

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1632

H.P. 1216

House of Representatives, April 28, 2021

**An Act To Update the Laws Regarding the Maine Educational
Center for the Deaf and Hard of Hearing and the Governor Baxter
School for the Deaf**

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative PIERCE of Falmouth.
Cosponsored by Senator BREEN of Cumberland.

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

2 **Sec. 1. 20-A MRSA §7402**, as amended by PL 2011, c. 683, §1, is further amended
3 to read:

4 **§7402. Definitions**

5 As used in this chapter, unless the context otherwise indicates, the following terms
6 have the following meanings.

7 **1. School.** "School" means the Maine Educational Center for the Deaf and Hard of
8 Hearing and the Governor Baxter School for the Deaf established under this chapter,
9 including the ~~center school~~ preschool located at Mackworth Island known as the ~~Governor~~
10 ~~Baxter School for the Deaf~~, the ~~center preschool~~ Mackworth Island Preschool and any
11 ~~satellite school~~ site-based program within the State that may be operated under a ~~contracted~~
12 ~~services agreement~~ memorandum of understanding with a school administrative unit.

13 **2. School board.** "School board" means the School Board of the Maine Educational
14 Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf.

15 **3. Sending school.** "Sending school" means any school administrative unit that has a
16 student in attendance at the ~~center school~~ or at a satellite school.

17 **4. Executive director.** "Executive director" means the Executive Director of the
18 Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter
19 School for the Deaf.

20 ~~**5. Center school.** "Center school" means the kindergarten to grade 12 programs~~
21 ~~established and operated by the Maine Educational Center for the Deaf and Hard of Hearing~~
22 ~~and the Governor Baxter School for the Deaf at the Governor Baxter School for the Deaf~~
23 ~~located at Mackworth Island or at a location determined by the school board in accordance~~
24 ~~with section 7407, subsection 17.~~

25 **5-A. Mackworth Island Preschool.** "Mackworth Island Preschool" means the
26 preschool established and operated by the Maine Educational Center for the Deaf and Hard
27 of Hearing and the Governor Baxter School for the Deaf at Mackworth Island.

28 ~~**6. Satellite school**~~ **Site-based program.** "Satellite school Site-based program" means
29 ~~the programs~~ any additional program, including a ~~residential program~~, an inclusive day
30 ~~school programs~~ program, early childhood ~~programs and program~~ or outreach programs
31 program, that ~~are~~ is located near ~~the a~~ a population ~~centers~~ of deaf and hard-of-hearing
32 students within the State established by the School Board of the Maine Educational Center
33 for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf.

34 **7. Statewide educational services or outreach.** "Statewide educational services" or
35 "outreach" means ~~consultation services provided to families of children from birth to 5~~
36 ~~years of age who are deaf or hard of hearing students and consulting services to school~~
37 ~~administrative units that serve school-age deaf or hard-of-hearing children~~ resources,
38 information and services provided to children who are deaf or hard of hearing from birth
39 to 20 years of age and the children's families statewide. Services may include early
40 intervention, specially designed instruction, consultation, evaluation, speech therapy,
41 social-emotional programming, family programming and interpreting, referral services and
42 involvement with an individual education plan or an individualized family service plan as

1 defined in the federal Individuals with Disabilities Education Act, 20 United States Code,
2 Section 1401 (2015) or a 504 plan.

3 **8. Statewide resource center.** "Statewide resource center" means the information and
4 referral services provided by the library at the center school and the distance education
5 program and the community education program offered at the center school.

6 **9. Center preschool.** "Center preschool" means the preschool program established
7 and operated by the Maine Educational Center for the Deaf and Hard of Hearing and the
8 Governor Baxter School for the Deaf at the Governor Baxter School for the Deaf.

9 **10. 504 plan.** "504 plan" means a program developed pursuant to Section 504 of the
10 federal Rehabilitation Act of 1973.

11 **11. Boarding.** "Boarding" means the room and board for a student in grades 9 to 12
12 whose family lives more than 50 miles from a site-based program.

