitration. The commissioner
23 shall by rule establish a process for the binding arbitration.
24 The arbitration must be consistent with the provisions of Title
25 14, chapter 706. Rules adopted pursuant to this section are
26 major substantive rules pursuant to Title 5, chapter 375,
27 subchapter II-A.

28 Sec. 4. 20-A MRSA §5001-A, sub-§2, ¶B, as repealed and
29 replaced by PL 1989, c. 415, §13, is amended to read:

30 B. A person who has been determined to be habitually truant
31 pursuant to section 5051 or who has:

32 (1) Reached the age of 15 years or completed the 9th
33 grade;

34 (2) Permissien Obtained permission to leave school
35 from that person's parent;

36 (3) Been approved by the principal for a suitable
37 program of work and study or training;

38 (4) Permissien Been granted permission to leave school
39 from the school board or its designee; and

2 (5) Agreed in writing with that person's parent and
3 the school board or its designee to meet annually until
4 that person's 17th birthday to review that person's
5 educational needs. When the request to be excused from
6 school has been denied pursuant to this paragraph, the
7 student's parent may appeal to the commissioner;

8
9 **Sec. 5. 20-A MRSA §5051, sub-§2, ¶D,** as amended by PL 1989, c.
10 415, §19, is further amended to read:

11 D. If the school board determines that the student is
12 habitually truant, it shall either:

13 (1) Instruct the student to attend school as required
14 by section 5001-A and advise the parents of their
15 responsibility under section 5001-A, subsection 5 to
16 assure ~~ensure~~ the student's attendance; or

17 (2) Waive the requirements of section 5001-A, ~~if the~~
18 ~~student is 15 years of age or older.~~

19
20 **Sec. 6. 20-A MRSA §5051, sub-§4** is enacted to read:

21
22 **4. Expulsion and suspension.** A student may not be expelled
23 or suspended from a school due to habitual truancy unless the
24 student is:

25 A. An exceptional student, as defined in section 7001,
26 subsection 2, paragraph C, subparagraph (6);

27 B. Assigned to another program in that school or another
28 school; or

29 C. Placed in a program of another state agency or
30 state-approved agency.

31 A student that is expelled or suspended for truancy must receive
32 at least the same number of hours of supervised programs and
33 activities that the student would have received if not expelled
34 or suspended.

35
36 **Sec. 7. 20-A MRSA §5052-A,** as enacted by PL 1989, c. 415,
37 §21 is amended by adding at the end a new paragraph to read:

38 The superintendent is responsible for the implementation of
39 this section.

40
41 **Sec. 8. 20-A MRSA §5053, sub-§5, ¶¶C and D,** as enacted by PL
42 1989, c. 415, §25, are amended to read:

2 C. Enjoining the offender from engaging in specific conduct
which that interferes with or may interfere with the
4 student's attendance at school; or

6 D. Ordering the offender to undergo counseling by a
professional selected by the offender, with the court's
8 approval, or by the court. The counselor shall submit a
written evaluation to the court and to the offender;

10 **Sec. 9. 20-A MRSA §5053, sub-§5, ¶¶E to G** are enacted to read:

12 E. Imposing a civil penalty not to exceed \$50 per day if
14 the offender refuses to comply with this chapter;

16 F. Requiring the offender to attend school with the
18 student; or

20 G. Requiring the offender to reimburse the school for staff
time required by the student's misconduct.

22 **Sec. 10. 20-A MRSA §5053, sub-§6** is enacted to read:

24 6. Other remedies. In addition to the actions under
26 subsection 5, the court may order the following:

28 A. The appointment of a surrogate parent for the student; or

30 B. The referral of the student to the Department of Human
32 Services. If the court makes this order, the Department of
Human Services shall develop a plan for the student that
ensures the student's attendance at school.

34

SUMMARY

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38 This bill allows school superintendents to establish methods
of discipline that may be used by teachers and principals. It
40 also provides that a teacher or principal who uses an approved
method may not be held civilly liable. A parent who challenges
42 the use of a method of discipline must submit a complaint to
binding arbitration.

44 This bill also amends the school truancy provisions to allow
a school board to exempt from attendance requirements any student
46 whom the board determines is habitually truant. A court may
order the parent of an habitually truant student to pay a fine,
48 attend classes with the student or reimburse the school for staff
time incurred due to the student's misconduct. The court may

2 also order the appointment of a surrogate parent or have the
student placed under the aegis of the Department of Human
Services, which then must develop a plan that ensures the
4 student's attendance. An habitually truant student may not be
expelled or suspended unless that student is classified as an
6 exceptional student due to behavioral problems or the student is
placed in another program.