

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE**

**SECOND SPECIAL SESSION**  
**June 19, 2018 to September 13, 2018**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**DECEMBER 13, 2018**

**ONE HUNDRED AND TWENTY-NINTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 5, 2018 to June 20, 2019**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 2019**

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

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**Augusta, Maine**  
**2019**

becomes effective 30 days after the date of the proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Part necessary to carry out the purposes of this referendum.

**PART C**

**Sec. C-1. Report on University of Maine System facility conditions and infrastructure investments.** By January 7, 2019 and every 2 years thereafter, the University of Maine System shall submit a report to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs, to the joint standing committee of the Legislature having jurisdiction over state and local government matters and to the Governor on the system's capital expenditure plan. The report must include the status of facility conditions and related system-wide needs and priorities and a detailed budget of funding sources for infrastructure investment, including general obligation and other bond funding and other private and public sources of funding.

See title page for effective date, unless otherwise indicated.

**CHAPTER 466**

**H.P. 1152 - L.D. 1666**

**An Act To Ensure the Successful Implementation of Proficiency-based Diplomas**

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

**Sec. 1. 20-A MRSA §253, sub-§9,** as enacted by PL 2011, c. 669, §1, is repealed.

**Sec. 2. 20-A MRSA §2412, sub-§5, ¶J,** as enacted by PL 2015, c. 40, §1, is amended to read:

J. Public charter schools are subject to the same ~~proficiency-based~~ diploma standards set forth in section 4722-A and are eligible for the same transition grants as applicable to noncharter public schools in the State pursuant to section 4722-A, subsection 4 4722.

**Sec. 3. 20-A MRSA §2651, sub-§3, ¶B-1,** as enacted by PL 2015, c. 251, §5, is amended to read:

B-1. Facilitate the transformation of the public education system to one in which standards are used to guide curriculum and instruction and in which student advancement and graduation are based on student demonstration of proficiency achievement in meeting educational standards;

**Sec. 4. 20-A MRSA §2902, sub-§3,** as amended by PL 2015, c. 40, §3, is further amended to read:

**3. Courses required by law.** Provide instruction in elementary schools as specified in sections 4701, 4704, 4706 and 4711 and in secondary schools as specified in sections 4701, 4704, 4706, 4722, ~~4722-A,~~ 4723 and 4724.

**Sec. 5. 20-A MRSA §4502, sub-§1,** as amended by PL 2011, c. 669, §3, is further amended to read:

**1. General requirements.** Elementary and secondary schools and school administrative units, including an educational program or school located in or operated by a juvenile correctional facility, shall meet all requirements of the system of learning results as established in section 6209 as well as other requirements of this Title and other statutory requirements applicable to the public schools and basic school approval standards. Each school administrative unit shall prepare and implement a comprehensive education plan that is aligned with the system of learning results, focused on the learning of all students and oriented to continuous improvement. The comprehensive education plan must include a plan for ~~transitioning to proficiency-based~~ the graduation in accordance with requirements of section 4722-A 4722. This plan must also address all other plans required by the department.

**Sec. 6. 20-A MRSA §4502, sub-§8, ¶¶B and C,** as enacted by PL 2011, c. 669, §5, are repealed.

**Sec. 7. 20-A MRSA §4511, sub-§3, ¶J,** as enacted by PL 2015, c. 489, §1, is repealed.

**Sec. 8. 20-A MRSA §4722, sub-§7,** as enacted by PL 2011, c. 669, §6, is amended to read:

**7. Applicability of requirements.** ~~Except as provided in section 4722-A, this~~ This section applies to the granting of diplomas to secondary school students ~~before beginning~~ beginning January 1, ~~2017~~ 2019.

**Sec. 9. 20-A MRSA §4722, sub-§8,** as enacted by PL 2011, c. 669, §6, is repealed.

**Sec. 10. 20-A MRSA §4722-A,** as amended by PL 2017, c. 284, Pt. C, §7, is further amended to read:

**§4722-A. Proficiency-based diploma standards and transcripts**

~~Beginning January 1, 2017, a~~ A diploma indicating graduation from a secondary school ~~must~~ may be based on student demonstration of proficiency as described in this section. ~~The commissioner may permit a school administrative unit to award diplomas under this section prior to January 1, 2017 if the commissioner finds that the unit's plan for awarding diplomas~~

~~meets the criteria for proficiency-based graduation under this section.~~

**1. Requirements for award of diploma.** ~~In order~~ If a school subject to the system of learning results established under section 6209 chooses to award to a student a diploma indicating graduation from secondary school, a school subject to the system of learning results established under section 6209 must based on demonstration of proficiency as described in this section, the school shall:

