

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

SECOND SPECIAL SESSION

November 18, 1983

AND AT THE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

AND AT THE

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
JANUARY 4, 1984 TO APRIL 25, 1984

	1984-85
All Other	\$25,000

Provides 6-month funding from January 1, 1985, to June 30, 1985, for case managers through area agencies on aging to conduct assessments and to develop case plans for provision of appropriate services to residents entering boarding homes or adult foster homes.

HUMAN SERVICES, DEPARTMENT OF

Bureau of Medical Services

Personal Services	\$7,482
All Other	400
Capital Expenditures	<u>1,250</u>
Total	\$9,132

Provides 6-month funding from January 1, 1985, to June 30, 1985, for a Human Services Aide III for intake and referral.

Effective July 25, 1984.

CHAPTER 845

H.P. 1839 - L.D. 2434

AN ACT to Revise the Laws Governing Certification of Educational Personnel.

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

Sec. 1. 20-A MRSA §13001, as amended by PL 1983, c. 470, §§6 to 10, is repealed.

Sec. 2. 20-A MRSA §13002, as enacted by PL 1981, c. 693, §§5 and 8, is repealed.

Sec. 3. 20-A MRSA §13003, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. Certification. A person must be certified by the commissioner under ~~section 13002~~ this chapter or chapter 502 in order to:

- A. Teach in any public elementary or secondary school in the State; or
- B. Teach in any private school receiving basic approval under section 2901.

Sec. 4. 20-A MRSA c. 502 is enacted to read:

CHAPTER 502

CERTIFICATION OF EDUCATIONAL PERSONNEL

§13011. General authorization of state board

1. Certification and revocation rules. All certificates issued or revoked after June 30, 1988, shall be in accordance with this chapter. The state board shall adopt rules prior to April 1, 1988 to carry out the purposes of this chapter under which the commissioner shall:

A. Certify teachers and other professional personnel for service in a public school or in an approved private school;

B. Certify adult education teachers and other teaching and professional personnel in publicly-supported educational programs other than post high school institutions, colleges and universities;

C. Approve the employment of teacher aides, teacher assistants and other semiprofessional personnel for service in schools; and

D. Seek a revocation of a certificate in the Administrative Court.

2. Health and moral character. Rules adopted by the state board under this chapter shall require that an applicant for certification furnish evidence of:

A. Good moral character; and

B. Knowledge of physiology and hygiene, with special reference to the effects of alcohol, stimulants and narcotics upon the human system.

3. Teacher certificates. The state board rules shall recognize at least 3 categories of teacher certificates as identified in sections 13012 to 13014.

4. Appeal. An applicant who has been denied the issuance or renewal of a certificate by the commissioner under this chapter may appeal that denial in accordance with rules established by the state board and consistent with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375.

§13012. Provisional certificate

1. Definition. A provisional certificate is the entry level certificate issued to an individual who has not taught previously in the State.

2. Qualifications. State board rules governing the qualifications for a provisional certificate shall require that a certificate may only be issued to an applicant who, at a minimum:

A. For elementary school, has graduated from an accredited, degree-granting institution upon completion of:

(1) A 4-year program in liberal arts and sciences; or

(2) An approved 4-year teacher preparation program and has majored in the subject area to be taught or an interdisciplinary program in liberal arts; and

Has met other academic and preprofessional requirements established by the state board for teaching at the elementary school level;

B. For secondary school, has graduated from an accredited, degree-granting, educational institution upon completion of:

(1) A 4-year program in liberal arts and sciences; or

(2) An approved 4-year teacher preparation program and has majored in the subject area to be taught; and

Has met other academic and preprofessional requirements established by the state board for teaching at the secondary school level; or

C. Is otherwise qualified by having met separate educational criteria for specialized teaching areas including, but not limited to, special education, home economics, agriculture, vocational ed-

ucation, art, music, business education, physical education and industrial arts, as established by the state board for teaching in these specialized areas.

3. Endorsements. The provisional teacher certificate shall be issued with an endorsement which specifies the grades and subject area which the teacher is deemed qualified to teach. The state board shall by rule establish the criteria for assessing teacher proficiency and subject matter competency for the provisional certificate. A holder of a provisional teacher certificate may not teach outside his or her area of endorsement unless he or she has received a waiver from the commissioner in accordance with state board rules. These endorsements shall not apply to teachers in private schools approved for attendance purposes only.

