

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1577

S.P. 538

In Senate, April 16, 2003

An Act To Amend and Improve the Education Laws

Submitted by the Department of Education pursuant to Joint Rule 204.
Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator DOUGLASS of Androscoggin.
Cosponsored by Representative CUMMINGS of Portland and
Senator: MITCHELL of Penobscot, Representative: LEDWIN of Holden.

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

2 **Sec. 1. 20-A MRSA §1, sub-§13-A, ¶B,** as enacted by PL 1991, c.
4 608, §1, is repealed.

6 **Sec. 2. 20-A MRSA §1, sub-§13-A, ¶B-1** is enacted to read:

8 B-1. Is a child or a youth:

10 (1) Who is sharing the housing of other persons due to
12 loss of housing or economic hardship or a similar
14 reason; is living in a motel, hotel, trailer park or
16 camping ground due to the lack of alternative adequate
accommodation; is living in an emergency or
transitional shelter; is abandoned in a hospital; or is
awaiting foster care placement;

18 (2) Who is living in a car, park or public space or in
20 an abandoned building, substandard housing, bus or
train station or similar setting;

22 (3) Who has a primary nighttime residence that is a
24 public or private place not designed for or ordinarily
used as a regular sleeping accommodation for human
26 beings; and

28 (4) Who is a migratory child, as defined in Section
30 1309 of the federal Elementary and Secondary Education
Act of 1965, who qualifies as homeless for the purpose
32 of this chapter because the child is living in
circumstances described in this section.

34 **Sec. 3. 20-A MRSA §1, sub-§13-A, ¶C,** as enacted by PL 1991, c.
608, §1, is repealed.

36 **Sec. 4. 20-A MRSA §5205, sub-§7,** as enacted by PL 1991, c.
38 608, §3, is amended to read:

40 **7. Homeless students.** Pursuant to section 261, the
42 commissioner may adopt rules to ensure that each homeless student
44 has unrestricted access to the free public education afforded by
46 section 2, subsection 1. The rules must implement the
48 requirements and policies of the ~~Stewart-B. McKinney Homeless~~
~~Assistance Act, Public Law 100-77, Title VII, Subtitle B,~~ as
50 amended by the ~~Stewart-B. McKinney Homeless Assistance Amendments~~
~~Act of 1988, Public Law 100-268, Title VII, Section 702~~
McKinney-Vento Homeless Education Assistance Improvement Act of
2001, 42 United States Code, Section 11431 et seq., and may be
adopted as part of or in conjunction with the required state
plan. The rules must include, but are not limited to, provisions

2 for the resolution of disputes regarding the educational
3 placement of homeless students according to the best interest of
4 homeless students, provisions that homeless students receive
5 services comparable to services offered to other students in the
6 schools they attend, provisions to address transportation and
7 health records as a barrier to school admission and other
8 provisions required by United States Code, Title 42, Section
9 ~~11432~~, ~~Subsection e~~ 11431.

10 **Sec. 5. 20-A MRSA §5809**, as amended by PL 1999, c. 75, §4, is
11 further amended to read:

12 **§5809. Students enrolled in applied technology educational**
13 **programs**

14 Schools receiving tuition students who are enrolled in
15 regular school day applied technology educational programs at
16 applied technology centers, satellites or applied technology
17 regions, under chapter 313, may charge a tuition rate ~~not~~ up to
18 exceed 2/3 of the maximum tuition rate as computed under sections
19 5805 or 5806. The applied technology center, satellite or region
20 may charge a tuition rate of up to 1/3 of the maximum tuition
21 rate as computed under section 5805 or 5806 for the student.

22 **Sec. 6. 20-A MRSA §7001, sub-§2, ¶C**, as amended by PL 1999, c.
23 721, §1 and affected by §4, is further amended to read:

24 C. Requires special education because of one or more of the
25 following:

- 26 (1) Visual impairments, including blindness;
- 27 (2) Hearing impairments, including deafness;
- 28 (3) Speech and language impairments;
- 29 (4) Specific learning disabilities;
- 30 (5) Orthopedic impairments;
- 31 (6) Emotional disability;
- 32 (7) Mental retardation;
- 33 (8) Autism;
- 34 (9) Traumatic brain injury;
- 35 (10) Other health impairment;

(11) Deafness and blindness; or

(12) Multiple disabilities.

