

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.

Augusta, Maine
2019

subchapter headnote, the words "firefighter; absence from work" are amended to read "firefighter or emergency medical services person; absence from work" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

**CHAPTER 219
H.P. 969 - L.D. 1341**

**An Act To Provide Flexibility
for Efficient and Effective
Management of School
Management and Leadership
Centers**

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

Sec. 1. 20-A MRSA §1051, sub-§6, ¶D, as repealed and replaced by PL 2017, c. 475, Pt. A, §23, is amended to read:

D. A group of school administrative units that have an interlocal agreement pursuant to Title 30-A, chapter 115 in order to establish ~~a school management and leadership~~ an education service center to jointly purchase the services of a superintendent may elect the superintendent in the manner prescribed in their interlocal agreement.

Sec. 2. 20-A MRSA §3801, as amended by PL 2019, c. 70, §3, is further amended to read:

§3801. General provisions

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

A. "Municipality" means a city, town or organized plantation.

B. "~~School management and leadership~~ Education service center" means a multiservice agency established and operated exclusively for the purposes of developing, managing and providing services or programs to 2 or more members pursuant to section 3802, subsection 2 and may include associate members pursuant to section 3802, subsection 3. A "~~school management and leadership~~ An education service center" is a political subdivision pursuant to section 3802, subsection 7.

2. Establishment. A school administrative unit as described in section 3802, subsection 2 may become a member of ~~a school management and leadership~~ an education service center through an interlocal agreement pursuant to Title 30-A, chapter 115 and the

agreement may include associate members as described in section 3802, subsection 3.

3. Interlocal agreement. An interlocal agreement establishing ~~a school management and leadership~~ an education service center must include the structure and governance of the ~~school management and leadership~~ education service center and its functions, programs and services.

A. An interlocal agreement must include the specifications required pursuant to Title 30-A, section 2203, subsection 2 and a description of:

(1) The ~~school management and leadership~~ education service center board composition, election or appointment of officers, board member terms and method of voting;

(2) An approval process for a new school administrative unit to join the ~~school management and leadership~~ education service center;

(3) An approval process for an existing member to transfer to another ~~school management and leadership~~ education service center;

(4) The process for determining the sharing of costs for and the assessments of or payments to the ~~school management and leadership~~ education service center;

(5) The budget process that requires ~~a school management and leadership~~ an education service center budget be adopted by a date established in order to meet local school administrative unit budget deadlines. The budget process must include a contingency plan for a budget failure and must be in the cost center summary budget format pursuant to section 1485;

(6) The process for a balanced budget as required by section 3802, subsection 10 and the method of determining the return of any excess funds to the members of the ~~school management and leadership~~ education service center; and

(7) The process for the disposition of indebtedness and property including by sale or lease, transferred to or from or administered by the ~~school management and leadership~~ education service center.

B. An interlocal agreement may include but is not limited to a description of the following:

(1) The approval process for the formation of ~~a school management and leadership~~ an education service center;

- (2) Any associate members, the process for including associate members and their roles in the ~~school management and leadership~~ education service center;
- (3) The process to authorize the ~~school management and leadership~~ education service center to borrow funds for school construction purposes including bonds and notes;
- (4) The process to approve the purchase or lease of buildings or land by the ~~school management and leadership~~ education service center;
- (5) The process by which a ~~school management and leadership~~ an education service center may establish, maintain and expend funds from a reserve fund or contingency fund;
- (6) The process of hiring an executive director ~~or contracting services for leadership~~ for the ~~school management and leadership~~ education service center; and
- (7) A transition plan to move authorized programs and services from a member to the ~~school management and leadership~~ education service center.

An interlocal agreement cannot transfer a school administrative unit's responsibility for providing the opportunity of a free public education to each of its students or a free, appropriate education to each of its students with a disability as required by this Title or by federal law.

