

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
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PUBLIC LAWS
OF THE
STATE OF MAINE

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1991

1. Job training services. Job training services, which are provided under the state job training system, must be coordinated by the Department of Labor and the Department of Human Services job training programs. These services may include, but are not limited to, outreach, recruitment, orientation, selection, preoccupational training, supportive services and needs-based stipends.

2. Skill training. Skill training must be provided by qualified training providers such as the State's technical colleges to qualified participants who are either entering the field or are employed health care workers who want to upgrade their skills. Participants must be referred by the state job training system.

3. Certification. Participants who complete training under this section with a curriculum approved by the Department of Education to include both theoretical and practical training receive a statewide certificate granted by the Department of Education. This certificate or a certificate issued under subsection 4 is required for employment as an activities coordinator in this State after December 31, 1993, except that a person employed as an activities coordinator on the effective date of this chapter who has completed a training program approved by the Department of Human Services is not required to obtain a certificate under this section.

4. Reciprocity. Certification may also be issued to candidates who can document completion of comparable training and experience in accordance with rules promulgated by the Commissioner of Education and the Commissioner of Human Services.

See title page for effective date.

CHAPTER 406

H.P. 1138 - L.D. 1663

An Act to Preserve the Confidentiality of Communications by Interpreters for the Deaf

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

Sec. 1. 5 MRSA §48, sub-§1, ¶¶A-1, A-2 and E-1 are enacted to read:

A-1. "Client" means a person who is deaf, hearing impaired or hearing who is rendered interpreting services by a privileged interpreter.

A-2. "Confidential communication" means a communication that a client has a reasonable expectation is not being disclosed to persons other than a privileged interpreter and any client to whom the communication is intended to be made.

E-1. "Privileged interpreter" means a person identified by clients as necessary to facilitate accurate com-

munication between the clients and who otherwise has no substantial personal or business interest in the communication.

Sec. 2. 5 MRSA §48, sub-§4, as enacted by PL 1983, c. 70, is repealed and the following enacted in its place:

4. Privileged communication. Except when a court in the exercise of sound discretion determines the disclosure necessary to the proper administration of justice, a privileged interpreter may not disclose any aspect of a confidential communication facilitated by that interpreter unless all clients of the privileged interpreter privy to that communication consent to the disclosure.

See title page for effective date.

CHAPTER 407

S.P. 445 - L.D. 1189

An Act Relating to Restructuring the Public Schools

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

Sec. 1. 20-A MRSA §8 is enacted to read:

§8. Restructuring public schools

The commissioner shall encourage school administrative units to pursue an ongoing process of school restructuring as a means of more effectively meeting the learning needs and improving the academic performance of all students. The public and private postsecondary institutions of higher education in the State are urged to cooperate with the department, the state board and school administrative units to provide appropriate and timely professional development programs and other support services to educators employed in public schools engaged in school restructuring efforts.

1. School restructuring. For the purposes of this section, the term "school restructuring" means the process by which schools and communities make significant changes in the existing school structure, including the policies, roles, relationships and schedules that influence teaching and learning in the school. School restructuring recognizes the critical educational role of technology and integrates technology and technological systems in the classroom, in school governance and in school record keeping. School restructuring is based on:

A. The development of comprehensive educational goals establishing community expectations for what all students should know, the skills they should possess, the attitude toward work and learning they should hold upon completing school and the role of the school in the community;

B. A formal appraisal of the basic structures that govern operation of the school; and

C. A commitment to revise the basic school structure to achieve the comprehensive educational goals.

School restructuring, which is most effectively carried out at the local level, depends on community and educator involvement and approval and student participation. School restructuring includes consideration of changing roles for parents, students, teachers, administrators, support staff, postsecondary education institutions and officials, and various segments of the community. It may include a significantly broadened role for schools.

School restructuring may include schools and school administrative units combining efforts to cooperatively pursue restructuring activities. When that occurs, one or more schools or units may be designated as demonstration sites.

2. Waiver of rules for local schools. A school administrative unit undergoing school restructuring may request that the commissioner waive the application of specific rules to that unit, or to certain schools in that unit, if such action is necessary to achieve school restructuring. The commissioner shall grant a waiver if the requesting unit, as determined by the commissioner, has:

A. Demonstrated that one or more state rules prevent or seriously handicap the unit's pursuit of its restructuring goals;

B. Demonstrated that reasonable steps have been taken to provide the safeguards offered by the rules in question to allow continued educational progress by students and protect the continuity and integrity of the unit and employees of that unit;

C. Provided evidence that the necessary resources and community and staff support are present to ensure that the restructuring changes requiring the waiver stand a reasonable chance of succeeding;

D. Informed any bargaining agent or agents representing affected school employees of the waiver request; and

E. Established a working relationship regarding professional development with an institution of higher education or a professional development service provider.

The request for the waiver must include documentation to substantiate the conditions of this subsection. If the request is denied, the commissioner shall provide the reasons for denying the request to the school unit.

