

# MAINE STATE LEGISLATURE

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Date: 6/19/07

L.D. 1900  
(Filing No. H-610)

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
123RD LEGISLATURE  
FIRST REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1333,  
L.D. 1900, "Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine  
Unified Special Education Regulation Birth to Age Twenty, a Major Substantive Rule of  
the Department of Education"

Amend the amendment by inserting after the first indented paragraph after the title  
the following:

'PART A'

Amend the amendment in section 1 by striking out all of subsection 1 (page 1, lines  
20 to 33 in amendment)

Amend the amendment in section 1 in subsection 5 in the 4th line (page 2, line 17 in  
amendment) by striking out the following: "2 years" and inserting the following: '4  
years'

Amend the amendment in section 1 by renumbering all of the subsections to read  
consecutively

Amend the amendment by inserting after section 1 the following:

'PART B

**Sec. B-1. Stakeholder group review of adverse effect. Resolved:** That the  
Commissioner of Education shall convene a stakeholder group to examine the federal and  
state rules and laws pertaining to the determination of adverse effect for children from 3  
to 20 years of age; and be it further

**Sec. B-2. Stakeholder group membership. Resolved:** That the stakeholder  
group consists of 21 members appointed as set out in this section:

- 1. Two members who are parents of children with disabilities from birth to 6 years of  
age and who have knowledge of or experience with programs for children with  
disabilities, appointed by the Maine Parent Federation, Inc.;

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HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1333, L.D. 1900

- 1           2. Two members who are parents of children with disabilities between 6 years of age  
2 and 20 years of age and who have knowledge of or experience with programs for children  
3 with disabilities, appointed by the Maine Parent Federation, Inc.;
- 4           3. One member who is a director of a Child Development Services System regional  
5 site, appointed by the Child Development Services System Site Directors Council;
- 6           4. Two members who are special education directors, appointed by the Executive  
7 Director of the Maine Administrators of Services for Children with Disabilities;
- 8           5. Two members who are certified special education teachers in a public elementary  
9 or secondary school, appointed by the Executive Director of the Maine Education  
10 Association;
- 11          6. One member who is a principal of a public elementary or secondary school and  
12 who has knowledge of or experience with programs for children with disabilities,  
13 appointed by the Executive Director of the Maine Principals' Association;
- 14          7. One member who serves as a superintendent of a school administrative unit and  
15 who has knowledge of or experience with programs for children with disabilities,  
16 appointed by the Executive Director of the Maine School Superintendents Association;
- 17          8. One member who is a provider of related services, appointed jointly by the  
18 professional associations that represent speech therapists, occupational therapists and  
19 physical therapists;
- 20          9. One member who is an individual with a disability, appointed by the Executive  
21 Director of the Disability Rights Center;
- 22          10. One member who is a representative on the Maine Advisory Council for the  
23 Education of Children with Disabilities, appointed by the chair of the Maine Advisory  
24 Council for the Education of Children with Disabilities;
- 25          11. One member representing the Disability Rights Center, appointed by the  
26 Executive Director of the Disability Rights Center;
- 27          12. One member representing Pine Tree Legal Assistance, appointed by the Board of  
28 Directors of Pine Tree Legal Assistance;
- 29          13. One member representing the Maine Developmental Disabilities Council,  
30 appointed by the Executive Committee of the Maine Developmental Disabilities Council;
- 31          14. One member representing the Learning Disabilities Association of Maine,  
32 appointed by the Executive Director of the Learning Disabilities Association of Maine;
- 33          15. One member representing the Autism Society of Maine, appointed by the  
34 Executive Director of the Autism Society of Maine;
- 35          16. One member representing the Maine Children's Alliance, appointed by the  
36 Executive Director of the Maine Children's Alliance; and
- 37          17. One member representing the Department of Education, appointed by the  
38 Commissioner of Education; and be it further
- 39          **Sec. B-3. Chair. Resolved:** That the stakeholder group shall appoint a chair  
40 from among its members; and be it further

**HOUSE AMENDMENT**

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1       **Sec. B-4. Appointments; convening of stakeholder group. Resolved:** That  
2 all appointments must be made no later than 30 days following the effective date of this  
3 resolve. The appointing authorities shall notify the Commissioner of Education of the  
4 names of and contact information for the stakeholder group members once all  
5 appointments have been completed. Within 15 days after appointment of all members,  
6 the Commissioner of Education shall call and convene the first meeting of the stakeholder  
7 group and shall notify the stakeholder group members of the appointments to the  
8 stakeholder group and the agenda for the organizational meeting of the stakeholder group;  
9 and be it further

