

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

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Chapters 1 - 502

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J.S. McCarthy Company
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1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

CHAPTER 414

S.P. 481 - L.D. 1302

An Act to Amend and Improve the Laws Relating to Education

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

Sec. 1. 5 MRSA §937, sub-§1, ¶¶F and G, as enacted by PL 1983, c. 729, §4, are amended to read:

F. Director, Planning and Management Information; ~~and~~

G. Federal and State Education Program Coordinator; ~~;~~ and

Sec. 2. 5 MRSA §937, sub-§1, ¶H is enacted to read:

H. Executive Director, Interdepartmental Council with the approval of the other commissioners of the Interdepartmental Council.

Sec. 3. 20-A MRSA §203, sub-§1, as amended by PL 1987, c. 395, Pt. A, §44, is further amended to read:

1. Commissioner's appointments. ~~The commissioner following officials shall be appoint the following officials who appointed by and shall serve at his the pleasure of the commissioner:~~

A. Assistant to the Commissioner;

B. Deputy Commissioner;

C. Associate Commissioner, Bureau of School Management;

D. Associate Commissioner, Bureau of Instruction;

E. Associate Commissioner, Bureau of Adult and Secondary Vocational Education;

F. Director, Planning and Management Information; ~~and~~

G. Federal and State Education Program Coordinator; ~~;~~ and

H. Executive Director, Interdepartmental Council.

Sec. 4. 20-A MRSA §1306, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§1306. Budget format

The board of directors shall determine the budget format unless it is established by the district voters petition to establish it.

1. Petition. ~~An article dealing with establishing the budget format may be placed on the next warrant if authorized by a majority vote of the board or if a written petition of at least 10% of the number of voters voting in the last gubernatorial election in the municipalities within the district has been presented to the board.~~

2. Meeting. A school budget format may be established by the district voters if the lesser of either 20% of the number of registered voters or 200 registered voters vote on an appropriate warrant article and a majority approve it. The meeting shall be called and held as provided for ~~district approval procedures~~ budget meetings under sections ~~1351 to 1354~~ 1303 and 1304 or under sections 1351 to 1354 if the directors so choose or if the voting at district budget meetings is done within each member municipality.

3. Effective date. A change in budget format shall be voted on at least 90 days prior to the budget year for which that change is to be effective.

Sec. 5. 20-A MRSA §1352, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. Municipal officers. The warrant shall direct the municipal officers within the district to call a referendum on a date and time determined by the board of directors. A warrant shall be prepared and distributed at least 30 days prior to the date of the referendum, except that a warrant for a school district budget referendum held in accordance with section 1305, subsection 2, shall be prepared and distributed at least 14 days prior to the date of the referendum.

A. The warrant shall be directed to a resident of the district by name, ordering the resident to notify the municipal officers of each of the municipalities within the district, to call a town meeting or city election on the date specified by the board of directors. No other date may be used. The person who serves the warrant shall make a return on the warrant stating the manner of services and the time when it was given.

B. The warrant shall be served on the municipal clerk of each of the municipalities within the district by delivering an attested copy of the warrant in hand within 3 days of the date of the warrant. The municipal clerk, on receipt of the warrant, shall immediately notify the municipal officers within the municipality. The municipal officers shall forthwith meet, counter-sign and have the warrant posted.

C. The warrants and other notices for the referendum shall be in the same manner as provided in Title ~~21~~ 21-A.

Sec. 6. 20-A MRSA §1407, sub-§§3 to 5 are enacted to read:

3. Costs and procedures during subsequent years. During any year subsequent to the year during which an elementary school remains open contrary to the school administrative district board of director's vote to close that elementary school, as a result of a municipal referendum, the

elementary school will be open without any additional cost to the municipality except as described in paragraphs A and B.

A. If the school administrative district board of directors again vote to close the elementary school and the voters of the member municipality again vote to keep the elementary school open, as described in this paragraph, then the elementary school will remain open and the member municipality will be obligated to pay the additional costs as described in subsection 2.

