

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2009

technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. B-5. 35-A MRSA §3212-A, sub-§3, as enacted by PL 2007, c. 403, §8, is amended to read:

3. Repeal. This section is repealed ~~July 1, 2010~~ December 31, 2015.

See title page for effective date.

CHAPTER 330 S.P. 531 - L.D. 1446

An Act To Create the Maine Online Learning Program

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, delivering educational programs that meet the diverse educational needs of our children is of the greatest importance to the future welfare of the State; and

Whereas, closing the achievement gap between high-performing and low-performing students, including the gap between economically disadvantaged students and their more advantaged peers, continues to be a significant challenge; and

Whereas, providing a broader range of educational options to parents and utilizing existing resources, including learning technology, will help improve the academic achievement of students; and

Whereas, the State can augment the capacity of school administrative units to provide public school options for those students whose educational needs are not being met through the regular public school program; and

Whereas, through the use of available learning technology resources, the State can create educational opportunities for students that may not exist without the use of those resources; and

Whereas, this legislation is necessary to provide consistent, high-quality, public education options for students through the use of available learning technology resources; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 20-A MRSA §5001-A, sub-§2, ¶B, as amended by PL 2003, c. 688, Pt. H, §1 and affected by §3, is further amended to read:

B. A person who has:

- (1) Reached the age of 15 years or completed the 9th grade;
- (2) Permission to leave school from that person's parent;
- (3) Been approved by the principal for a suitable program of work and study or training;
- (4) Permission to leave school from the school board or its designee; and
- (5) Agreed in writing with that person's parent and the school board or its designee to meet annually until that person's 17th birthday to review that person's educational needs. When the request to be excused from school has been denied pursuant to this paragraph, the student's parent may appeal to the commissioner; ~~or~~

Sec. 2. 20-A MRSA §5001-A, sub-§2, ¶D, as enacted by PL 1985, c. 123, §2, is amended to read:

D. A person who has matriculated and is attending an accredited, post-secondary, degree-granting institution as a full-time student. An exception to attendance in public school under this paragraph must be approved by the commissioner; or

Sec. 3. 20-A MRSA §5001-A, sub-§2, ¶E is enacted to read:

E. A person enrolled in an online learning program or course.

Sec. 4. 20-A MRSA c. 802 is enacted to read:

CHAPTER 802

MAINE ONLINE LEARNING PROGRAM

§19151. Definitions

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

1. Online learning program or course. "Online learning program or course" means an interactive course or program that:

A. Is taught by a certified teacher and is delivered primarily electronically using the Internet or other computer-based methods in which a student enrolled in a course may have access to the teacher synchronously or asynchronously;

B. May be delivered to students at school as part of the regularly scheduled school day or may be delivered to students, in whole or in part, independently from a regular classroom schedule;

C. Is combined with other traditional delivery methods that include frequent student assessment and may include actual teacher contact time; and

D. Meets or exceeds the accountability standards and parameters for essential instruction established as part of the statewide system of learning results as set forth in section 6209.

2. Online learning provider. "Online learning provider" means a private organization that is approved by the department to provide online learning programs or courses to one or more school administrative units for kindergarten to grade 12 students.

3. Proctored environment. "Proctored environment" means an environment directly monitored by a teacher or administrative staff employed by an online learning provider or by an adult authorized by the program.

§19152. Program established

The Maine Online Learning Program, referred to in this chapter as "the program," is established to provide high-quality educational options for kindergarten to grade 12 students in this State using online learning programs and courses. The goals of the program are to:

1. Create opportunity. Create educational opportunities for students in this State that may not exist without such technology;

2. Close achievement gap. Close the achievement gap between high-performing and low-performing students, including the gap between minority and nonminority students and between economically disadvantaged students and their more advantaged peers;

3. Educational options. Use existing educational resources, along with technology, to provide parents a broader range of educational options and to help students in the State improve their academic achievement; and

4. Public school educational opportunities. Increase the capacity of school administrative units to provide public school educational opportunities for students whose educational needs are not being met in the regular public school program.

§19153. Approval of online learning providers

No later than June 30, 2010, the department shall provide school administrative units with a list of providers approved to offer full-time and part-time online learning programs and courses available for kindergarten to grade 12 students in the State. The department, in consultation with the state board, shall develop approval criteria and a process for approving online learning providers to implement online learning programs and courses.

1. Approval of online learning providers. The department shall approve online learning providers on the basis of the online learning providers' demonstrated experience in the operation and management of online learning programs and courses, including the number of students served and proven academic success as measured by student performance and state assessment results, as appropriate, and an online learning provider's ability to satisfy the requirements under subsection 2.

