

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 150

H.P. 132

House of Representatives, January 12, 2007

An Act To Amend and Improve the Education Laws Concerning Portable Space and Rule-making Authority

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative NORTON of Bangor.
Cosponsored by Senator MITCHELL of Kennebec.

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

2 **Sec. 1. 20-A MRSA §5001-A, sub-§3, ¶A**, as amended by PL 2003, c. 181, §1,
3 is further amended to read:

4 A. Equivalent instruction alternatives are as follows.

5 (1) A person is excused from attending a public day school if the person obtains
6 equivalent instruction in:

7 (a) A private school approved for attendance purposes pursuant to section
8 2901;

9 (b) A private school recognized by the department as providing equivalent
10 instruction;

11 (c-1) A home instruction program that complies with the requirements of
12 subparagraph (4); or

13 (d) Any other manner arranged for by the school board and approved by the
14 commissioner.

15 (2) A student is credited with attendance at a private school only if a certificate
16 showing the name, residence and attendance of the person at the school, signed
17 by the person or persons in charge of the school, has been filed with the school
18 officials of the administrative unit in which the student resides.

19 (4) The following provisions govern a home instruction program.

20 (a) The student's parent or guardian shall provide a written notice of intent to
21 provide home instruction simultaneously to the school officials of the
22 administrative unit in which the student resides and to the commissioner
23 within 10 calendar days of the beginning of home instruction. The notice
24 must contain the following information:

25 (i) The name, signature and address of the student's parent or guardian;

26 (ii) The name and age of the student;

27 (iii) The date the home instruction program will begin;

28 (iv) A statement of assurance that indicates the home instruction
29 program will provide at least 175 days annually of instruction and will
30 provide instruction in the following subject areas: English and language
31 arts, math, science, social studies, physical education, health education,
32 library skills, fine arts and, in at least one grade from grade 6 to 12,
33 Maine studies. At one grade level from grade 7 to 12, the student will
34 demonstrate proficiency in the use of computers; and

35 (v) A statement of assurance that indicates that the home instruction
36 program will include an annual assessment of the student's academic
37 progress that includes at least one of the forms of assessment described in
38 division (b).

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(b) On or before September 1st of each subsequent year of home instruction, the student's parent or guardian shall file a letter with the school officials of the administrative unit in which the student resides and the commissioner stating the intention to continue providing home instruction and enclose a copy of one of the following forms of annual assessment of the student's academic progress:

(i) A standardized achievement test administered through the administrative unit in which the student resides or through other arrangements approved by the commissioner. If the test is administered through the administrative unit in which the student resides, that administration must be agreed to by the school officials of the administrative unit prior to submission of the written notice of intent to provide home instruction;

(ii) A test developed by the school officials of the administrative unit in which the student resides appropriate to the student's home instruction program, which must be agreed to by the school officials of the administrative unit prior to submission of the written notice of intent to provide home instruction;

(iii) A review and acceptance of the student's progress by an identified individual who holds a current Maine teacher's certificate;

(iv) A review and acceptance of the student's progress based on, but not limited to, a presentation of an educational portfolio of the student to a local area homeschooling support group whose membership for this purpose includes a currently certified Maine teacher or administrator; or

(v) A review and acceptance of the student's progress by a local advisory board selected by the superintendent of the administrative unit in which the student resides that includes one administrative unit employee and 2 home instruction tutors. For the purpose of this subdivision, a "home instruction tutor" means the parent, guardian or other person who acts or will act as a primary teacher of the student in the home instruction program. This provision must be agreed to by the school officials of the administrative unit in which the student resides prior to submission of the written notice of intent to provide home instruction.

(c) Dissemination of any information filed under this subparagraph is governed by the provisions of section 6001; the federal Family Educational Rights and Privacy Act of 1974, 20 United States Code, Section 1232g (2002); and the federal Education for All Handicapped Children Act of 1975, 20 United States Code, Sections 1401 to 1487 (2002), except that "directory information," as defined by the federal Family Educational Rights and Privacy Act of 1974, is confidential and is not subject to public disclosure unless the parent or guardian specifically permits disclosure in writing or a judge orders otherwise. Copies of the information filed under this subparagraph must be maintained by the student's parent or guardian until the home instruction program concludes. The records must be made available to the commissioner upon request.

1 (d) If the home instruction program is discontinued, students of compulsory
2 school age must be enrolled in a public school or an equivalent instruction
3 alternative as provided for in this paragraph. The receiving school shall
4 determine the placement of the student. At the secondary level, the principal
5 of the receiving school shall determine the value of the prior educational
6 experience toward meeting the standards of the system of learning results as
7 established in section 6209.

