

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2010

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Legislative Document

No. 1532

S.P. 588

In Senate, December 17, 2009

### An Act To Align Education Laws with Certain Federal Laws

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Submitted by the Department of Education pursuant to Joint Rule 204.

Received by the Secretary of the Senate on December 17, 2009. Referred to the Committee on Education and Cultural Affairs pursuant to Joint Rule 308.2 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 DIAMOND of Cumberland.

Cosponsored by Representative SUTHERLAND of Chapman and

Senators: CRAVEN of Androscoggin, DAVIS of Cumberland, Representatives: CAMPBELL of Newfield, LOVEJOY of Portland, NELSON of Falmouth, PENDLETON of Scarborough, STRANG BURGESS of Cumberland.

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

2           **Sec. 1. 20-A MRSA §5205, sub-§3-A** is enacted to read:

3           **3-A. Students placed by the Department of Health and Human Services.**  
4           Notwithstanding subsection 3, a student who is placed by the Department of Health and  
5           Human Services with an adult who is not the child's parent or legal guardian in  
6           accordance with the educational stability provisions of the federal Fostering Connections  
7           to Success and Increasing Adoptions Act of 2008, Public Law 110-351, 122 Stat. 3949 is  
8           considered a resident of either the school administrative unit where the student resides  
9           during the placement or the school administrative unit where the student resided prior to  
10           the placement based on the best interest of the student. The Department of Health and  
11           Human Services shall determine which of the 2 units is appropriate and notify that unit in  
12           writing of its determination.

13           **Sec. 2. 20-A MRSA §7201, sub-§5,** as corrected by RR 2005, c. 2, §13, is  
14           amended to read:

15           **5. Accessible instructional materials; visual impairment including blindness;**  
16           **Braille instruction.** All students must have access to accessible instructional materials  
17           and may receive instruction in Braille ~~reading and writing~~ as part of their individualized  
18           family service plans or individualized education programs. A student may not be denied  
19           the opportunity of instruction in Braille ~~reading and writing~~ solely because the student  
20           has some remaining vision. If Braille is not provided to a child who is blind, the reason  
21           for not incorporating Braille in the individualized family service plan or individualized  
22           education program must be documented in the individualized family service plan or  
23           individualized education program. Accessible instructional materials and provisions for  
24           the accessibility of online learning programs for individuals with disabilities must be in  
25           alignment with the accessible instructional materials provisions of the federal Individuals  
26           with Disabilities Education Improvement Act of 2004, Public Law 108-446, 118 Stat.  
27           2647 and in alignment with the universal design provisions of the 1998 amendments to  
28           the federal Higher Education Act of 1965, 20 United States Code, Chapter 28 contained  
29           in the federal Higher Education Amendments of 1998, Public Law 105-244, 112 Stat.  
30           1581.

31           **Sec. 3. 20-A MRSA §7205,** as amended by PL 1987, c. 395, Pt. A, §72, is further  
32           amended to read:

33           **§7205. Review and assistance**

34           It is the intent of the Legislature that a representative of the commissioner visit ~~each~~  
35           special education program at least once every 5 years programs for the purpose of review  
36           and assistance and as necessary to comply with federal general supervision requirements.  
37           Nothing in this section prohibits a school administrative unit from requesting that a  
38           representative of the commissioner visit a particular special education program for the  
39           purpose of review and assistance whenever necessary. The commissioner shall comply  
40           with each request in a timely fashion.

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## SUMMARY

2 This bill provides that a student placed by the Department of Health and Human  
3 Services with an adult who is not the child's parent or legal guardian in accordance with  
4 the educational stability provisions of the federal Fostering Connections to Success and  
5 Increasing Adoptions Act of 2008 is considered a resident of either the school  
6 administrative unit where the student resides during the placement or the school  
7 administrative unit where the student resided prior to the placement based on the best  
8 interest of the student. The Department of Health and Human Services shall determine  
9 which of the 2 units is appropriate and notify the unit in writing of its determination.

10 The bill also provides that all students with disabilities must have access to accessible  
11 instructional materials and may receive instruction in Braille. Accessible instructional  
12 materials and provisions for the accessibility of online learning programs for individuals  
13 with disabilities must be in alignment with the accessible instructional materials  
14 provisions of the federal Individuals with Disabilities Education Improvement Act of  
15 2004 and in alignment with the universal design provisions of the 1998 amendments to  
16 the federal Higher Education Act of 1965 contained in the federal Higher Education  
17 Amendments of 1998.

18 The bill changes the requirement that all special education programs receive a visit  
19 from the Department of Education at least once every 5 years to as often as necessary to  
20 comply with federal requirements. It does not prohibit a request from a school  
21 administrative unit for the commissioner to review a special education program for the  
22 purpose of review and assistance whenever necessary.