B. If the school administrative district board of directors again votes to close the elementary school and the voters of the member municipality fail to vote to keep the elementary school open, then the elementary school is closed. In this event, the elementary school may be reopened only if the school administrative district board of directors vote to reopen the school.

4. Definition of elementary school closing. In this section, an elementary school closing shall be any action or actions by the school administrative district that have the effect of providing no instruction for any students at that elementary school.

5. Method of payment by liable municipality. If a municipality is liable for additional expenses as determined in subsection 1, paragraph B, then the amount of this additional expense shall be subtracted from the school administrative district budget before each member municipality's assessment is computed. This additional expense shall be paid by the member municipality which is liable in equal monthly amounts, unless the school administrative district and that member municipality mutually agree to another method of payment.

Sec. 7. 20-A MRSA §6151, sub-§2, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

2. Penalty. A school administrative unit whose superintendent fails to make the report shall be subject to the penalties of section ~~6804~~ 6801-A.

Sec. 8. 20-A MRSA §6152, first ¶, as amended by PL 1983, c. 859, Pt. A, §§22 and 25, is further amended to read:

The commissioner shall adopt rules, consistent with federal and state laws, to carry out this subchapter which are consistent with federal and state requirements.

Sec. 9. 20-A MRSA §6301, sub-§1, as amended by PL 1983, c. 661, §3, is repealed and the following enacted in its place:

1. Duty of teacher. A teacher who has reason to believe that a student is a public health threat as a result of being infested with parasites, or having a communicable disease of the skin, mouth or eyes, shall inform the superintendent.

Sec. 10. 20-A MRSA §6301, sub-§2, as amended by PL 1983, c. 661, §4, is further amended to read:

2. Duty of superintendent. A superintendent informed by a teacher under subsection 1 ~~shall~~ may:

A. Inform the student's parent:

(1) To cleanse the clothing and bodies of their children; and

(2) To furnish their children with the required home or medical treatment for the relief of their trouble so defined in subsection 1;

B. Exclude the student from the public schools until the student is no longer ~~offensive or dangerous~~ a public health threat; and

C. Exclude the student from public school as soon as safe and proper transportation home is available.

Sec. 11. 20-A MRSA §6356, sub-§2, as enacted by PL 1983, c. 661, §8, is amended to read:

2. Superintendent's action. Notwithstanding the provisions of this subchapter on immunization against specified diseases, a superintendent ~~shall~~ may exclude from the public schools any child ~~because of fifth or communicable disease who is a public health threat~~, in accordance with section 6301, and the superintendent shall exclude from school any child or employee who has contracted or has been exposed to a communicable disease as directed by a ~~local health officer, the Department of Human Services or the school physician~~ physician after consultation with the Bureau of Health.

Sec. 12. 20-A MRSA §6551, as amended by PL 1985, c. 258, §§5 to 10, is repealed.

Sec. 13. 20-A MRSA §6552, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. Prohibition. A person may not possess a ~~loaded~~ firearm on public school property or discharge a firearm within 500 feet of school property.

Sec. 14. 20-A MRSA §6651, as enacted by PL 1987, c. 767, §1, is amended by adding after the first paragraph a new paragraph to read:

Private secondary schools, approved by the department in section 2951 for tuition, and whose school enrollments include at least 60% publicly funded students as determined by the previous school year's October and April average enrollment as reflected in records on file in the department, may also develop school-based child care services. The sending school administrative unit shall not be liable for any costs except those costs that have been approved by the school board of the sending school administrative unit.

Sec. 15. 20-A MRSA §6651, sub-§2, ¶B, as enacted by PL 1987, c. 767, §1, is amended to read:

B. Be available on a priority basis first to children of students in the school administrative unit or private school and 2nd to children of teachers or other employees in the unit or private school; and

Sec. 16. 20-A MRSA §6651, sub-§§3 to 5, as enacted by PL 1987, c. 767, §1, are amended to read:

3. Subsidizable costs for school administrative units under the School Finance Act of 1985. The cost of salaries and educational materials attributable to the child care service shall be calculated on a per-child basis. One hundred percent of the cost per child times the number of children whose parents attend school in the school unit shall be subsidizable as program costs under the School Finance Act of 1985.