4. Duties of education service center. ~~A school management and leadership~~ An education service center's functions, programs and services may include but are not limited to the following:

- A. Accounting, payroll and financial management services and procurement;
- B. Transportation, transportation routing and vehicle maintenance;
- C. Reporting functions;
- D. Special education programs and administration;
- E. Gifted and talented programs and administration;
- F. Alternative education programs and administration;
- G. Substitute teachers and staff augmentation;
- H. Technology and technology support;
- I. Food service planning and purchasing;
- J. Energy management and facilities maintenance;

- L. Staff training and professional development;
- M. Shared educational programs or staff;
- N. Shared support service programs;
- O. Educational programs such as summer school, extended school year, tutoring, advanced placement and other programs that serve students and improve student achievement;
- P. Shared extracurricular or cocurricular programs; and
- Q. Superintendent services.

Sec. 3. 20-A MRSA §§3802 to 3805, as enacted by PL 2017, c. 284, Pt. VVVVV, §6, are amended to read:

§3802. Education service center authorized

~~A school management and leadership~~ An education service center shall provide administrative and education functions in accordance with this chapter and shall function as an extension of the member school administrative units and associate members of the ~~school management and leadership~~ education service center. A member school administrative unit of the ~~school management and leadership~~ education service center cannot transfer the responsibility for providing the opportunity of a free public education to each of its students or a free, appropriate education to each of its students with a disability as required by this Title or by federal law.

1. Geographic boundaries. The commissioner shall determine ~~9 to 12~~ geographic areas for the establishment of each ~~school management and leadership~~ education service center. Membership in a particular ~~school management and leadership~~ education service center does not require the member to be physically located in the ~~school management and leadership~~ education service center's geographic boundary.

2. Members. Members in a ~~school management and leadership~~ an education service center must be determined by interlocal agreement pursuant to Title 30-A, chapter 115 and may include the following types of school administrative units:

- A. Community school districts pursuant to chapter 105;
- B. Municipal school units pursuant to chapter 111;
- C. Regional school units pursuant to chapter 103-A;
- D. School administrative districts pursuant to chapter 103; ~~and~~
- E. Schools established on tribal lands pursuant to Title 30, chapter 601-; ~~and~~

F. Public charter schools as defined in chapter 112.

3. Associate members. Associate members for a ~~school management and leadership~~ an education service center may include the following through a contractual agreement or memorandum of understanding with the members of the ~~school management and leadership~~ education service center:

- A. Career and technical education regions pursuant to chapter 313, subchapter 4;
- ~~B. Public charter schools as defined in chapter 112;~~
- C. Providers of child development services pursuant to chapter 303;
- D. Magnet schools pursuant to chapters 312 and 312-A;
- E. The Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf pursuant to chapter 304;
- F. Providers of education in the unorganized territory pursuant to chapter 119; or
- G. Municipalities and counties pursuant to Title 30-A.

4. Provision of services to or from other public entities or nonprofit entities. ~~A school management and leadership~~ An education service center may provide services to or purchase services from other types of political subdivisions, public entities or nonprofit organizations or associations.

5. Purchase of services from another education service center. A member of a ~~school management and leadership~~ an education service center may purchase services from another ~~school management and leadership~~ education service center if not provided by the member's ~~school management and leadership~~ education service center.

6. Validation. A ~~school management and leadership~~ an education service center authorized and organized under this chapter is validated, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity that may have occurred in the organization of the ~~school management and leadership~~ education service center or in the selection of the board of that ~~school management and leadership~~ education service center.

7. Political subdivision. A ~~school management and leadership~~ an education service center is a political subdivision within the meaning of Title 5, section 19002, subsection 6 and a quasi-municipal corporation within the meaning of Title 30-A, section 5701, and all the provisions of those sections apply to it. Notwithstanding Title 30-A, section 2203, subsection 8, paragraph B, the members of a ~~school management and~~

~~leadership~~ an education service center may delegate eminent domain power to the ~~school management and leadership~~ education service center by agreement. A ~~school management and leadership~~ an education service center is considered a tax-exempt governmental entity for the purposes of Title 36, section 1760, subsection 2.