13 **Sec. 2. 20-A MRSA §7403,** as amended by PL 2013, c. 552, §1, is further amended
14 to read:

15 **§7403. Responsibility Mackworth Island Preschool and site-based program; location**
16 **locations; geographic access**

17 The center school programs are operated by the Maine Educational Center for the Deaf
18 and Hard of Hearing and the Governor Baxter School for the Deaf Mackworth Island
19 Preschool may be located on Mackworth Island or at a location determined by the school
20 board in accordance with section 7407, subsection 17. Satellite school programs A site-
21 based program, including a residential boarding program in accordance with section 7407,
22 subsection 17, may be located near the a population centers of deaf and hard-of-hearing
23 students within the State.

24 **Sec. 3. 20-A MRSA §7404, sub-§1,** as amended by PL 2011, c. 683, §3, is further
25 amended to read:

26 **1. Funding.** Students from this State may attend the ~~center school~~ Mackworth Island
27 Preschool and site-based programs free of tuition and ~~room and board~~ boarding expense.
28 Funding for these students is provided by legislative appropriation based on the services
29 necessary, including ~~room and board~~ boarding expenses, to satisfy the individualized
30 education programs of the students enrolled in the ~~center school~~ Mackworth Island
31 Preschool and site-based programs. Funding must support site-based programs and
32 maintenance of the ~~center school~~ Mackworth Island Preschool and that portion of the island
33 used by the ~~center school~~, security, outreach services, adult education, access to the
34 education network of Maine and operations of the center school, including the residential
35 program, parent infant program, preschool program and communication garden program.
36 Funding must also support maintenance and operations of any satellite school Mackworth
37 Island Preschool.

38 **Sec. 4. 20-A MRSA §7405-A,** as enacted by PL 2013, c. 552, §3, is amended to
39 read:

40 **§7405-A. Placement; outreach program and funding; state and federal educational**
41 **services requirements; technical assistance**

1 Beginning ~~July 1, 2015~~ January 1, 2022, the following provisions apply to student
2 placement, an outreach program, outreach program funding responsibility, state and federal
3 educational services requirements and technical assistance.

4 **1. Placement.** The school administrative unit in which a deaf or hard-of-hearing
5 student resides is responsible for providing a free, appropriate public education pursuant to
6 chapter 301 for a student placed in the ~~center school or in one of the satellite school~~
7 ~~programs~~ Mackworth Island Preschool or a site-based program. An individualized
8 education program team or 504 plan team for a school administrative unit in which a deaf
9 or hard-of-hearing student resides is responsible for the placement decision of that student
10 and, when the ~~center school Mackworth Island Preschool or one of the satellite school~~
11 ~~programs~~ a site-based program is being considered as a placement for the student, ~~shall~~
12 may invite a representative of the center school or the satellite school a Maine Educational
13 Center for the Deaf and Hard of Hearing program administrator or a Governor Baxter
14 School for the Deaf program administrator to attend the individualized education program
15 team meeting or 504 plan team meeting at which this placement is being considered. ~~The~~
16 In collaboration with the student's individualized educational program team or 504 plan
17 team, the Maine Educational Center for the Deaf and Hard of Hearing program
18 administrator or the Governor Baxter School for the Deaf program administrator shall
19 determine if the student's needs can be served within existing programs of the Maine
20 Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for
21 the Deaf pursuant to established enrollment criteria. The Legislature is responsible for the
22 sums necessary to ensure that the services required to meet the individualized education
23 program or 504 plan for each student placed in the center school Mackworth Island
24 Preschool or in one of the satellite school programs a site-based program are provided,
25 including:

26 A. ~~The cost of tuition; and~~

27 B. The costs of transportation and other related services as defined by section 7001,
28 subsection 4-B, including the following related services specific for students who are
29 deaf or hard-of-hearing enrolled in the Mackworth Island Preschool or a site-based
30 program:

- 31 (1) Speech-language therapy;
- 32 (2) Audiology in conjunction with the student's ~~primary~~ managing audiologist;
- 33 (3) Occupational therapy;
- 34 (4) Transportation;
- 35 (5) ~~Interpreting~~ American Sign Language interpreting services;
- 36 (6) Extended school year services;
- 37 (7) ~~Frequency modulation systems;~~
- 38 (8) Evaluation for the following services:
 - 39 (a) Occupational therapy;
 - 40 (b) Speech-language therapy;
 - 41 (c) American Sign Language;
 - 42 (d) Psychoeducational assessment ~~for placement; and~~

- 1 (e) Academic achievement; and
- 2 (f) Functional listening;
- 3 ~~(9) Behavioral supports and planning.~~
- 4 (10) Specially designed instruction;
- 5 (11) Acoustic consultation, including measurement of unoccupied classroom noise
- 6 levels and observation of the environment to make recommendations for
- 7 acoustically appropriate treatment;
- 8 (12) Behavioral supports and planning, functional behavioral evaluations and
- 9 behavior intervention plans;
- 10 (13) Transition planning;
- 11 (14) Boarding services; and
- 12 (15) Educational technicians for language support in general education classes for
- 13 students with eligibility categories of hard of hearing, deafness and deaf and blind.

14 Beginning ~~July 1, 2015~~ January 1, 2022, the costs of related services not listed in this
15 paragraph are the responsibility of the school administrative unit in which a deaf or
16 hard-of-hearing student resides for those students attending the ~~center school~~
17 Mackworth Island Preschool or in ~~one of the satellite school programs operated by the~~
18 Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter
19 School for the Deaf a site-based program beginning in the ~~2015-2016~~ 2022-2023
20 school year.

21 The school board shall pay the ~~room and board~~ boarding costs for each student placed in a
22 residential site-based program in the center school or in one of the satellite school programs
23 through funds appropriated by the State.

24 The school administrative unit shall develop and oversee an individualized education plan
25 of a student. The school administrative unit is responsible for a related service that is
26 nonspecific for a student with hearing loss who attends a site-based program and for a
27 related service provided in the public school, including services provided by an educational
28 technician, a behavioral health professional, a nurse for additional diagnosis such as
29 multiple disabilities eligibility categories, physical therapy, physical therapy evaluation and
30 a board-certified behavior analyst for interpreting for extracurricular activities.

31 **1-A. Outreach program.** The Maine Educational Center for the Deaf and Hard of
32 Hearing and the Governor Baxter School for the Deaf shall operate an outreach program of
33 statewide educational and family services with an office on Mackworth Island or one or
34 more locations determined by the school board. The outreach program must support
35 students who are deaf and hard-of-hearing in the State, the students' families and
36 professionals who provide services to students from birth to 20 years of age. The outreach
37 program must provide, upon referral, services providing an individualized family service
38 plan, a 504 plan or an individualized education plan. These services are also available to a
39 school administrative unit with a student who is deaf or hard-of-hearing placed in a site-
40 based program.

41 **1-B. Funding responsibility for outreach program.** Responsibility for funding of
42 services provided in the outreach program in subsection 1-A is as follows.

1 A. The Maine Educational Center for the Deaf and Hard of Hearing and the Governor
2 Baxter School for the Deaf shall fund early intervention services, including:

3 (1) Coordination of specialized early intervention providers statewide, including
4 educators, speech-language pathologists and occupational therapists specializing
5 in deafness;

6 (2) Specialized instruction for a student;

7 (3) Consultation;

8 (4) Family training in American Sign Language and cued speech; and

9 (5) Coordination of statewide hearing assistive technology.

10 B. The Maine Educational Center for the Deaf and Hard of Hearing and the Governor
11 Baxter School for the Deaf shall fund specialized education for students with hearing
12 loss, including:

13 (1) Specially designed instruction for up to 4 weeks;

14 (2) Consultation;

15 (3) Parent training and counseling in American Sign Language and cued speech;

16 (4) Evaluations for American Sign Language, speech and functional listening;

17 (5) Coordination of statewide hearing assistive technology; and

18 (6) Coordination of statewide interpreting services.

