

MAINE STATE LEGISLATURE

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L.D. 1900

Date: 6-20-07

(Filing No. H-623)

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

HOUSE AMENDMENT "B" 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) and inserting the following:

'1. The rule must be amended in Section VII by deleting the part of the rule
designated "3. Determination of Adverse Effect for Children Three to Twenty";'

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:

R.O.S.

HOUSE AMENDMENT “**B**” to COMMITTEE AMENDMENT “**A**” to H.P. 1333, L.D. 1900

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

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1 17. One member representing the Department of Education, appointed by the
2 Commissioner of Education; and be it further

3 **Sec. B-3. Chair. Resolved:** That the stakeholder group shall appoint a chair
4 from among its members; and be it further

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

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

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

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

- 36 1. Selection of a chair;
37 2. Selection of an independent facilitator;
38 3. Development of a work plan; and
39 4. Scheduling of not more than 4 additional meetings; and be it further

40 **Sec. B-8. Report. Resolved:** That the stakeholder group shall submit a report
41 that includes its findings and recommendations, including suggested revisions for those
42 portions of "Chapter 101: Maine Unified Special Education Regulation Birth to Age

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

1 Twenty" that pertain to the determination of adverse effect, to the Commissioner of
2 Education no later than September 28, 2007; and be it further

3 **Sec. B-9. Adoption of rules. Resolved:** That the Commissioner of Education is
4 authorized to submit provisionally adopted, emergency major substantive rules for those
5 portions of "Chapter 101: Maine Unified Special Education Regulation Birth to Age
6 Twenty" that pertain to the determination of adverse effect for legislative review in the
7 Second Regular Session of the 123rd Legislature. The rules provisionally adopted by the
8 Commissioner of Education pursuant to this section must expressly consider and address
9 the recommendations contained in the report of the stakeholder group submitted under
10 section 8.'

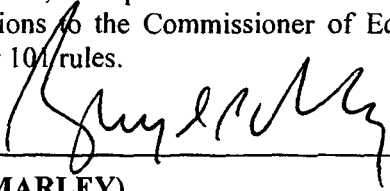
11 Amend the amendment by relettering or renumbering any nonconsecutive Part letter
12 or section number to read consecutively.

13 **SUMMARY**

14 This amendment removes the requirements proposed in the committee amendment
15 that the rule be amended to establish a definition of the term "educational performance,"
16 to define certain other phrases with reference to the federal regulations and to identify
17 what is necessary for documenting intervention strategies. It requires that the rule be
18 amended by deleting the part of the rule relating to the determination of adverse effect for
19 children 3 to 20.

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

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

30 **SPONSORED BY:** 

31 **(Representative MARLEY)**

32 **TOWN: Portland**

HOUSE AMENDMENT