8. Executive director; leadership services. A ~~school management and leadership~~ an education service center shall employ an executive director or contract for leadership services, and the interlocal agreement under section 3801, subsection 3 must specify that the executive director or the provider of leadership services shall administer, in compliance with this chapter, the provisions of the interlocal agreement in the ~~school management and leadership~~ education service center.

9. Personnel. The executive director or the provider of leadership services of a ~~school management and leadership~~ an education service center may employ a chief financial officer and may employ additional staff necessary or hire a fiscal agent to administer the functions assigned to the ~~school management and leadership~~ education service center through the provisions of the interlocal agreement under section 3801, subsection 3.

10. Balanced budget. A ~~school management and leadership~~ an education service center must have a balanced budget and return excess funds to the members as prescribed by the interlocal agreement under section 3801, subsection 3.

11. Authority to borrow, expend and accept funds. A ~~school management and leadership~~ an education service center may:

- A. Borrow funds in anticipation of a member's payment of its share of the ~~school management and leadership~~ education service center budget. ~~Such borrowing;~~
 - ~~(1) Must be repaid within one year; and~~
 - ~~(2) May not at any time exceed 3/4 of the school management and leadership center's annual approved budget;~~
- B. Expend available funds to pay debt service, security and maintenance costs; and
- C. Accept and expend funds from state, federal and other sources and expend those funds on behalf of the members.

12. Bonding authority. A ~~school management and leadership~~ an education service center may issue bonds and notes for school construction purposes. For purposes of this section, "school construction purposes" includes minor capital costs relating to maintenance of a school's physical plant. The ~~school management and leadership~~ education service center board

shall decide whether the issuance of bonds or notes by the ~~school management and leadership education service~~ center for school construction purposes is necessary. The board shall determine whether the issuance of bonds or notes is authorized, and, if so, the board shall issue the bonds or notes and administer the proceeds of, and the payment of principal of and interest on, those bonds or notes after issuance. ~~A school management and leadership~~ An education service center may issue bonds and notes for school construction purposes only under the provisions of the interlocal agreement under section 3801, subsection 3.

13. Withdrawal from education service center. If a single school administrative unit applies to withdraw, it must demonstrate to the commissioner that ~~as a result of the school administrative unit's withdrawing that there will be no increase in costs or decrease in student programs and services for~~ is in the best interests of the withdrawing school administrative unit and ~~for~~ of any of the remaining member school administrative units of the ~~school management and leadership education service~~ center.

14. Dissolution of education service center. ~~A school management and leadership~~ An education service center may not be dissolved unless it applies to the commissioner for approval and:

A. All member school administrative units apply to transfer to another ~~school management and leadership education service~~ center; or

B. If all the member school administrative units of a ~~school management and leadership~~ an education service center apply to dissolve the ~~school management and leadership education service~~ center, they demonstrate to the commissioner that ~~there will be no increase in costs or decrease in student programs and services for any of the member school administrative units of the school management and leadership center~~ it is in the best interests of the member school administrative units of the education service center to dissolve the education service center.

15. Reporting requirements. ~~A school management and leadership~~ An education service center must meet state and federal reporting requirements on behalf of each member school administrative unit.

§3803. Oversight

The commissioner shall provide oversight of the ~~school management and leadership education service~~ centers, and this oversight must include the following.

1. Data collection; monitoring. The commissioner or the commissioner's designee is responsible for collecting, analyzing and reporting data from ~~school management and leadership education service~~ centers. The commissioner or the commissioner's designee shall monitor the performance and legal com-

pliance of the ~~school management and leadership education service~~ centers, including collecting and analyzing data to support ongoing evaluation of the ~~school management and leadership education service~~ centers.

2. Notification of unsatisfactory performance or compliance. If a ~~school management and leadership~~ an education service center's performance or legal compliance appears unsatisfactory, the commissioner shall promptly provide written notice to the ~~school management and leadership education service~~ center and its members of perceived problems and provide reasonable opportunity for the ~~school management and leadership~~ education service center to remedy the problems. The ~~school management and leadership education service~~ center shall provide the commissioner a corrective action plan to remedy the problems.