4. Two-year limit. The provisional certificate may be issued for a 2-year period and may only be renewed in accordance with section 13016.

§13013. Professional teacher certificate

1. Definition. A professional teacher certificate is a renewable certificate issued to an individual who has held a provisional certificate and has met the qualifications of this section.

2. Qualifications. State board rules governing the qualifications for a professional teacher certificate shall require that the certificate may only be issued to an applicant who, at a minimum:

A. Holds a provisional teacher certificate or has held a professional teacher certificate which has expired within the last 5 years;

B. Taught in a classroom for 2 academic years; and

C. Received a recommendation to the superintendent and commissioner by an approved support system, pursuant to section 13015.

3. Endorsements. The professional teacher certificate shall be issued with an endorsement which specifies the grades and subject area which the teacher is deemed qualified to teach. A holder of a professional teacher certificate may not teach outside his or her area of endorsement unless he or she has received a waiver from the commissioner in accordance with state board rules.

4. Five-year certificate. A professional teacher certificate shall be issued for a 5-year period and may be renewed in accordance with section 13016.

§13014. Master teacher certificate

1. Definition. A master teacher certificate is a renewable certificate issued to an individual who has achieved additional professional standards in accordance with this section.

2. Qualifications. State board rules governing the qualifications for a master teacher certificate shall require that the certificate may only be issued to an applicant who, at a minimum:

A. Possesses a professional teacher certificate;

B. Has demonstrated exemplary professional skills in classroom instruction and who may have additionally contributed to the profession in such areas as:

(1) Curriculum development;

(2) Teacher in-service training and effective staff development; or

(3) Student-teacher supervision; and

C. Has obtained the support system's positive recommendation based on the contents of a teacher action plan pursuant to section 13015.

3. Endorsements. The holder of a master teacher certificate shall possess, at a minimum, the endorsements held under the professional certificate.

4. Five-year certificate. A master teacher certificate may be issued for a 5-year period and may be renewed in accordance with section 13016.

5. Effective date. Notwithstanding the July 1, 1988, reference in section 13011, the state board shall, prior to September 1986, adopt rules governing the issuance of master teacher certificates. Starting in September 1986, any teacher, who holds a 5-year or 10-year certificate under section 13001, may apply to qualify for a master teacher certificate. Master teacher certificates may be issued starting in July 1987.

§13015. Support system

1. Employment. No public school or private school approved for tuition purposes under section 2901, subsection 2, paragraph B may employ a provisional teacher unless it has an approved, locally designed, support system or has received specific authorization from the commissioner in accordance with state board rules.

2. Purpose. The purpose of an approved support system is to:

A. Provide strong support services for developing good teaching and classroom management skills to teachers with provisional certificates;

B. Provide assistance and review to all individuals who are candidates for a higher level certificate; and

C. Assist all teachers in becoming better teachers.

This support system is separate from local practices and procedures regarding the supervision and evaluation of a teacher for retention by an administrative unit.

3. Approval. Each administrative unit's support system is subject to approval by the commissioner in accordance with state board rules which shall require, at a minimum, that an approved support system contains the following:

A. A majority of classroom teachers, including a master teacher, if available, and other personnel such as administrators, personnel from the Department of Educational and Cultural Services or institutions of higher education and other outside consultants as the commissioner may approve. For the purposes of this paragraph, the state board shall establish by rule the definition of classroom teacher;

B. A description of the duties and responsibilities of the support system in the preparation of a teacher action plan for both provisional teachers and applicants for master teacher certification;

C. A description of the duties of the master teacher responsible for the design and coordination of a teacher action plan; and

D. A description of any current or planned linkages the support system has or will have with institutions of higher education, department personnel and members of the public in the operation of its support system.

4. Teacher action plan. A teacher action plan is developed by the support system in consultation with the teacher who is the subject of the plan. The teacher action plan shall describe the specific skills which must be developed and improved by the teacher, as well as any other requirements, which may include additional professional graduate and advanced study, in order to achieve a positive recommendation to receive a higher level of certificate. A teacher action plan shall contain the basis for the positive or negative recommendation of a support system as to whether a teacher should be granted a professional teacher certificate or a master teacher certificate, as applicable.

5. Records confidential. A teacher action plan shall be considered an employee record and shall be kept confidential in accordance with sections 6101 and 6102.