A-1. Certify that the student has met all requirements specified by the governing body of the school administrative unit attended by the student;

B. Certify that the student has demonstrated proficiency in meeting state standards in all content areas of the system of learning results established under section 6209;

B-1. Phase in the following diploma requirements from the 2020-2021 school year to the 2024-2025 school year:

(1) For a student graduating in the graduating class of 2020-2021, certify that the student has demonstrated proficiency in meeting the state standards in the content areas of English language arts, mathematics, science and technology and social studies;

(2) For a student graduating in the graduating class of 2021-2022, certify that the student has demonstrated proficiency in meeting the state standards in the content areas of English language arts, mathematics, science and technology, social studies and at least one additional content area of the student's choice;

(3) For a student graduating in the graduating class of 2022-2023, certify that the student has demonstrated proficiency in meeting the state standards in the content areas of English language arts, mathematics, science and technology, social studies and at least 2 additional content areas of the student's choice;

(4) For a student graduating in the graduating class of 2023-2024, certify that the student has demonstrated proficiency in meeting the state standards in the content areas of English language arts, mathematics, science and technology, social studies and at least 3 additional content areas of the student's choice; and

(5) For a student graduating in the graduating class of 2024-2025 and for each subsequent graduating class, certify that the student has demonstrated proficiency in meeting the state standards in all content areas.

For the purposes of this paragraph, "content areas" refers to the content areas of the system of learning results established under section 6209;

C. Certify that the student has demonstrated proficiency in each of the guiding principles set forth in department rules governing implementation of the system of learning results established pursuant to section 6209; and

E. Certify that the student has engaged in educational experiences relating to English language arts, mathematics and science and technology in each year of the student's secondary schooling.

**2. Method of gaining and demonstrating proficiency.** Students must be allowed to gain proficiency through multiple pathways, as described in section 4703, and must be allowed to demonstrate proficiency by presenting multiple types of evidence, including but not limited to teacher-designed or student-designed assessments, portfolios, performance, exhibitions, projects and community service.

**3. Exceptions.** Notwithstanding subsection 1, if a school subject to the system of learning results established under section 6209 chooses to award student diplomas indicating graduation from secondary school based on demonstration of proficiency as described in this section, a student may be awarded a diploma indicating graduation from a ~~secondary~~ that school in the following circumstances.

A. A student who is a child with a disability, as defined in section 7001, subsection 1-B, may meet the requirements of subsection 1 and become eligible for a diploma by demonstrating proficiency in state standards established in the system of learning results through performance tasks and accommodations that maintain the integrity of the standards as specified in the student's individualized education program by the student's individualized education program team pursuant to the requirements of chapter 301.

B. A student who has satisfactorily completed the freshman year in an accredited degree-granting institution of higher education is eligible to receive a high school diploma from the secondary school the student last attended.

B-2. For the graduating class of 2020-2021 and each subsequent graduating class, a student who has satisfactorily completed a state-approved career and technical education program of study and either met 3rd-party-verified national or state industry standards set forth in department rules established pursuant to section 8306-B or earned 6 credits in a dual enrollment career and technical education program formed pursuant to chapter 229 from a regionally accredited institution of higher education and who has successfully demonstrated proficiency in meeting state stand-

ards in the content areas and the guiding principles set forth in department rules governing implementation of the system of learning results established pursuant to section 6209, is eligible to receive a high school diploma from the secondary school the student last attended. A student may be awarded a high school diploma from the secondary school the student last attended in accordance with the phase-in of the following diploma requirements for the graduating class of 2020-2021 to the graduating class of 2023-2024:

- (1) For a student graduating in the graduating class of 2020-2021, the student has demonstrated proficiency in meeting the state standards in the content areas of English language arts, mathematics and social studies;
- (2) For a student graduating in the graduating class of 2021-2022, the student has demonstrated proficiency in meeting the state standards in the content areas of English language arts, mathematics, social studies and at least one additional content area of the student's choosing;
- (3) For a student graduating in the graduating class of 2022-2023, the student has demonstrated proficiency in meeting the state standards in the content areas of English language arts, mathematics, social studies and at least 2 additional content areas of the student's choosing; and
- (4) For a student graduating in the graduating class of 2023-2024 and in each subsequent graduating class, the student has demonstrated proficiency in meeting the state standards in the content areas of English language arts, mathematics, social studies and at least 3 additional content areas of the student's choosing.

For the purposes of this paragraph, "content areas" refers to the content areas of the system of learning results established under section 6209.