3. Waiver of rules for educator preparation programs. In order to prepare educators to work in restructuring schools, an educator preparation program may request that the state board waive the application of specific rules governing approval of that program. The state board

shall grant waiver requests if, in the board's opinion, the program has:

A. Demonstrated that the rules for which a waiver is requested prevent or seriously handicap the program in its pursuit of a plan to meet the educational needs of its students and the staffing needs of restructuring schools;

B. Demonstrated that reasonable steps have been taken to provide the safeguards offered by the rules in question to allow continued educational progress by students and protect the continuity and integrity of the program and employees of that program;

C. Provided evidence that the necessary resources and support from the governing body and staff of an institution of higher education are present to ensure that the changes requiring the waiver stand a reasonable chance of succeeding;

D. Informed any bargaining agent or agents representing affected program employees of the waiver request; and

E. Developed service, research and teaching relationships with one or more restructuring public schools.

The request for the waiver must include documentation to substantiate the conditions of this subsection. If the request is denied, the state board shall communicate the reasons for denying the request to the petitioning program.

Sec. 2. 20-A MRSA §10902, sub-§17, as repealed and replaced by PL 1987, c. 402, Pt. A, §121, is amended to read:

17. Uniform course descriptions. To provide for a uniform system of course descriptions for equivalent courses between the various units of the University of Maine System; ~~and~~

Sec. 3. 20-A MRSA §10902, sub-§18, as enacted by PL 1983, c. 806, §80, is amended to read:

18. Aid to Families with Dependent Children recipients. To develop programs with the goal of enabling recipients of Aid to Families with Dependent Children to achieve educational and skill levels that will assist them to compete for employment ~~which can eliminate their dependency on public assistance;~~ and

Sec. 4. 20-A MRSA §10902, sub-§19 is enacted to read:

19. Public school restructuring. To encourage the public and private postsecondary education institutions in the State to cooperate with the commissioner, the state board and school administrative units to provide appropriate and timely professional development

programs and other support services to educators in public schools engaged in school restructuring efforts.

Sec. 5. Assessment and report. The Department of Education and the State Board of Education shall coordinate the preparation of a written report with information from the public and private organizations and entities involved in school restructuring in the State to the Joint Standing Committee on Education and the Office of the Executive Director of the Legislative Council by December 1, 1992 on the status of school restructuring efforts. The report must include a summary of the number of schools participating in restructuring programs, a description of the types of restructuring programs, the number of school and educator program approval waivers requested and granted and a listing of the specific rules for which waivers were requested. The report must also include an assessment of the effectiveness of school restructuring, including recommendations on how restructuring may become more effective, how replication of successful efforts may be encouraged and how dissemination of information on school restructuring may be enhanced.

See title page for effective date.

CHAPTER 408

S.P. 550 - L.D. 1454

An Act to Amend the Laws Relating to the Long-term Care Ombudsman Program

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

22 MRSA §5112, sub-§2, as amended by PL 1989, c. 679, §3, is repealed and the following enacted in its place:

2. Advocate. Serve as an advocate on behalf of older people promoting and assisting activities designed to enhance at the national, state and community levels the well-being of older people. The committee shall serve as an ombudsman on behalf of individual citizens and older people as a class in matters under the jurisdiction of State Government. It shall serve as a voice on behalf of older people to officers of State Government, the Governor, the Legislature, the public-at-large and the Federal Government.

To serve as advocate and ombudsman for older people, the committee may enter onto the premises of any boarding care facility licensed according to section 7801 and any nursing home facility licensed according to section 1817 to investigate complaints concerning those facilities. In addition, the committee shall investigate complaints received on behalf of individuals receiving long-term care services provided by the home-based care programs, Medicaid waiver program, licensed home health agencies, certified home-

maker agencies and licensed adult day care agencies. To carry out this function, any committee member, staff or volunteer authorized by the committee may enter onto the premises of any adult foster care facility, any boarding care facility or any nursing home during the course of an investigation, speak privately with any individual in the facility or home who consents to the conversation and inspect and copy all records pertaining to a resident as long as the resident or the legal representative of the resident consents in writing to that inspection. The consent, when required and not obtainable in writing, may be conveyed orally or otherwise to the staff of the facility or home. When a resident is not competent to grant consent and has no legal representative, the committee may inspect the resident's records and may make copies that do not contain personally identifiable material without the written consent of a duly appointed legal representative. The committee may authorize up to 25 persons, in addition to committee members and staff of the committee, to carry out this function. Appropriate identification must be issued to all such persons. In accordance with the federal 1987 Older Americans Act (OAA), 42 United States Code, as amended, a person may not serve as an ombudsman without training by committee staff as to the rights and responsibilities of an ombudsman or without a specific plan of action under direction of committee staff. The committee shall renew the authorization and issue identification annually. The findings of the committee must be available to the public upon request.

In addition, the committee, staff and volunteers shall visit, talk with and make personal, social and legal services available to residents; inform residents of their rights, entitlements and obligations under federal and state laws by distributing educational materials and meeting with groups or individuals; assist residents in asserting their legal rights regarding claims for public assistance, medical care and social security benefits or in actions against agencies responsible for those programs, as well as in all other matters in which residents are aggrieved, including but not limited to advising residents to litigate; and investigate complaints received from residents or concerned parties regarding the care or other matters concerning residents.

Information or records maintained by the committee concerning complaints may not be disclosed unless the ombudsman authorizes the disclosure. The ombudsman may not disclose the identity of any complainant or resident unless:

A. The complainant, the resident or a legal representative of either consents in writing to the disclosure; or

B. A court orders the disclosure.

A complainant, a resident or a legal representative of either, in providing the consent, may specify to whom such identity may be disclosed and for what purposes, in which event no other disclosure is authorized.

Any person, official or institution who in good faith participates in the registering of a complaint pursuant to this sub-