Sec. 7. 20-A MRSA §8102, first ¶, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

The department may, from funds available to it, grant funds to a school administrative unit to undertake gifted education programs. A grant shall must be made on the basis of \$2-of-state ~~matching-funds-for-each-\$1-of-funds-appropriated-by-the-school~~ administrative-unit the requirements of the department.

Sec. 8. 20-A MRSA §8102, sub-§3, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

3. Time limits. The following limits shall apply.

A. On or before ~~February--1st~~ June 30th, the school administrative unit shall submit to the department its proposed program.

B. By ~~May-15th~~ September 1st, the commissioner shall notify the school administrative unit whether the proposal has been funded for the following fiscal year.

Sec. 9. 20-A MRSA §8103, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§8103. Available funds

Funds made available to the department for gifted and talented education programs from state, federal or other sources shall do not lapse at the end of a fiscal year, but shall-be are carried forward to the next fiscal year for a period of 90 days to be used for the purposes set forth in this chapter or for the purposes stipulated by the granting agency.

Sec. 10. 20-A MRSA §8104, sub-§1, as amended by PL 1999, c. 790, Pt. N, §3, is further amended to read:

1. Establishment. Each school administrative unit must, commencing with the 1987-88 2003-2004 school year, ~~establish-a~~ fully implement its plan for phasing in gifted and talented educational programs. ~~A-school-administrative-unit-or-part-of-a~~ school-administrative-unit-is-not-required-to-comply-with-the ~~provisions-of-its-plan-during-the-school-years-beginning-in-the~~ fall-of-2000-and-2001.

2 **Sec. 11. 20-A MRSA §15603, sub-§8, ¶B**, as amended by PL 1997,
c. 787, §6, is further amended to read:

4 B. Lease costs for school buildings when the leases,
6 including leases under which the school administrative unit
may apply the lease payments to the purchase of portable,
8 temporary classroom space beginning January 1, 1988, have
been approved by the commissioner for the year prior to the
10 year of allocation. Beginning July 1, 1998 lease cost
includes:

12 (1) Administrative space. A school administrative
unit may lease administrative space with state support
14 until July 1, 2003. A school administrative unit
engaged in a lease-purchase agreement for
16 administrative space is eligible for state support
until July 1, 2008;

18 (2) Temporary interim nonadministrative space.

20 (a) A school administrative unit with
22 state-approved need for nonadministrative space
may lease temporary interim space, with state
24 support, for a maximum of 5 years. A school
administrative unit may appeal to the state board
26 if this division limitation presents an undue
burden. The--board's--decision--is--final. When
28 making a determination on a school administrative
unit's request for relief based on undue burden,
30 the state board may consider, but not be limited
to, the following:

32 (i) Fiscal capacity;

34 (ii) Enrollment demographics; and

36 (iii) Unforeseen circumstances not within
38 the control of the appealing school
administrative unit.

40 The state board's decision is final.

42 (b) A school administrative unit engaged in a
44 lease-purchase agreement for temporary interim
nonadministrative space is eligible for state
46 support for a maximum of 10 years; and

48 (3) Permanent small nonadministrative space that
50 replaces or is converted from existing approved leased
portable space. The existing leased portable space

2 will be eligible for state support until July 1, 2003.
3 Once an existing leased portable space has been
4 converted into a permanent nonadministrative space
5 through an approved lease-purchase agreement, such
6 space is eligible for state support for a maximum of 10
7 years.

8 The Department of Education shall adopt rules necessary to
9 implement this paragraph. Rules adopted by the Department
10 of Education to implement this paragraph are major
11 substantive rules pursuant to Title 5, chapter 375,
12 subchapter II-A 2-A;

14
16

SUMMARY

18 This bill does the following:

19 1. It adds "emotional disability" to the definition of
20 "exceptional student" in the Maine Revised Statutes, Title 20-A,
21 section 7001;

22 2. It adds "undue burden" as a requirement concerning
23 requests for extension of leased space agreements relating to
24 local school administrative units;

25 3. It amends the definition of "homeless student" in
26 compliance with the provisions of federal law;

27 4. It amends the homeless student provisions to be
28 addressed by Department of Education rules to implement federal
29 law;

30 5. It amends and clarifies the section of the statute
31 defining the tuition rate that may be charged by schools
32 receiving tuition students who are enrolled in regular school day
33 applied technology educational programs at applied technology
34 centers. It adds language establishing the tuition rate that may
35 be charged by the applied technology center, satellite or region;
36 and

37 6. It amends the statutes regarding local funding
38 requirements for gifted and talented programs and the reporting
39 dates and implementation dates for those programs.
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44