D. A school administrative unit may award a high school diploma to a student who has met the standards set forth in a waiver request that was approved by the commissioner pursuant to section 4502, subsection 8.

E. A person may be awarded a high school diploma, including a posthumous award, if the person or a family member of the person applies to a secondary school and:

- (1) The person:
  - (a) Attended a secondary school in the geographic area now served by the secondary school from which a diploma is requested; or

- (b) Resides at the time of application for a diploma in the geographic area served by the secondary school from which a diploma is requested;

- (2) The person did not graduate or receive a diploma from a secondary school because the person left secondary school to serve in the Armed Forces and served during the following periods:

- (a) World War II, from December 7, 1941 to August 16, 1945;
- (b) The Korean Conflict;
- (c) The Vietnam War era, from February 28, 1961 to May 7, 1975; or
- (d) The period of wartime or peacetime after a period of wartime described in division (a), (b) or (c); and

- (3) The person received an honorable discharge or a certificate of honorable service from the Armed Forces.

For the purposes of this paragraph, "Armed Forces" means the United States Army, Navy, Air Force, Marine Corps and Coast Guard and the merchant marine.

**5. Transcripts and certification of content area proficiency.** ~~If a school subject to the system of learning results established under section 6209 chooses to award student diplomas indicating graduation from secondary school based on demonstration of proficiency as described in this section, the school shall, in addition to maintaining a high school transcript for each student, a school administrative unit shall certify each student's content area proficiency and may award a certificate of content area proficiency to a student for each content area in the system of learning results established under section 6209 in which the student has demonstrated proficiency.~~ Certification of content area proficiency must be included with the student's permanent academic transcript, and a student may use certification of content area proficiency as an official credential of academic achievement for the purposes of employment and postsecondary education. When a school administrative unit certifies content area proficiency, it shall report these certifications of content area proficiency to the department, and the department shall collect and aggregate these data as evidence of progress towards high school graduation goals.

**6. Implementation of proficiency-based diplomas and transcripts.** ~~Beginning in the 2016-2017 school year, the~~ The department shall may annually collect and report data on ~~the progress of~~ public schools and public charter schools ~~towards the implementation of that have chosen to implement~~ proficiency-based diplomas and transcripts ~~in relation to the ongoing transition plan required pursuant to~~

~~section 4502, subsection 1,~~ including the number of students graduating with proficiency-based diplomas, the number of students concluding their high school careers proficient in each of the content areas of the system of learning results established under section 6209 and in each of the guiding principles set forth in department rules governing implementation of the system of learning results established pursuant to section 6209 and the number of students certified as ready for college and careers. ~~By January 15, 2017, and annually thereafter, the~~ The department shall ~~may~~ provide an annual report of ~~the any~~ data collected for the prior school year to the joint standing committee of the Legislature having jurisdiction over education matters, and the department shall post the annual report on its publicly accessible website.

**7. Rulemaking.** The commissioner shall develop rules to accomplish the purposes of this section. Rules adopted by the commissioner under this section must:

A. Allow local flexibility and innovation in developing consistent graduation standards, enable school administrative units that choose to award student diplomas indicating graduation from secondary school based on demonstration of proficiency as described in this section to continue current progress aligned with the phase-in of the standards and proficiency requirements in subsection 1, paragraph B-1 and subsection 3, paragraph B-2 and describe standard criteria for ensuring equal educational opportunities for students;

B. Allow the commissioner to identify the manner in which the opportunities for learning in multiple pathways of career and technical education programs may be used to satisfy certain components of the system of learning results established under section 6209; and

C. Address the appropriate placement of students in career and technical education programs while ensuring that all students be exposed to all the content areas of the system of learning results established under section 6209 through the 10th year of their studies.

Rules adopted pursuant to this subsection are ~~routine technical~~ major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 11. 20-A MRSA §6209, sub-§2,** as amended by PL 2015, c. 489, §4, is further amended to read:

**2. Parameters for essential instruction and graduation requirements.** Each school subject to the provisions of this section shall ensure sufficient opportunity and capacity through multiple pathways for all students to study ~~and achieve proficiency~~ in the areas of:

A. Career and education development;

B. English language arts;

C. World languages;

D. Health, physical education and wellness;

E. Mathematics;

F. Science and technology;

G. Social studies; and

H. Visual and performing arts.

**Sec. 12. 20-A MRSA §6209, sub-§3-A,** as enacted by PL 2015, c. 489, §5, is further amended to read:

**3-A. Transcripts.** A school subject to this section shall:

~~A. Maintain student transcripts containing certification of proficiency for each content area and guiding principle in the system of learning results pursuant to this section in which the student has demonstrated proficiency;~~

B. Certify on the basis of objective measures in the transcript a student's postsecondary readiness; and

C. Establish a transcript that meets the requirements of ~~paragraphs A and~~ paragraph B as an officially sanctioned credential of student learning for admission to a postsecondary education institution and employment in a business, trade or industry.