§13016. Renewal of teacher certificates

Teacher certificates issued in accordance with this chapter may be renewed pursuant to state board rules which shall include, but not be limited to, the following.

1. Provisional teacher certificates. A provisional teacher certificate is not renewable except for the following:

A. Teachers employed in private schools approved for attendance purposes only;

B. Unemployed teachers who apply to renew their certificates during periods of unemployment so long as they have been employed for less than 2 consecutive school years while holding a preliminary certificate;

C. Notwithstanding paragraphs A and B, the commissioner may grant an extension for not more than 2 years based on:

(1) The recommendation of the superintendent;

(2) The recommendation of the support system which includes a Teacher Action Plan describing the goals to be met by the teacher to achieve a professional certificate, specific steps needed to achieve those goals, and criteria for measuring whether those steps have been successfully completed;

(3) If there is an inconsistency between the recommendations in subparagraphs (1) and (2), the commissioner may hold a fact-finding hearing in the school administrative unit where the teacher is employed. At the hearing the Teacher Action Plan, superintendent's recommendations and support system recommendations shall be presented. With the consent of the teacher the hearing may be open to the public; and

D. Notwithstanding paragraphs A, B and C on a case-by-case basis to be determined by the commissioner on the basis of documented hardship or other extraordinary circumstances as set forth in state board rules.

2. Professional teacher certificates. A professional teacher certificate may be renewed for 5-year periods in accordance with state board rules which shall require, at a minimum, a recommendation of a support system and that the teacher complete at least 6 hours of professional or academic study, or in-service training designed to improve the performance of the teacher in the field for which the teacher holds an endorsement, or in a related subject area. Teachers who desire to qualify for a master teacher certificate shall coordinate their continuing professional education with the requirements of an applicable teacher action plan.

3. Master teacher certificate. A master teacher certificate may be renewed for 5-year periods in accordance with state board rules which shall require, at a minimum, that the master teacher has obtained a recommendation of the support system that the master teacher has maintained a high level of professional teacher skills. If the holder of a master teacher certificate fails to maintain master teacher skills or chooses not to seek a renewal of the master teacher certificate, the teacher will be deemed to hold a professional teacher certificate and shall meet the requirements for its renewal.

4. Renewal of nonteacher, professional certificates. Certificates for professional personnel, other

than teachers, shall be renewed in accordance with state board rules.

§13017. Interstate agreements

Notwithstanding any other requirements of this chapter, a teacher, who is eligible to hold a provisional teacher certificate pursuant to an interstate agreement authorized by chapter 511, has at least 2 academic years of prior teacher experience outside the State and has taught for fewer than 2 years in Maine with a provisional teacher certificate, may be awarded a professional teacher certificate if recommended by the administrative unit's support system and is otherwise deemed to be eligible by the commissioner.

§13018. Recertification of 5-year and 10-year certificates

Teachers, who hold certificates issued in accordance with chapter 501, shall continue to hold those certificates until their termination dates. All certificates issued after June 30, 1988, shall be issued in accordance with this chapter. Teachers who held 5-year or 10-year certificates prior to June 30, 1988, shall be considered to have held professional teacher certificates for the purpose of recertification under this chapter.

§13019. Visiting teacher permit

1. Definition. A visiting teacher permit is designed to allow those who do not intend to enter the teaching profession full time to offer their special expertise to schools. The visiting teacher shall act as an adjunct to existing staff and shall not be used to avoid the hiring of professional, certified teachers.

2. Qualifications. A visiting teacher permit shall be issued for a limited period in accordance with state board rules.

§13020. Revocation or suspension of a certificate

1. General. The state board's rules adopted under this chapter shall specify the procedure to be followed by the commissioner in seeking the revocation or suspension of a certificate in the Administrative Court and shall authorize the commissioner to enter into a consent agreement with any certificated person in lieu of initiating or completing a proceeding in the Administrative Court.

2. Grounds for revocation or suspension of a certificate. The following are grounds for revocation or suspension of a certificate issued under this Title:

A. Evidence that a person has injured the health or welfare of a child through physical or sexual abuse or exploitation shall be grounds for revocation or suspension of a certificate. Notwithstanding Title 5, chapter 341, a certified court record that a person certificated under this Title was convicted in any state or federal court of a criminal offense involving the physical or sexual abuse or exploitation of a child within the previous 5 years shall be sufficient grounds for revocation or suspension of that person's certificate; and

B. Other grounds as may be established by the state board in its rules relating to criminal offenses not inconsistent with Title 5, chapter 341, fraud or gross incompetence.