19 C. The school administrative unit in which a student who is deaf or hard-of-hearing
20 resides shall fund access in regular environments, including the use of remote
21 microphone technology and for certified interpreters, certified deaf interpreters or
22 certified transliterators licensed under Title 32, chapter 22.

23 D. The Legislature shall fund necessary services based on an individualized family
24 service plan, individualized education plan and a 504 plan for a student in the State
25 regardless of the student's location.

26 **2. State and federal educational services requirements.** ~~The center school, center~~
27 ~~preschool~~ Mackworth Island Preschool and any ~~satellite school~~ site-based program shall
28 comply with all standards for state public schools and shall comply with all federal and
29 state laws and department rules for the provision of educational services to children with
30 disabilities.

31 **3. Technical assistance.** A school administrative unit may request technical
32 assistance from the school in matters relating to the education of deaf and hard-of-hearing
33 students at no cost to the school administrative unit.

34 **Sec. 5. 20-A MRSA §7406, sub-§1, ¶A,** as amended by PL 1999, c. 775, §7, is
35 further amended to read:

36 A. Four parents of students who are deaf or hard-of-hearing, ~~including a minimum of~~
37 ~~one parent with a child enrolled in the residential program and one parent with a child~~
38 ~~receiving service from the school's outreach program;~~

39 **Sec. 6. 20-A MRSA §7406, sub-§1, ¶F,** as amended by PL 1999, c. 775, §7, is
40 further amended to read:

1 F. Two students, one who attends ~~the school~~ a site-based program and one who
2 receives outreach services, both of whom are nonvoting members and who may not
3 participate as board members in executive sessions or receive materials as board
4 members from executive sessions.

5 **Sec. 7. 20-A MRSA §7407, sub-§3**, as amended by PL 1999, c. 775, §8, is further
6 amended to read:

7 **3. Administration.** The school board shall oversee the administration of the ~~center~~
8 ~~school and~~ Mackworth Island Preschool, any ~~satellite school~~ site-based program and
9 outreach program under section 7405-A, subsection 1-A, including the hiring of academic,
10 ~~residential~~, outreach and support staff of the ~~center school~~ Mackworth Island Preschool and
11 site-based programs and the approval of contracts for providers of boarding services to
12 eligible students.

13 **Sec. 8. 20-A MRSA §7407, sub-§4-B**, as enacted by PL 2011, c. 683, §8, is
14 amended to read:

15 **4-B. Budget presentation.** Annually, not later than January 1st, in addition to
16 complying with the provisions of Title 5, sections 1665 and 1666, the school board shall
17 present the budget for the Maine Educational Center for the Deaf and Hard of Hearing and
18 the Governor Baxter School for the Deaf to the Governor and the Legislature for review by
19 the commissioner and the joint standing committee of the Legislature having jurisdiction
20 over education matters. Beginning for fiscal year 2013-14, the budget must be presented
21 in a cost center summary budget format pursuant to section 1485, subsection 1, paragraph
22 A and must include specific budget information, including revenues and expenditures, for
23 the ~~center school, the center preschool~~ Mackworth Island Preschool, site-based programs
24 and statewide educational services or outreach. Revenue sources must include revenue
25 received through state appropriation pursuant to section 7404, as well as fees and other
26 revenues collected from school administrative units. The school board shall provide a
27 detailed accounting of the fees and other revenue collected from each school administrative
28 unit and the services provided to each unit. A liability or obligation may not be incurred
29 under this chapter beyond the amount approved in the administrative operating budget. The
30 school board may make expenditures only in accordance with allocations approved by the
31 Legislature. Any balance of an allocation or subdivision of an allocation made by the
32 Legislature for the school that at the time is not required for the purpose named in the
33 allocation or subdivision may be transferred prior to the closing of the books for the fiscal
34 year to any other allocation or subdivision of any allocation made by the Legislature for
35 the use of the school for the same fiscal year. The transfer is subject to review by the joint
36 standing committee of the Legislature having jurisdiction over appropriations and financial
37 affairs. Financial statements describing the transfer must be submitted by the school board
38 to the Office of Fiscal and Program Review 30 days before the transfer is implemented. In
39 case of extraordinary emergency transfers, the 30-day prior submission requirement may
40 be waived by vote of the committee. These financial statements must include information
41 specifying the accounts that are affected, the amounts to be transferred, a description of the
42 transfer and a detailed explanation of the reason the transfer is needed.

