

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1512

H.P. 1120

House of Representatives, April 15, 2021

**An Act To Create the Office of the Education Ombudsman and To
Establish a Commission To Study the Creation of a Reporting and
Response System To Assist Public Schools in Addressing Incidents
of Bias, Discrimination and Harassment**

Received by the Clerk of the House on April 13, 2021. Referred to the Committee on Education and Cultural Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative GERE of Kennebunkport.
Cosponsored by Representatives: BABBIDGE of Kennebunk, BAILEY of Gorham,
MADIGAN of Waterville, McCREA of Fort Fairfield, MILLETT of Cape Elizabeth, ROEDER
of Bangor, WARREN of Scarborough, Senator: DAUGHTRY of Cumberland.

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

2 **Sec. 1. 20-A MRSA c. 15** is enacted to read:

3 **CHAPTER 15**

4 **EDUCATION OMBUDSMAN**

5 **§971. Office created**

6 The Office of the Education Ombudsman is established within the Executive
7 Department and is autonomous from any other state agency.

8 **§972. Appointment**

9 The Governor shall appoint an education ombudsman to head the Office of the
10 Education Ombudsman, who is referred to in this chapter as "the education ombudsman,"
11 subject to review and confirmation by the legislative committee under subsection 2.

12 **1. Qualifications.** The education ombudsman appointed under this section must be a
13 person of recognized judgment, independence, objectivity and integrity and must be
14 qualified by training or experience or both in the following areas:

15 A. Public education law and policy in this State;

16 B. Dispute resolution or problem resolution techniques, including mediation and
17 negotiation; and

18 C. Community outreach.

19 The education ombudsman may not be an employee of a school administrative unit or the
20 department or other state agency while serving as education ombudsman.

21 **2. Legislative committee.** Before appointing the education ombudsman, the Governor
22 shall share information regarding the appointment with a legislative committee for approval
23 and confirmation. The legislative committee is appointed and comprised as follows:

24 A. Three members of the Senate, appointed by the President of the Senate, with 2
25 members representing the party holding the largest number of seats in the Senate and
26 one member representing the party holding the 2nd largest number of seats in the
27 Senate; and

28 B. Three members of the House of Representatives, appointed by the Speaker of the
29 House, with 2 members representing the party holding the largest number of seats in
30 the House of Representatives and one member representing the party holding the 2nd
31 largest number of seats in the House of Representatives.

32 **§973. Duties**

33 The education ombudsman has the following powers and duties:

34 **1. Information.** To provide information to students, parents and interested members
35 of the public regarding the State's public school system;

36 **2. Involvement.** To identify obstacles to greater parent and community involvement
37 in shared school decision-making processes and to recommend strategies for helping
38 parents and community members to participate effectively in shared school decision-

1 making processes, including understanding and respecting the roles of school
2 administrators and staff;

3 **3. Success rates.** To identify and recommend strategies for improving the success
4 rates of ethnic and racial minority students and students with disabilities identified as
5 having disproportionately lower academic achievement;

6 **4. Complaints.** To facilitate the resolution of complaints made by parents and students
7 with regard to the State's public school system;

8 **5. Reference.** To refer complainants and others to appropriate resources, agencies and
9 departments;

10 **6. Consultation.** To consult with representatives of the following organizations and
11 groups regarding the work of the Office of the Education Ombudsman, including, but not
12 limited to:

13 A. School employees;

14 B. School and school administrative unit administrators;

15 C. Parents of special education students;

16 D. Parents of English learners as defined in section 15672, subsection 7-B;

17 E. The Maine Human Rights Commission established under Title 5, section 12004-G,
18 subsection 15;

19 F. The Permanent Commission on the Status of Racial, Indigenous and Maine Tribal
20 Populations established under Title 5, section 25001;

21 G. The department; and

22 H. A statewide organization that advocates for students with disabilities; and

23 **7. Other functions.** To perform other functions consistent with the purpose of the
24 education ombudsman.

25 **§974. Liability for good faith performance; privileged communications**

26 **1. Liability.** The education ombudsman is not liable for the good faith performance
27 of the education ombudsman's responsibilities under this chapter.

28 **2. Information.** An action that is discriminatory, disciplinary or retaliatory may not
29 be taken by a school administrative unit against a student or employee of that school
30 administrative unit or an employee of the department for a communication made or
31 information given or disclosed to aid the education ombudsman in carrying out the
32 education ombudsman's duties under this chapter unless that communication was made or
33 that information was given in bad faith or maliciously.