3. Denial of certificate for prior immoral conduct. Evidence that an applicant for initial certification or renewal has injured the health or welfare of a child through physical or sexual abuse or exploitation is grounds for a denial of a certificate. Notwithstanding Title 5, chapter 341, every person, who, within 5 years of the application for initial certification or renewal, has been convicted in any state or federal court of a criminal offense involving the physical or sexual abuse or exploitation of a child, may be presumed by the commissioner to lack good moral character for the purposes of this chapter. This presumption shall be a rebuttable presumption. Notwithstanding Title 5, chapter 341, the commissioner shall be entitled to consider all records of prior criminal convictions involving child abuse or exploitation in determining an applicant's eligibility for a certificate.

4. Reinstatement of certificate. Revoked certificates may only be reinstated in accordance with state board rules. The following provisions govern the reinstatement of any certificate revoked for reasons of child abuse or exploitation.

A. Notwithstanding Title 5, chapter 341, no certificate revoked for reasons of child abuse or exploitation may be reinstated within 5 years of the revocation and in no case less than 3 years from the expiration of probation or parole or

discharge from imprisonment for a criminal conviction involving child abuse or exploitation.

B. In determining whether a certificate may be reinstated, the commissioner shall determine whether the applicant has been sufficiently rehabilitated to warrant the public trust. The applicant shall be required to demonstrate sufficient evidence of rehabilitation, notwithstanding Title 5, chapter 341, and the commissioner shall state in writing the basis for any decision which denies reinstatement of a certificate.

C. Denial of reinstatement pursuant to paragraph B may be appealed to the Superior Court.

§13021. Periodic review

The state board shall review teacher certificate standards every 6 years and report the results of its review to the Legislature, along with any proposed legislation. The first report to the Legislature shall be due starting with the legislative session beginning in December 1990.

Sec. 5. Pilot project and report to the Second Regular Session of the 112th Legislature. Notwithstanding the effective date set forth in the Revised Statutes, Title 20-A, section 13014, subsection 4, temporary master teacher certificates may be issued as of July 1, 1985, in accordance with temporary state board rules, to qualified individuals who have participated in pilot projects designed to train individuals to become master teachers. These certificates may be renewed in accordance with the final rules established by the state board. These projects will be developed by the commissioner and the state board, in consultation with local administrative units and representatives from other appropriate support constituencies, beginning on the effective date of this Act. The number of projects to be developed and the selection of units to be involved in the projects will be determined by the state board. The pilot projects shall terminate as of July 1, 1987.

The state board and the commissioner shall conduct a study of all aspects of the Act, including the qualifications for a master teacher certificate; the support system assessment of provisional teachers; the attainment of a specified grade point average in undergraduate college programs; the passage of a standardized qualifying test before receiving a provisional certificate or additional endorsements; and the effect of the 3 certification levels in estab-

lishing a career ladder. The state board shall prepare a report on the results of the study and the results of the pilot projects. The state board shall hold at least one public hearing on an initial draft of the report and submit an interim report, with a summary of comments received, to the joint standing committee of the Legislature having jurisdiction over education, at the Second Regular Session of the 112th Legislature.

The joint standing committee of the Legislature having jurisdiction over education, shall conduct its own review of the effect of this Act, and the pilot projects and the rule making accomplished to date by the state board, conduct at least one public hearing on the pilot projects and state board's interim report, and shall make what recommendations it deems appropriate, including statutory changes, if any, prior to April 1, 1987.

Sec. 6. Funds. The funds to carry out the pilot projects set forth in section 4 of this Act are included in the Governor's budget.

Sec. 7. Effective date. Sections 1 and 2 become effective on July 1, 1988.

Effective July 25, 1984, unless otherwise indicated.

CHAPTER 846

H.P. 1852 - L.D. 2453

AN ACT to Establish a Maine Life and Health Insurance Guaranty Association.

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

24-A MRSA c. 62 is enacted to read:

CHAPTER 62

MAINE LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

§4601. Short title

This chapter shall be known as the Maine Life and Health Insurance Guaranty Association Act.