4. Cost to teachers and other employees. A school administrative unit or private school may offer school-based child care services to teachers and other employees of the unit or private school in accordance with a policy established by the local school board which establishes the basis for participation. The school administrative unit or private school shall charge a fee for provision of such services which is at least equal to the per-child cost defined in subsection 3.

5. Costs to students. There shall be no cost to the student for enrolling a child in a child care service offered by a school administrative unit or private school if the student has an educational plan, approved by the school unit or private school, leading to academic progress and the attainment of reasonable educational goals.

Sec. 17. 20-A MRSA §6651, sub-§6 is enacted to read:

6. Subsidizable cost of operating programs in private secondary schools. The cost of salaries and educational materials attributable to the child care services shall be calculated on a per-child basis. One hundred percent of the cost per child times the number of children whose parents attend school in the private school shall be subsidizable as program costs under the School Finance Act of 1985 if these costs are paid for by the school administrative unit responsible for educating the student parents.

Sec. 18. 20-A MRSA §6652, as enacted by PL 1987, c. 767, §1, is amended to read:

§6652. Parenting and training in child development

A school administrative unit or private secondary school which provides child care services under section 6651 shall offer a one-semester course in parenting and child development to secondary school students.

Sec. 19. 20-A MRSA §6801-A, sub-§§2 to 4, as enacted by PL 1983, c. 859, Pt. A, §§24 and 25, are amended to read:

2. Authority to withhold state subsidy until reports are received. If Notwithstanding any other provision of law, if a school administrative unit has failed to file any financial report, audit or contract the reports required by this Title sections 6004, 6151 and 8606-A in the format and within the time periods specified, the commissioner shall may withhold state subsidy payments until these documents reports are received.

3. Action by Attorney General. If compliance cannot be achieved by withholding subsidy payment, or if withholding would be an inappropriate or unavailable remedy, or if a school or school unit which is not eligible for state subsidy is out of compliance with this Title, the commissioner may refer the matter to the Attorney General for action. The Attorney General may seek injunctive relief to enjoin activities not in compliance with the governing law or seek any other remedy authorized by law.

4. Other penalties. Nothing in this section ~~may preclude~~ precludes the commissioner from employing other penalties authorized in this Title or authorized or required by federal law.

Sec. 20. 20-A MRSA §8404, sub-§3, ¶B, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

B. May develop a cooperative agreement which shall delineate the duties and powers of the advisory committee and devise a formula for sharing costs. The agreement is subject to ratification by all of the school boards of the participating administrative units. This agreement shall be reviewed annually, with a copy being submitted to the commissioner. ~~The cost sharing formula shall pertain to the cost of vocational-educational programs which exceed expenditures made for those programs in the base year.~~

Sec. 21. 20-A MRSA §12501, sub-§1-A, as enacted by PL 1987, c. 611, §1, is amended to read:

1-A. College students. "College students" means those students who ~~have previously graduated from a Maine~~ were residents of Maine at the time they graduated from high school and are attending an institution of higher education on a full-time basis at the time of application for program participation.

Sec. 22. 20-A MRSA §12501, sub-§3-A, as enacted by PL 1987, c. 611, §1, is amended to read:

3-A. Graduating high school seniors. "Graduating high school seniors" means those students who are residents of Maine, who graduate from ~~a Maine~~ high school at the end of the academic year and who will be entering their first year in an institution of higher education at the beginning of the next academic year. Academic year is considered to be a September to June time period.

Sec. 23. 20-A MRSA §12505, sub-§2, as enacted by PL 1983, c. 859, Pt. F, §§1 and 2, is amended to read:

2. **Eligibility for graduate study or continuing education loans.** Graduate study or continuing education loans shall be given only to a teacher in a Maine school who has met other eligibility criteria established by rule of the commissioner. Preference shall be given to teachers of subjects which have been determined to be underserved.

