

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 836

H.P. 635

House of Representatives, February 23, 2007

An Act To Enhance Special Education

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 MAKAS of Lewiston.
Cosponsored by Senator TURNER of Cumberland and
Representatives: CAIN of Orono, EDGECOMB of Caribou, WEBSTER of Freeport, Senator:
DIAMOND of Cumberland.

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

2 **Sec. 1. 20-A MRSA §7209, sub-§1, ¶B**, as enacted by PL 2005, c. 662, Pt. A,
3 §30, is amended to read:

4 B. During the period from July 1, 2006 to ~~September~~ June 30, 2007 2008, the
5 department, in a manner consistent with the authority of the board of directors of an
6 intermediate educational unit, shall ~~only~~ approve the annual entitlement plan and the
7 budget for an intermediate educational unit pursuant to subsection 6 only in
8 accordance with the following.

9 (1) The department shall approve the entitlement plan and the budget if the
10 provisions of the entitlement plan and the budget are in compliance with the
11 statewide standards established by the state intermediate educational unit
12 pursuant to subsection 3 for the purpose of ensuring coordinated service delivery
13 in each region of the State.

14 (2) In the event that the department determines that the provisions of the annual
15 entitlement plan and the budget presented by a board of directors of an
16 intermediate educational unit are not in compliance with the statewide standards
17 established pursuant to subsection 3, the department shall require the board of
18 directors of the intermediate educational unit to revise and resubmit the annual
19 entitlement plan and the budget in a reasonable amount of time as determined by
20 the commissioner.

21 (3) In the event the provisions of the resubmitted annual entitlement plan and
22 the budget are not in compliance with the statewide standards established
23 pursuant to subsection 3, the department is authorized to determine and approve
24 an appropriate, final annual entitlement plan and a budget for the intermediate
25 educational unit that is in compliance with the statewide standards established
26 pursuant to subsection 3.

27 This paragraph is repealed ~~September~~ June 30, 2007 2008.

28 **Sec. 2. 20-A MRSA §7209, sub-§2**, as enacted by PL 2005, c. 662, Pt. A, §30, is
29 amended to read:

30 **2. State-level advisory committee.** The state-level advisory committee is
31 established for the period from July 1, 2006 to ~~September~~ June 30, 2007 2008 to advise
32 on the provisions of this section. Members of the state-level advisory committee are
33 appointed by the commissioner and must include representatives from each board of
34 directors of a regional site described in subsection 5, the early childhood education
35 consultant and the director of early childhood special education within the department.
36 This subsection is repealed ~~September~~ June 30, 2007 2008.

37 **Sec. 3. 20-A MRSA §7209, sub-§3**, as enacted by PL 2005, c. 662, Pt. A, §30, is
38 amended to read:

39 **3. State intermediate educational unit.** The commissioner shall establish and
40 supervise the state intermediate educational unit. The state intermediate educational unit

1 is established as a body corporate and politic and as a public instrumentality of the State
2 for the purpose of conducting child find activities as provided in 20 United States Code,
3 Section 1412 (a) (3) for children from birth to under 6 years of age, ensuring the
4 provision of early intervention services for eligible children from birth to under 3 years of
5 age and ensuring a free, appropriate public education for eligible children at least 3 years
6 of age and under 6 years of age. For the period from July 1, 2006 to ~~September~~ June 30,
7 ~~2007~~ 2008, the state intermediate educational unit shall perform the following statewide
8 coordination and administration functions:

9 A. Establish standard policies and procedures for a statewide salary and benefits
10 administration system, including personnel classifications, position descriptions and
11 salary ranges, and a standard package of health, retirement and other fringe benefits
12 for Child Development Services System personnel, which must be included in the
13 annual entitlement plan described in subsection 1 beginning in fiscal year 2006-07;

14 B. Develop a statewide salary and benefits administration system and perform the
15 payroll functions for Child Development Services System personnel;

16 C. Establish a centralized system for statewide fiscal administration to be
17 implemented by September 1, 2006. The state intermediate educational unit shall
18 establish internal controls and implement accounting policies and procedures in
19 accordance with standards set forth by the State Controller;

20 D. Develop and implement a centralized data management system to be fully
21 operational beginning July 1, 2007;

22 E. Establish a standard, statewide template for ~~regional-site~~ contracts with
23 therapeutic service providers, including policies and procedures for the review of
24 contracts, that must be included in the annual entitlement plan described in subsection
25 1, beginning in fiscal year 2006-07;

26 F. Refine program accountability standards for compliance with federal mandates
27 that must be included in the annual entitlement plan described in subsection 1,
28 including the development of a performance review system to monitor and improve
29 ~~regional-site~~ performance through the use of efficiency ratings aligned with the
30 accountability standards and through a compliance plan that requires ~~the regional-site~~
31 ~~to address the meeting of~~ unmet needs of eligible children in accordance with specific
32 targets and time frames;

33 G. Design and implement a statewide plan to provide professional development and
34 training to Child Development Services System personnel; and

35 H. Employ professional and other personnel, including those necessary to ensure
36 the implementation of the centralized fiscal and data management systems. All state
37 intermediate educational unit employees are employees for the purposes of the Maine
38 Tort Claims Act.

