

MAINE STATE LEGISLATURE

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Emery
R. of S.

L.D. 775

Date: 6/3/11

Minority

(Filing No. H-492)

EDUCATION AND CULTURAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 582, L.D. 775, Bill, "An Act To Clarify Special Education Reporting Requirements"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 20-A MRS §7207-D is enacted to read:

§7207-D. Reporting requirements

1. Report of legal dispute. A school administrative unit or an intermediate educational unit, referred to in this section as a "unit," shall report to the commissioner when there is a legal dispute between a parent, surrogate parent or guardian of a child with a disability and the unit concerning a student's special education program. As used in this section, "legal dispute" means any circumstance in which a parent has filed a complaint concerning a student's special education program in accordance with department rules, has requested a due process hearing concerning a student's special education program in accordance with department rules, has requested stand-alone mediation concerning a student's special education program in accordance with department rules or has filed a complaint with the Office for Civil Rights in the United States Department of Education for discrimination on the basis of disability that is prohibited by the requirements of Section 504 of the federal Rehabilitation Act, 29 United States Code, Section 794 or with Title II of the federal Americans with Disabilities Act of 1990, 42 United States Code, Sections 12131 to 12165. The reports must:

A. Identify the reporting unit. The reports may not provide any personally identifiable information about the student involved in the dispute;

B. Identify any expenses the unit incurred for consultants or attorneys to resolve the dispute, including the purpose of the expense and the dollar amount paid to each party; and

C. Identify the final resolution of the dispute, including the elements of any corrective action plans. An agreement negotiated to resolve a dispute may not contain a nondisclosure provision except one that is limited to the terms of the

COMMITTEE AMENDMENT

R. of S.

1 settlement agreement, that does not extend to more than 4 years in duration and in
2 which the nondisclosure provision binds only the child's parents, guardians or
3 surrogate parents.

4 **2. Report to Legislature.** The commissioner shall track the reports submitted
5 pursuant to subsection 1 by unit to identify any unusual patterns of disputes from one unit
6 to another. The commissioner shall report annually to the joint standing committee of the
7 Legislature having jurisdiction over education matters the number of disputes each unit
8 has been involved in, the type of resolution of each dispute, the costs incurred to resolve
9 each dispute and whether there are significant variations in the types of disputes in which
10 the units are involved statewide.

11 **3. Information retained regarding dispute.** A unit involved in a dispute under
12 subsection 1 shall maintain a file on the dispute, including the costs incurred to settle the
13 dispute and any expenses paid to the parties involved in the dispute. The file may not
14 contain personally identifiable information on the student involved in the dispute. The
15 files must be available to the public upon request.'

16 **SUMMARY**

17 This amendment is the minority report of the Joint Standing Committee on Education
18 and Cultural Affairs. The amendment defines "legal dispute" and requires that
19 intermediate educational units, as well as school administrative units, report legal
20 disputes between a parent, surrogate parent or guardian of a child with a disability and the
21 respective intermediate educational unit or school administrative unit concerning a
22 student's special education program to the Commissioner of Education. The amendment
23 also removes the provisions of the bill that propose to:

24 1. Require a school administrative unit to identify the nature of the dispute in its
25 report to the Commissioner of Education;

26 2. Identify the names of any individuals who are not in agreement with the school
27 administrative unit's position in the dispute; and

28 3. Direct the Commissioner of Education to refer a school administrative unit that is
29 not in compliance with the reporting requirements proposed by the bill to the Attorney
30 General to take appropriate action to bring the school administrative unit into compliance.

31 **FISCAL NOTE REQUIRED**

32 (See attached)
33
34



125th MAINE LEGISLATURE

LD 775

LR 847(02)

An Act To Clarify Special Education Reporting Requirements

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Education and Cultural Affairs

Fiscal Note Required: Yes

Fiscal Note

State Mandate - Unfunded

State Mandates

Required Activity

Requires school administrative units to report legal disputes between a school administrative unit and a parent, surrogate parent or guardian of a child with a disability concerning a student's special education program to the Commissioner of Education and to maintain files on each dispute.

Unit Affected

School

Local Cost

Moderate
statewide

The required local activities in this bill may represent a State mandate pursuant to the Constitution of Maine. Unless General Fund appropriations are provided to fund at least 90% of the additional costs or a Mandate Preamble is amended to the bill and two-thirds of the members of each House vote to exempt this mandate from the funding requirement, municipalities may not be required to implement these changes.

Fiscal Detail and Notes

Additional cost to the Department of Education to track the information submitted and to submit the required report can be absorbed within existing budgeted resources.