**Sec. 13. 20-A MRSA §6214,** as enacted by PL 2015, c. 500, §1, is amended to read:

**§6214. School accountability system; annual reports**

Beginning with the 2018-2019 school year, for public schools, public charter schools and private schools approved for tuition purposes that enroll at least 60% publicly funded students, the commissioner shall implement a school accountability system to measure school performance ~~and student proficiency~~ in facilitating students' achieving the knowledge and skills described in the parameters for essential instruction and graduation requirements established under section 6209, subsection 2 and that meets the reporting requirements of the federal Every Student Succeeds Act of 2015, 20 United States Code, Section 6311(h) and related regulations.

**1. Performance measures.** The measures of school performance ~~and student proficiency~~ for the school accountability system implemented under this section must include multiple measures of student achievement and:

A. Align with the components of the state accountability system required to ensure equity in educational opportunity by the federal Every Stu-

dent Succeeds Act of 2015, 20 United States Code, Section 6311(c) and related regulations;

~~B. Use measures of student proficiency in all content areas of the learning results and the guiding principles using data gathered under section 4722-A, subsection 5;~~

C. Use a 6-year adjusted cohort graduation rate as the broadest allowable time frame for high school graduation rates;

D. As available, use measures of postsecondary readiness, persistence and completion;

E. Establish a school administrative unit's eligibility and priority for targeted state funding for school improvement and support under section 15688-A, subsection 5 and other applicable targeted funds authorized under section 15688-A; and

F. May include, but are not limited to, the use of:

(1) Summative assessments aligned with the grade-level expectations of the parameters for essential instruction and graduation requirements established under section 6209, subsection 2;

(2) Interim assessments that measure student growth over time; and

(3) Information from the state assessment program under section 6204 on student achievement reported by the department in compliance with applicable federal statutes and regulations regarding student assessment.

**2. Annual reports.** As provided in the federal Every Student Succeeds Act of 2015, 20 United States Code, Section 6311(h), the commissioner shall annually report the statewide and school-level results of the school accountability system implemented under this section with regard to the performance of schools ~~and the proficiency of students~~ in each of the State's elementary and secondary schools.

~~A. The commissioner shall provide each school with a profile of school performance and student proficiency based upon data from the school accountability system.~~

B. When a report is made under this subsection for purposes of comparative analysis of elementary and secondary schools, the reporting mechanisms and the categories reported must be uniform for each school compared at the elementary level or the secondary level.

C. Notwithstanding any other provision of this section, the commissioner may not provide a report of the statewide or school-level results of the school accountability system until the final adoption of rules in accordance with subsection 3.

**3. Rules.** The department shall adopt rules to implement the school accountability system established pursuant to this section. The rules adopted by the department must specify the methods to be used as part of the annual assessment of the performance of elementary and secondary schools ~~and the proficiency of elementary and secondary school students~~. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Nothing in this section may be construed to prevent or inhibit the department from providing annual reports of the results of the state assessment program required by section 6204 to comply with the federal statutes and regulations pertaining to student assessment.

**Sec. 14. 20-A MRSA §15686-A, sub-§1,** as amended by PL 2017, c. 284, Pt. C, §44, is further amended to read:

**1. Components to be reviewed beginning in fiscal year 2017-18.** Beginning in fiscal year 2017-18, and at least every 3 years thereafter, the commissioner, using information provided by a statewide education policy research institute, shall review the essential programs and services student-to-staff ratios, salary and benefits matrices, small schools adjustments, labor markets and gifted and talented components and components related to implementation of ~~proficiency-based~~ reporting and graduation requirements under this chapter and shall submit to the joint standing committee of the Legislature having jurisdiction over education matters any recommended changes for legislative action.

**Sec. 15. 20-A MRSA §19301, sub-§2,** as enacted by PL 2015, c. 372, §1, is amended to read:

**2. Content.** Content included in the digital content library established pursuant to subsection 1 must further the State's educational initiatives, including learning through technology, ~~proficiency-based~~ diploma standards based on achievement, college and career readiness and student achievement in the system of standards and assessment established under chapter 222.

See title page for effective date.