39 **Sec. 4. 20-A MRSA §7209, sub-§5**, as enacted by PL 2005, c. 662, Pt. A, §30, is
40 amended to read:

41 **5. Regional site board of directors.** A board of directors of a regional site is
42 responsible for governance of its activities, including the management and oversight of its

1 general operations. Membership must include representatives of the regional offices of
2 the Department of Health and Human Services, representatives of participating school
3 administrative units, parents of children with disabilities and other community members
4 as determined appropriate. A regional site board member or a board member's employer
5 may not, during the term for which the member serves on the board, derive any revenue
6 from work performed for the Child Development Services System. A representative of a
7 participating school administrative unit whose participation in the Child Development
8 Services System is limited to work performed for the school administrative unit is exempt
9 from the requirements of this subsection. Terms of membership and methods of
10 appointment or election for each board of directors must be determined by the board of
11 ~~director's~~ **directors'** bylaws, subject to approval by the department. This subsection is
12 repealed June 30, 2008.

13 **Sec. 5. 20-A MRSA §7209, sub-§6**, as enacted by PL 2005, c. 662, Pt. A, §30, is
14 amended to read:

15 **6. Regional site board of directors; annual entitlement plan; site budget**
16 **approval.** A board of directors of a regional site is entitled to receive annual grant award
17 allocations that are approved by the department in accordance with the approval
18 provisions for the annual entitlement plan and the budget for a regional site pursuant to
19 subsection 1, paragraph B. This subsection is repealed ~~September~~ June 30, 2007 2008.

20 **Sec. 6. 20-A MRSA §7209, sub-§7**, as enacted by PL 2005, c. 662, Pt. A, §30, is
21 amended to read:

22 **7. Regional site; administration.** A board of directors of a regional site shall:

23 A. Hire, fire and supervise the staff of the regional site according to the job
24 classifications, pay scales and personnel policies established by the state intermediate
25 educational unit established under subsection 3;

26 B. Enter into contracts, leases and agreements and any other instruments and
27 arrangements that are necessary, incidental or convenient to the performance of its
28 duties and the execution of its powers under this chapter, using forms and procedures
29 developed by the department;

30 C. Ensure data entry and reporting through June 30, ~~2007~~ 2008; and

31 D. Provide fiscal management of money allocated to it, in compliance with federal
32 and state laws and subject to proof of an annual audit.

33 This subsection is repealed June 30, 2008.

34 **Sec. 7. 20-A MRSA §7209, sub-§8**, as enacted by PL 2005, c. 662, Pt. A, §30, is
35 amended to read:

36 **8. Regional site; duties and obligations.** A board of directors of a regional site
37 shall:

38 A. Ensure provision of child find activities as required by the federal Individuals
39 with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

- 1 B. Ensure provision of childcount activities as required by the federal Individuals
2 with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;
- 3 C. Ensure appropriate data collection, training, staff development and direct service
4 provision to eligible children with disabilities, from birth to under 3 years of age, in
5 accordance with Part C of the federal Individuals with Disabilities Education Act, 20
6 United States Code, Section 1400 et seq.;
- 7 D. Ensure that eligible children with disabilities, from birth to under 3 years of age,
8 receive early intervention services, in accordance with the payment provisions
9 established by the State;
- 10 E. Ensure that eligible children with disabilities, from 3 years of age to under 6
11 years of age, receive free, appropriate public education services, in collaboration with
12 school administrative units when possible;
- 13 F. Coordinate with eligible families the development of individualized family
14 service plans for children with disabilities from birth to 2 years of age or coordinate
15 an individualized education program for a child 3 years of age to under 6 years of age
16 unless an individualized family service plan is preferred; and
- 17 G. Designate local personnel for training to commit funds for free, appropriate
18 public education. Personnel who commit funds for free, appropriate public education
19 must be trained and certified by the state intermediate educational unit established
20 under subsection 3. The board of directors of a regional site shall determine which
21 trained and certified personnel may commit funds.

22 All regional site employees and board of directors members of a regional intermediate
23 education unit are employees for purposes of the Maine Tort Claims Act. This subsection
24 is repealed June 30, 2008.

25 **Sec. 8. 26 MRSA §962, sub-§7, ¶A**, as amended by PL 2005, c. 662, Pt. A, §43,
26 is further amended to read:

- 27 A. Any officer, board, commission, council, committee or other persons or body
28 acting on behalf of:
- 29 (1) Any municipality or any subdivision of a municipality;
- 30 (2) Any school, water, sewer, fire or other district;
- 31 (3) The Maine Turnpike Authority;
- 32 (4) Any board of directors functioning as a regional intermediate education unit
33 of the Child Development Services System;
- 34 (5) Any county or subdivision of a county;
- 35 (6) The Maine State Retirement System; or
- 36 (7) The Maine Educational Center for the Deaf and Hard of Hearing and the
37 Governor Baxter School for the Deaf;

SUMMARY

1

2 This bill aligns existing law with the 2004 reauthorization of the federal Individuals
3 with Disabilities Education Act and the regulations recently adopted by the United States
4 Department of Education.

5 The bill ensures state compliance with federal statutes and regulations and ensures
6 that the State, school administrative units and other agencies are eligible for continued
7 federal assistance.

8 The bill specifies that Child Development Services System sites and governing
9 boards are covered under the Maine Tort Claims Act; this inclusion expires June 30,
10 2008. The bill also specifies that Child Development Services System employees are
11 public employees.