

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1800

S.P. 725

In Senate, April 25, 2023

### An Act Regarding Parental Rights in Education

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator KEIM of Oxford.

Cosponsored by Senators: BENNETT of Oxford, FARRIN of Somerset, GUERIN of Penobscot, MOORE of Washington, Representatives: ARATA of New Gloucester, HENDERSON of Rumford, LYMAN of Livermore Falls.

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

2 **Sec. 1. 19-A MRSA §1651**, as amended by PL 2015, c. 296, Pt. C, §17 and affected  
3 by Pt. D, §1, is further amended to read:

4 **§1651. Parents joint natural guardians of children**

5 The parents are the joint natural guardians of their minor children ~~and are jointly~~  
6 ~~entitled to the care, custody, control, services and earnings of their children.~~ Neither parent  
7 has any rights paramount to the rights of the other with reference to any matter affecting  
8 their children. Each parent has the fundamental right to make decisions regarding the  
9 upbringing, education and well-being of that parent's children.

10 **Sec. 2. 19-A MRSA §1653, sub-§2-A** is enacted to read:

11 **2-A. Parental rights and responsibilities with regard to education.** A parent is  
12 entitled to access all information regarding the school activities of the parent's minor child.  
13 A parent is entitled to review all teaching or instructional materials, required textbooks,  
14 course syllabi, lesson plans and other teaching aids used in the classroom of the parent's  
15 minor child, including while that parent's minor child is participating in virtual or remote  
16 learning.

17 **Sec. 3. 20-A MRSA §6308** is enacted to read:

18 **§6308. Parental rights regarding student health and welfare**

19 A parent has the fundamental right to make decisions regarding the upbringing,  
20 education and well-being of that parent's child.

21 **1. Notification requirements.** At the beginning of the school year, each school  
22 administrative unit shall notify each parent of each health care service offered at the school  
23 and offer the option to withhold consent for or decline any specific health care service for  
24 the student. Parental consent to a health care service does not waive the parent's right to  
25 access the student's educational or health records or to be notified about a change in the  
26 student's health care services or monitoring as provided by this subsection. The governing  
27 body of each school administrative unit shall adopt and notify parents of procedures:

28 A. For notifying a student's parent if:

29 (1) The student's health care services change;

30 (2) Monitoring of the student's mental, emotional or physical health or well-being  
31 indicates a change in the student's mental, emotional or physical health or well-  
32 being; or

33 (3) The school's ability to provide a safe and supportive learning environment for  
34 the student has changed; and

35 B. For a student's parent to notify the principal, or the principal's designee, regarding  
36 concerns about health care services for or the mental, emotional or physical health or  
37 well-being of the student and:

38 (1) A process for resolving those concerns within 7 calendar days after notification  
39 by the parent; and

40 (2) A process to require that if within 30 days after notification by the parent that  
41 a concern described by this paragraph remains unresolved, the school

1 administrative unit must either resolve the concern or provide a statement of the  
2 reasons for not resolving the concern.

3 The procedures adopted under this subsection must require school administrative unit  
4 personnel to encourage a student to discuss issues relating to the student's well-being with  
5 the student's parent or to facilitate discussion of the issue with the parent.

6 The procedures adopted under this subsection may not prohibit parents from accessing any  
7 educational or health records created, maintained or used by the school administrative unit.

8 **2. Prohibition regarding procedures or forms.** The governing body of a school  
9 administrative unit may not adopt procedures or student support forms that:

10 A. Prohibit school administrative unit personnel from notifying a parent of a student  
11 about that student's mental, emotional or physical health or well-being or a change in  
12 services or monitoring as provided in subsection 1; or

13 B. Encourage or have the effect of encouraging a student to withhold from the student's  
14 parent information described by paragraph A.

15 **3. Prohibition regarding personnel.** School administrative unit personnel may not  
16 discourage or prohibit parental notification of and involvement in critical decisions  
17 affecting a student's mental, emotional or physical health or well-being.

18 **4. Exception.** This section does not prohibit a school administrative unit from  
19 adopting procedures that permit school administrative unit personnel to withhold such  
20 information from a parent if a reasonably prudent person would believe that disclosure  
21 would result in abuse or neglect as defined in Title 22, section 4002, subsection 1 or  
22 abandonment as defined in Title 22, section 4002, subsection 1-A.

23 **5. Questionnaires and screening forms.** Before administering a student well-being  
24 questionnaire or health screening form to a student in kindergarten to grade 3, the school  
25 administrative unit shall provide the questionnaire or health screening form to the parent  
26 and obtain the permission of the parent.

27 **6. Special magistrate and civil action.** If a concern raised under subsection 1,  
28 paragraph B remains unresolved, the parent may:

29 A. Request the commissioner to appoint a special magistrate to determine facts relating  
30 to the dispute over the school administrative unit procedure or practice, consider  
31 information provided by the school administrative unit and render a recommended  
32 decision for resolution to the state board within 30 days after receipt of the request by  
33 the parent. The special magistrate must be a member of the bar of the State in good  
34 standing who has at least 5 years' experience in administrative law. The state board  
35 must approve or reject the recommended decision at its next regularly scheduled  
36 meeting that is more than 7 calendar days and no more than 30 calendar days after the  
37 date the recommended decision is transmitted. The costs of the special magistrate are  
38 paid by the school administrative unit. The state board shall adopt rules, including  
39 forms, necessary to implement this paragraph. Rules adopted pursuant to this  
40 paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;  
41 and

42 B. Bring a civil action against the school administrative unit in the District Court or  
43 Superior Court of the city or county where the school administrative unit is located.