43 **Sec. 9. 20-A MRSA §7407, sub-§6**, as amended by PL 2017, c. 413, §1, is further
44 amended to read:

1 **6. Collection of fees.** The school board may charge service and rental fees for use of
2 facilities of the school. Except as provided in ~~subsections~~ subsection 12-A and 12-B, any
3 funds received for service and rental fees must be retained by the school.

4 **Sec. 10. 20-A MRSA §7407, sub-§11**, as enacted by PL 1995, c. 676, §5 and
5 affected by §13, is amended to read:

6 **11. Certificates and diplomas.** The school board shall offer courses of study and
7 grant ~~diplomas and~~ certificates on completion of courses of study. This granting of
8 ~~diplomas and~~ certificates may be done in cooperation with the sending school and site-
9 based programs.

10 **Sec. 11. 20-A MRSA §7407, sub-§12-B**, as enacted by PL 2017, c. 413, §2, is
11 repealed.

12 **Sec. 12. 20-A MRSA §7407, sub-§14**, as amended by PL 2011, c. 683, §9, is
13 further amended to read:

14 **14. Criteria for enrollment.** The school board shall establish and disseminate to
15 school administrative units the criteria to be used in determining eligibility of applicants
16 for enrollment in the ~~center school~~ Mackworth Island Preschool and site-based programs.

17 **Sec. 13. 20-A MRSA §7407, sub-§17**, as amended by PL 2005, c. 279, §10, is
18 further amended to read:

19 **17. School programs.** The school board may create, maintain and expand ~~center~~
20 ~~school~~ Mackworth Island Preschool and site-based programs with boarding options and
21 programs for children and families that may be served by the school at any satellite school,
22 through statewide educational outreach services ~~and through the statewide resource center.~~
23 ~~For the 2000-01 and 2001-02 school years only, the residential program at the Governor~~
24 ~~Baxter School for the Deaf located on Mackworth Island is limited to enrolling up to 20~~
25 ~~students who are deaf or hard of hearing. The superintendent may request that the~~
26 ~~commissioner approve a waiver of the residential enrollment limit and establish additional~~
27 ~~placements for students in the residential program at the Governor Baxter School for the~~
28 ~~Deaf located on Mackworth Island; the commissioner may approve those placements on a~~
29 ~~case-by-case basis and only if the individual education plan of the prospective student who~~
30 ~~is deaf or hard of hearing requires placement in a residential program. Beginning with the~~
31 ~~2002-03 school year, the school board shall establish a satellite school program that offers~~
32 ~~an array of educational programs that provide students who are deaf or hard of hearing~~
33 ~~with geographically convenient access to placement options that may be required by their~~
34 ~~individualized education program.~~

35 **Sec. 14. 20-A MRSA §7407, sub-§18**, as amended by PL 2011, c. 683, §9, is
36 further amended to read:

37 **18. Fees and charges.** The school board shall establish and collect necessary fees and
38 set policies relating to other appropriate charges for students. The school board shall
39 annually submit a schedule of fees to be charged to school administrative units for each
40 service provided by the Maine Educational Center for the Deaf and Hard of Hearing and
41 the Governor Baxter School for the Deaf to the Governor. A detailed accounting of fees
42 collected from each unit and the services provided, including statewide educational
43 education and family services or outreach, must be included in the presentation of the
44 budget pursuant to subsection 4-B.