2. Requirements. To be approved by the department, an online learning provider must demonstrate and thereafter annually document that it meets all of the following requirements.

A. The online learning provider must be nonsectarian in its programs, admission policies, employment practices and operations.

B. Each course offered for a unit of credit must correlate with applicable state-adopted academic standards prior to being offered. All courses must include assessments.

C. A teacher employed by the online learning provider and providing instruction to students must hold a valid teaching certificate in each content area being taught or receive approval from the commissioner to teach the course.

D. A teacher employed by the online learning provider must receive appropriate preservice and in-service training pertaining to the organization of the online classroom, programs and courses, the technical aspects of online education, the monitoring of student assessment and other pertinent training.

E. The online learning provider must verify ongoing student attendance and progress and performance in each course as documented by ongoing assessments in a proctored environment and provide examples of student course work.

F. Administrators, teachers and other educational staff employed by the online learning provider must comply with the fingerprinting and national criminal history record check requirements as set forth in section 6103.

G. The online learning program must comply with the State's information technology accessibility policies and standards.

§19154. Enrollment and eligibility

Full-time students enrolled in an online learning program are considered to have met the compulsory attendance requirement set forth in section 5001-A, subsection 2, paragraph E. The following provisions apply for enrollment and eligibility.

1. Full-time or part-time. School administrative units may enroll students in an online learning pro-

gram or course on a full-time and part-time basis. If a program is oversubscribed, a school district shall use a random lottery to select enrolled students, subject to any statutorily imposed enrollment preferences.

2. Eligibility. A kindergarten to grade 12 student enrolled in a public school residing in the State who is 20 years of age or younger is eligible to enroll in the program.

3. Agreements to access programs and courses. School administrative units may develop agreements to access online learning courses and programs offered by other school administrative units.

4. Assessment. Students enrolled in an online learning program or course for a unit of credit shall participate in any applicable final exams, grade-level assessments and state assessments in a proctored environment.

§19155. Report

The department shall provide the Legislature annually with a report that includes, but is not limited to, the following information:

1. Programs and courses. A list of programs and courses offered through the program;

2. Students. The number of students participating in the program, including the number of full-time students, part-time students and full-time equivalent students enrolled;

3. Student performance. Student performance for students enrolled in online learning programs or courses, including the academic achievement of students enrolled in each course offered through the program;

4. Expenditures. Expenditures of state and non-state funds made for online learning programs and courses; and

5. Limitation. The number of students who were unable to enroll in an online learning program or course because of space limitation.

Sec. 5. Department of Education review of online learning initiatives; report; additional necessary implementing legislation. In establishing the Maine Online Learning Program under the Maine Revised Statutes, Title 20-A, chapter 802, the Department of Education shall review the online learning initiatives established in other states and jurisdictions, including the best practices established by these online learning initiatives related to funding, governance, approval requirements for online learning providers, teacher quality, assessment of student performance, accessibility of programs and materials for individuals with disabilities, alignment with accessible instructional materials provisions of the federal Individuals with Disabilities Education Improvement Act of 2004, Public Law 108-446, and alignment with the

universal design provisions of the 1998 amendments to the federal Higher Education Act of 1965, Public Law 105-244. No later than January 1, 2010, the Commissioner of Education shall submit to the Joint Standing Committee on Education and Cultural Affairs a report that contains findings, recommendations and any proposed legislation necessary to further the implementation of the Maine Online Learning Program. Following receipt and review of the report, the Joint Standing Committee on Education and Cultural Affairs may submit a bill to the Second Regular Session of the 124th Legislature.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 9, 2009.

CHAPTER 331

S.P. 439 - L.D. 1191

An Act To Improve Teacher Confidentiality Laws

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

Sec. 1. 20-A MRSA §13004, sub-§2-A, as amended by PL 2007, c. 666, §1, is repealed and the following enacted in its place:

2-A. Confidentiality. The provisions of this subsection govern confidentiality. For the purposes of this subsection, the term "certification" means certification, authorization or approval under this chapter and chapter 502.

A. Complaints and responses pursuant to section 13020 and any other information or materials that may result in an action to deny, revoke or suspend certification are confidential, except when submitted in court proceedings to revoke or suspend certification.

B. Except for information designated confidential under section 6101 or section 6103, information designated confidential under paragraph A may be released or used by the department as necessary to:

- (1) Complete its own investigations;
- (2) Provide information to a national association of state directors of teacher education and certification to which the State belongs;
- (3) Assist other public authorities to investigate the same teacher's certification in another jurisdiction;