Sec. 24. 20-A MRSA §15603, sub-§22, ¶F, as enacted by PL 1987, c. 767, §4, is amended to read:

F. Starting in 1990-91 for expenditures in base year 1988-89, the cost of child care services as specified in section 6651, ~~subsection~~ subsections 3 and 6.

Sec. 25. 20-A MRSA §15613, sub-§5, ¶C, as enacted by PL 1985, c. 789, §4, is amended to read:

C. Special education costs authorized by this subsection for state agency clients shall be paid by the department in the year of allocation at 100% of actual costs. ~~In the fiscal year beginning July 1, 1987, 75% of those payments shall be considered part of the State's share of the total allocation in meeting the requirements of section 15602, subsection 1. For each fiscal year thereafter, the percentage of those payments, which shall be considered part of the State's share of the total allocation in meeting the requirements of section 15602, subsection 1, shall be reduced by 15% each year until the fiscal year beginning July 1, 1992. Beginning July 1, 1992, these payments shall no longer be considered part of the State's share of the total allocation in meeting the requirements of section 15602, subsection 1.~~

Sec. 26. 20-A MRSA §15621 is enacted to read:

§15621. Rulemaking

The commissioner may adopt rules pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, to implement this chapter.

Sec. 27. 29 MRSA §2013, sub-§1, as amended by PL 1987, c. 676, §§2 to 5, is further amended to read:

1. **Requirements.** No person shall may operate a school bus or a private school activity bus in the actual conveyance of school children until ~~he shall have~~ that person has complied with the following requirements:

A. Hold a valid Maine operator's license for operation of the class vehicle to be operated and have at least one year's experience as a licensed motor vehicle operator in this or some other state;

B. ~~Must be~~ Be at least 21 years of age and ~~has~~ have held an operator's license for at least one year. The minimum age of 21 years does not apply to school bus operators licensed under this section as of March 15, 1988;

C. Meet all training and special physical, mental and moral requirements established by the Commis-

sioner of Educational and Cultural Services and ~~must~~ pass an annual physical examination, with the cost of ~~such~~ that examination being borne by the employer;

D. Be qualified as a driver under the Motor Carrier Safety Regulations of the Federal Highway Administration, if ~~he~~ the person or ~~his~~ that person's employer is subject to those regulations;

E. ~~Must pass~~ Pass an examination as the Secretary of State ~~shall prescribe~~ prescribes to determine his that person's ability to operate the specific vehicle which will be driven as a school bus or any comparable type vehicle. A fee of \$8 shall accompany the initial application for the examination. The fee for subsequent examinations shall be \$5;

F. Shall not be a habitual offender, as defined in section 2292; and

G. Shall not have been convicted of a violation of former section 1312, subsection 10; section 1312-B; former section 1312-C; or Title 15, section 3103, subsection 1, paragraph F, within the preceding 6-year period.

Sec. 28. Assessment of program; department report. The inclusion of private academies within the school-based child care and parenting education program as provided for in sections 14 to 18 of this Act shall be subject to the evaluation and reporting requirements of Public Law 1987, chapter 767, section 5.

See title page for effective date.

CHAPTER 415

S.P. 121 - L.D. 187

An Act to Amend the Laws Relating to Truants, Dropouts and Alternative Programs

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

Sec. 1. 4 MRSA §152, sub-§4, as repealed and replaced by PL 1983, c. 796, §1, is amended to read:

4. **Exclusive jurisdiction.** Original jurisdiction, not concurrent with that of the Superior Court, of mental health commitment hearings under Title 34, chapter 229, mental retardation certification hearings under Title 34, chapter 229, habitual truancy actions under Title 20-A, chapters 119 and 211 under which equitable relief may be granted and small claims actions under Title 14, chapter 738; and

Sec. 2. 20-A MRSA §261, as enacted by PL 1985, c. 797, §9, is amended by adding at the end a new paragraph to read:

The commissioner may adopt rules to implement statutory policies regarding student residency, the right of a