10       **Sec. B-5. Duties. Resolved:** That the stakeholder group shall examine the  
11 portions of "Chapter 101: Maine Unified Special Education Regulation Birth to Age  
12 Twenty," the provisionally adopted rule submitted for legislative review during the First  
13 Regular Session of the 123rd Legislature by the Department of Education, that pertain to  
14 the determination of adverse effect and shall develop recommendations to the  
15 Commissioner of Education regarding any necessary changes to the Chapter 101 rules  
16 regarding the determination of adverse effect. In completing this task, the stakeholder  
17 group shall make every effort to avoid duplicating work already completed by the Task  
18 Force on Eligibility convened by the State Board of Education; and be it further

19       **Sec. B-6. Technical assistance; facilitator. Resolved:** That the Department  
20 of Education shall provide necessary staffing services to the stakeholder group including  
21 funding for an independent facilitator. Meetings of the stakeholder group must be  
22 moderated by the independent facilitator. The facilitator selected may not have a  
23 pecuniary or other vested interest in the outcome of the matters being reviewed and must  
24 certify to the Commissioner of Education and the members of the stakeholder group that  
25 the facilitator has no pecuniary or other vested interest in the outcome of the review.  
26 Such certification must be made in the manner prescribed jointly by the Commissioner of  
27 Education and the members of the stakeholder group; and be it further

28       **Sec. B-7. Meetings. Resolved:** That the stakeholder group shall hold up to 5  
29 meetings, including the organizational meeting convened by the Commissioner of  
30 Education. The agenda for the organizational meeting of the stakeholder group must  
31 include:

- 32           1. Selection of a chair;
- 33           2. Selection of an independent facilitator;
- 34           3. Development of a work plan; and
- 35           4. Scheduling of not more than 4 additional meetings; and be it further

36       **Sec. B-8. Report. Resolved:** That the stakeholder group shall submit a report  
37 that includes its findings and recommendations, including suggested revisions for those  
38 portions of "Chapter 101: Maine Unified Special Education Regulation Birth to Age  
39 Twenty" that pertain to the determination of adverse effect, to the Commissioner of  
40 Education no later than September 28, 2007; and be it further

41       **Sec. B-9. Adoption of rules. Resolved:** That, after consideration of the report  
42 submitted under section 8, the Commissioner of Education is authorized to submit  
43 provisionally adopted, major substantive rules for those portions of "Chapter 101: Maine

**A.O.S.**

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1333, L.D. 1900

1 Unified Special Education Regulation Birth to Age Twenty" that pertain to the  
2 determination of adverse effect for legislative review in the Second Regular Session of  
3 the 123rd Legislature.'

4 Amend the amendment by relettering or renumbering any nonconsecutive Part letter  
5 or section number to read consecutively.

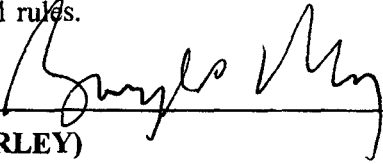
6 **SUMMARY**

7 This amendment removes the requirements proposed in the committee amendment  
8 that the rule be amended to establish a definition of the term "educational performance,"  
9 to define certain other phrases with reference to the federal regulations and to identify  
10 what is necessary for documenting intervention strategies.

11 The amendment changes the timeline for filing a due process hearing request for  
12 either a state or federal cause of action under the federal Individuals with Disabilities  
13 Education Act from 2 years to 4 years.

14 The amendment also directs the Commissioner of Education to establish a  
15 stakeholder group to examine the portions of "Chapter 101: Maine Unified Special  
16 Education Regulation Birth to Age Twenty," the provisionally adopted rule submitted for  
17 legislative review during the First Regular Session of the 123rd Legislature by the  
18 Department of Education, that pertain to the determination of adverse effect and to  
19 develop recommendations to the Commissioner of Education regarding any necessary  
20 changes to the Chapter 101 rules.

21 **SPONSORED BY:** \_\_\_\_\_



22 **(Representative MARLEY)**

23 **TOWN: Portland**