34 **3. Privileged communication.** A communication by the education ombudsman or the
35 education ombudsman's designee or a member of the Office of the Education Ombudsman
36 staff, if reasonably related to the education ombudsman's powers and duties and made in
37 good faith, is privileged and may not be made the subject matter or basis in any action of
38 slander or libel in any court in this State.

39 **§975. Confidentiality**

40 The education ombudsman shall treat all matters of the Office of the Education
41 Ombudsman, including the identities of students, complainants and individuals from whom

1 information is acquired, as confidential except as necessary to enable the education
2 ombudsman to perform the education ombudsman's duties under this chapter. Upon receipt
3 of information that is confidential or privileged under section 974, the education
4 ombudsman shall maintain the confidentiality of that information and may not disclose or
5 disseminate that information except as provided by applicable state or federal law.

6 **§976. Annual reports**

7 The education ombudsman shall report to the Governor, the Legislature and the
8 department beginning September 1, 2022 and annually thereafter on the work and
9 accomplishments of the Office of the Education Ombudsman. The report must include at
10 a minimum the following information:

11 **1. Service data.** How the education ombudsman's services have been used and by
12 whom, including aggregated data on the types of, nature of and trends in complaints;

13 **2. Family and community involvement.** Recommendations regarding the
14 elimination of barriers and obstacles to meaningful family and community involvement in
15 public education and methods for the education ombudsman to increase and enhance that
16 involvement; and

17 **3. Educational opportunities.** Strategies to improve the educational opportunities
18 for all students in the State, including recommendations from relevant organizations and
19 groups.

20 **§977. Public school harassment prevention policies and strategies**

21 In addition to the education ombudsman's duties under section 973, the Office of the
22 Education Ombudsman shall serve as the lead agency to provide resources and tools to
23 parents and families about public school harassment prevention policies and strategies and
24 to expand the tools, information and strategies that can be used to combat harassment,
25 intimidation and bullying of students and increase awareness of the need for respectful
26 learning communities in all public schools.

27 **Sec. 2. Commission to study the creation of a diversity, equity and**
28 **inclusion reporting and response system.** The Department of Education shall
29 establish a commission to study the creation of a diversity, equity and inclusion reporting
30 and response system to assist school administrative units, staff, students and families in
31 addressing incidents of bias, harassment and discrimination in public schools in the State
32 and to report to the department its findings.

33 **1. Participation.** In establishing the commission, the department shall invite the
34 participation of persons representing:

- 35 A. School administration and staff;
- 36 B. Students;
- 37 C. Community organizations with expertise in diversity, equity and inclusion; and
- 38 D. The Maine Human Rights Commission.

39 **2. Duties.** The commission shall:

- 40 A. Assess and determine the need for a system to document incidents of bias,
- 41 harassment and discrimination, respond to such incidents and provide remedies for the

- 1 effect of such incidents in order to advance diversity, equity and inclusion goals in
2 public schools in the State;
- 3 B. Investigate models and best practices and develop a process for reporting,
4 intervention and restoration in incidents described in this section, policy review and
5 ongoing training and community building; and
- 6 C. Develop a plan for making a cost-effective reporting and response system available
7 statewide. The plan developed under this paragraph must include:
- 8 (1) Investigating incidents and redressing wrongs through a restorative justice
9 process where applicable;
- 10 (2) Assisting students in building relationships founded on mutual respect;
- 11 (3) Educating teachers on creating cultures of inclusion and belonging and on
12 addressing conflicts; and
- 13 (4) Developing staff and schoolwide workshops and education programs focused
14 on repairing harm to the community, building shared expectations and creating an
15 inclusive and respectful learning community.

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SUMMARY

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This bill creates the Office of the Education Ombudsman within the Executive Department, which serves as an information resource and complaint facilitator for parents and students in the State's public school system. The education ombudsman also consults and makes recommendations regarding parent and community involvement in school decision-making processes and strategies for improving the success rates of ethnic and racial minority students and students with disabilities identified as having disproportionately lower academic achievement.

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The bill also directs the Department of Education to establish a commission to study the creation of a diversity, equity and inclusion reporting and response system to assist school administrative units, staff, students and families in addressing incidents of bias, harassment and discrimination in public schools in the State.

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