

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**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**

with brain injuries to the Second Regular Session of the 124th Legislature.

See title page for effective date.

## CHAPTER 113

### S.P. 188 - L.D. 489

#### Resolve, Regarding Continuity of Care in the Child Development Services System

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

**Whereas**, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas**, immediate resolution of eligibility and other issues is necessary for children with disabilities affected by this resolve; and

**Whereas**, the Department of Education must engage in emergency major substantive rulemaking to resolve these issues for children with disabilities; and

**Whereas**, there is an immediate need to ensure that emergency implementation of rules be undertaken to minimize any harm that might come to children as a result of application of current practices; and

**Whereas**, immediate enactment of this resolve is necessary to direct the Department of Education to engage in emergency major substantive rulemaking to resolve these issues; 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

**Sec. 1. Department of Education to amend rules. Resolved:** That, in order to ensure continuity of care, the Department of Education shall amend its rules governing special education to provide that:

1. The Individualized Educational Program Team make a determination about extended school year services at every Individualized Educational Program Team meeting;

2. The Individualized Educational Program Team may make a determination about extended school year services based on available data, including information about a child's disability, even if an interruption in service has not occurred;

3. In accordance with the federal Individuals with Disabilities Education Improvement Act of 2004, 20 United States Code, Sections 1400 to 1485 (2008), a regional site may not unilaterally limit the duration of extended school year services; and

4. Initial evaluations for special education must include procedures to determine whether a child is a child with a disability, as defined in 20 United States Code, Section 1401 (2008), within 60 calendar days of receiving parental consent for children in the Child Development Services System and within 45 school days of receiving parental consent for children in public schools and that the department may, as part of the rule-making process and in a manner consistent with major substantive rulemaking, further amend its rules to adjust timelines in the Child Development Services System to be consistent with this section; and be it further

**Sec. 2. Emergency major substantive rules. Resolved:** That the Department of Education shall adopt emergency major substantive rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A as soon as practicable but not later than June 30, 2009 to implement the provisions of section 1.

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

Effective June 9, 2009.

## CHAPTER 114

### H.P. 349 - L.D. 494

#### Resolve, Regarding Legislative Review of Portions of Chapter 22: Standards for Outdoor Application of Pesticides by Powered Equipment in Order To Minimize Off-target Deposition, a Major Substantive Rule of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control

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

**Whereas**, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and