8 ~~(e) The commissioner shall amend or adopt rules to accomplish the purposes~~
9 ~~of this subparagraph. Rules adopted pursuant to this division are major~~
10 ~~substantive rules as defined in Title 5, chapter 375, subchapter 2-A.~~

11 **Sec. 2. 20-A MRSA §7404, sub-§1**, as amended by PL 1999, c. 775, §5, is
12 further amended to read:

13 **1. Funding.** Students from this State may attend the school free of tuition and room
14 and board expense. Funding for these students is provided by legislative appropriation
15 based on the services necessary, including room and board, to satisfy the individualized
16 education programs of the students, ~~as defined by department rule. Rules adopted~~
17 ~~pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375,~~
18 ~~subchapter II-A.~~ Funding must support maintenance of the center school and that portion
19 of the island used by the center school, security, outreach services, adult education,
20 access to the education network of Maine and operations of the center school, including
21 the residential program, parent-infant program, preschool program and communication
22 garden program. Funding must also support maintenance and operations of any satellite
23 school.

24 **Sec. 3. 20-A MRSA §15672, sub-§2-A, ¶B**, as enacted by PL 2005, c. 2, Pt. D,
25 §36 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is amended to read:

26 B. Lease costs for school buildings when the leases, including leases under which the
27 school administrative unit may apply the lease payments to the purchase of portable,
28 temporary classroom space ~~beginning January 1, 1988~~, have been approved by the
29 commissioner for the year prior to the allocation year. ~~Beginning July 1, 1998 lease~~
30 Lease costs include costs for leasing:

31 (1) Administrative space. ~~A school administrative unit may lease administrative~~
32 ~~space with state support until July 1, 2003.~~ A school administrative unit engaged
33 in a state-approved lease-purchase agreement for administrative space is eligible
34 for state support until July 1, 2008;

35 (2) Temporary and interim ~~nonadministrative instructional~~ space. Temporary
36 space is instructional space consisting of one or more mobile or modular
37 buildings that are portable, that are constructed on- or off-site and that can be
38 disassembled and moved economically to a new location. Interim instructional
39 space is fixed instructional space that a school administrative unit rents for a
40 defined period of time and then vacates at the end of the lease.

41 (a) A school administrative unit with state-approved need for
42 ~~nonadministrative instructional~~ space may lease temporary or interim space,
43 with state support, for a maximum of 5 years. A school administrative unit

1 may appeal to the ~~state board~~ commissioner if this limitation presents an
2 undue burden. When making a determination on a school administrative
3 unit's request for relief based on undue burden, the ~~state board~~ commissioner
4 may consider, but is not limited to considering, the following:

- 5 (i) Fiscal capacity;
- 6 (ii) Enrollment demographics; and
- 7 (iii) Unforeseen circumstances not within the control of the appealing
8 school administrative unit.

9 An extension granted by the commissioner beyond the 5-year maximum for
10 state support is limited to a period of one year. Any additional request for
11 extensions must be submitted and reviewed on an annual basis. The ~~state~~
12 ~~board's~~ commissioner's decision is final.

13 (b) A school administrative unit ~~engaged with state-approved need for~~
14 ~~instructional space may engage~~ in a lease-purchase agreement for temporary
15 ~~or interim nonadministrative instructional space is eligible for with~~ state
16 support for a maximum of ~~10~~ 5 years; and

17 (3) Permanent small ~~nonadministrative~~ instructional space that replaces ~~or is~~
18 ~~converted from~~ existing approved leased ~~portable temporary or interim~~
19 ~~instructional~~ space. ~~The existing approved leased portable space will be eligible~~
20 ~~for state support until July 1, 2003.~~ Permanent small instructional space consists
21 of new buildings or additions to existing buildings that are secured to a
22 permanent foundation. Once an existing leased ~~portable temporary or interim~~
23 ~~instructional~~ space has been ~~converted into~~ replaced by a permanent
24 ~~nonadministrative~~ small instructional space through an approved ~~lease-purchase~~
25 ~~financing~~ agreement, that space is eligible for state support for a maximum of 10
26 years.

27 The department shall adopt rules necessary to implement this paragraph. Rules
28 adopted by the department to implement this paragraph are major substantive rules
29 pursuant to Title 5, chapter 375, subchapter 2-A;

30 **Sec. 4. 20-A MRS §15672, sub-§2-A, ¶D,** as enacted by PL 2005, c. 2, Pt. D,
31 §36 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is repealed.

32 SUMMARY

33 This bill amends, improves and clarifies certain sections of the Maine Revised
34 Statutes, Title 20-A to change the lengths, terms and extensions of waivers for lease-
35 purchase agreements for temporary, portable classroom space, removes the language
36 requiring rules for home instruction and removes the language that the Maine Educational
37 Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf
38 funding is determined by Department of Education rule.