

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

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

Augusta, Maine
2013

kindergarten until the start of the following school year;

B. The "best meets the individual needs of the child" standard may not be equivalent to the "free and appropriate public education" standard and that the individualized education program team may determine that remaining in the Child Development Services System may "best meet the individual needs of the child" even if the kindergarten program that is available to the child could provide the child with a "free and appropriate public education"; and

C. In the event that the parent disagrees with the decision of the individualized education program team and decides to use dispute resolution procedures, the standard for the review must be whether the individualized education program team decision "best meets the individual needs of the child";

4. The rule must be amended in Section IX in the part concerning the services that must be included in the transition plan developed during the 9th grade school year for a child who is eligible for special education by deleting the proposed addition of language related to the "consideration of assistive technologies," which exceeds federal requirements concerning the services that must be included in the child's annual transition plan;

5. The rule must be amended in Section X in the part concerning how new and veteran teachers can meet the federal requirements of the "High Objective Uniform State Standard of Evaluation" content knowledge rubrics to clarify that a special education teacher who is transferred to a new teaching assignment has 2 years to demonstrate content knowledge in the additional subject area or areas of the teacher's new assignment;

6. The rule must be amended in Section XVI in the part concerning the so-called "stay put" requirements to restore the provisions that allow a child who is eligible for early intervention under Part C of the federal Individuals with Disabilities Education Act to remain in the current placement or continue to receive current services when a dispute resolution proceeding is pending after a request from the child's parent, including a mediation request, a state complaint investigation request or a due process hearing request;

7. The rule must be amended in Section XVI in the part concerning the representation of a parent of a child who is eligible for special education at a mediation session to clarify that a school administrative unit may be accompanied by a nonattorney advocate or consultant at a mediation session when the parent is similarly accompanied by an individual who has been engaged by the parent to perform special education advocacy or consultancy;

8. The rule must be amended in Section XVI in the part concerning the ability of a party to amend its due process hearing request to restore the current provision that is consistent with federal regulations and that provides an exception for when a hearing officer may grant permission to amend a due process hearing request; and

9. The rule must be amended in Section XVIII in the part concerning the use of 3rd-party funding to add language consistent with new federal regulations that provide that an intermediate educational unit or a school administrative unit is required to:

A. Provide notice to the parent of a child eligible for special education under Part B of the federal Individuals with Disabilities Education Act of the legal protections when the unit seeks to access the State's public benefits or insurance program to pay for services provided under the federal Individuals with Disabilities Education Act; and

B. Obtain a one-time written consent from the parent before the unit accesses the child's or the parent's public benefits or insurance for the first time to pay for services provided under the federal Individuals with Disabilities Education Act.

The Department of Education is not required to hold hearings or undertake further proceedings prior to final adoption of the rule in accordance with this section.

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

Effective June 13, 2013.

CHAPTER 53

H.P. 668 - L.D. 955

**Resolve, Authorizing the
Commissioner of
Administrative and Financial
Services To Sell or Lease the
Interests of the State in Certain
Real Property Located in
Bangor, Boothbay Harbor and
Hallowell**

Sec. 1. Authority to convey state property.

Resolved: That, notwithstanding any other provision of law, the State, in regard to the state property described in section 2, by and through the Commissioner of Administrative and Financial Services, may:

1. Enter into a lease or leases or convey by sale any or a portion of the interests of the State in the state property, with the buildings and improvements, together with all appurtenant rights and easements, and

all personal property located on that property, including vehicles, machinery, equipment and supplies;

2. Negotiate, draft, execute and deliver any documents necessary to settle any boundary line discrepancies;

3. Exercise, pursuant to the Maine Revised Statutes, Title 23, chapter 3, subchapter 3, the power of eminent domain to quiet for all time any possible challenges to ownership of the state property;

4. Negotiate, draft, execute and deliver any easements or other rights that, in the commissioner's discretion, may contribute to the value of a proposed sale or lease of the State's interests; and

5. Release any interests in the state property that, in the commissioner's discretion, do not contribute to the value of the remaining state property; and be it further

Sec. 2. Property interests that may be conveyed. Resolved: That the state property authorized to be sold or leased is:

1. A parcel or parcels of land and buildings, or any portion of the parcel or parcels of land and buildings, in the City of Bangor, comprising the site now or formerly known as the Bangor Mental Health Institute, occupied currently in part by the Dorothea Dix Psychiatric Center, and any associated land and parking areas as may be necessary in the determination of the Commissioner of Administrative and Financial Services, including, but not limited to, all or a portion of the properties described in deeds recorded in the Penobscot County Registry of Deeds: Book 601, Page 24; Book 601, Page 26; Book 601, Page 27; Book 11592, Page 296; and Book 11592, Page 302; and

2. A parcel or parcels of land and buildings, or any portion of the parcel or parcels of land and buildings, in the Town of Boothbay Harbor, now or formerly occupied by the Bigelow Laboratory for Ocean Sciences, and any associated land and parking areas as may be necessary in the determination of the Commissioner of Administrative and Financial Services, including, but not limited to, all or a portion of the properties described on the Town of Boothbay Harbor Tax Map 9, Lots 9 and 31; and be it further

Sec. 3. Property to be sold as is; list property. Resolved: That the Commissioner of Administrative and Financial Services may negotiate and execute leases and purchase and sale agreements upon terms the commissioner considers appropriate; however, the state property described in section 2 must be sold "as is," with no representations or warranties.

The commissioner may list the state property for sale or lease with private real estate brokers and negotiate any sales or leases, solicit bids, sell directly to purchasers or enter directly into leases with tenants. The commissioner may reject any offers.

Title must be transferred by quitclaim deed without covenant or release deed and executed by the commissioner; and be it further

Sec. 4. Exemptions. Resolved: That any lease or conveyance pursuant to this resolve is exempt from any statutory or regulatory requirement that the state property described in section 2 first be offered to the Maine State Housing Authority or another state or local agency; and be it further

Sec. 5. Proceeds. Resolved: That any proceeds from the sale or lease of the state property described in section 2 pursuant to this resolve must be deposited into the Department of Administrative and Financial Services, Bureau of General Services' capital repair and improvement account for capital improvements; and be it further

Sec. 6. Resolve 2011, c. 70, Pt. B, §7, amended. Resolved: That Resolve 2011, c. 70, Pt. B, §7, is amended to read:

Sec. B-7. Proceeds. Resolved: That any proceeds from sales pursuant to this Part must be deposited in the ~~Maine State Housing Authority's Housing Opportunities for Maine Fund, established in the Maine Revised Statutes, Title 30 A, section 4853~~ Department of Administrative and Financial Services, Bureau of General Services' capital repair and improvement account for capital improvements as designated by the commissioner; and be it further

; and be it further

Sec. 7. Repeal. Resolved: That sections 1 to 5 of this resolve are repealed 5 years from the effective date of this resolve.

See title page for effective date.

CHAPTER 54

H.P. 613 - L.D. 886

Resolve, Regarding Legislative Review of Portions of Chapter 270: Uniform Reporting System for Quality Data Sets, a Major Substantive Rule of the Maine Health Data Organization

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