§3804. Audit

~~A school management and leadership~~ An education service center shall adhere to generally accepted accounting principles and shall annually engage an external auditor to do an independent audit of the ~~school management and leadership education service~~ center's finances. The ~~school management and leadership~~ education service center shall submit the audit to its members and to the department. The audit must be conducted in the same manner as a school administrative unit audit in accordance with chapter 221, subchapter 2.

§3805. Application for and approval of an education service center

1. Application. The commissioner shall establish an application process under this chapter for the formation of a ~~school management and leadership~~ an education service center. The application must be in a form and contain such information as required by the commissioner, including, but not limited to:

A. The identification of the school administrative units that are applying to form the ~~school management and leadership education service~~ center;

B. The specified structure and governance of the ~~school management and leadership education service~~ center and its purposes, functions, programs and services;

C. How any savings resulting from the formation of the ~~school management and leadership education service~~ center will be used; and

D. A copy of the proposed interlocal agreement pursuant to section 3801, subsection 3.

2. Commissioner's approval. If an application under this section contains the information required pursuant to subsection 1, the commissioner shall notify each school administrative unit participating in the ~~school management and leadership education service~~ center that, pending ~~voter~~ school board approval as set

forth in subsection 3, the ~~school management and leadership education service~~ center is approved pursuant to this chapter. The commissioner shall keep a register of ~~school management and leadership education service~~ centers that have been approved pursuant to this chapter.

3. School administrative unit approval. If the commissioner approves an application for a ~~school management and leadership~~ an education service center pursuant to subsection 2, the ~~school management and leadership education service center~~ must receive voter approval using the process specified in the interlocal agreement pursuant to section 3801, subsection 3, paragraph B, subparagraph (1) school board approval.

Sec. 4. 20-A MRSA §3806, as enacted by PL 2017, c. 284, Pt. VVVVV, §6, is repealed and the following enacted in its place:

§3806. Direct state funding of an education service center

An education service center receives direct state funds for start-up costs in accordance with section 15689, subsection 9. An education service center that provides to members at least 2 different services covering a total of at least 2 different categories as specified in section 15683-C, subsection 2 must receive annual state support for:

1. Salary and benefits. Fifty-five percent of the executive director's salary and benefits or contracted leadership services, not to exceed 55% of the statewide average superintendent's salary and benefits using the most recent data available. For purposes of this subsection, "benefits" means the amounts paid by an employer to or on behalf of an employee that are not included in salary but augment salary as part of a full compensation package and are subject to federal income tax withholding;

2. Accounting system. An accounting and payroll system or financial software to assist with the fiscal management for the education service center; and

3. Student information system. A student information system.

The school administrative units that are members of an education service center must receive state funds in accordance with section 15683-C.

Sec. 5. 20-A MRSA §5205, sub-§6-B, as enacted by PL 2017, c. 284, Pt. VVVVV, §7, is amended to read:

6-B. Education service center enrollment policies. ~~Members in a school management and leadership~~ an education service center, as defined in section 3801, subsection 1, paragraph B, may adopt a mutual policy allowing the transfer of students, with parental approval, among the member school administrative

units. The mutual policy must set forth procedures and standards governing the transfers, including but not limited to the school year or years in which the policy applies, application procedures and standards of responsibility for transportation and special education. Each member school board that adopts the mutual policy under this subsection shall post a copy of the mutual policy on the school administrative unit's publicly accessible website and shall provide timely notice of the policy to residents of the school administrative unit governed by that school board. For the purposes of chapter 606-B, a student transferred under this subsection is considered a resident of the school administrative unit to which the student transferred.

Sec. 6. 20-A MRSA §13025, sub-§1, ¶C, as enacted by PL 2017, c. 477, §1, is amended to read:

C. "School entity" means an approved private school, school administrative unit, public charter school, ~~school management and leadership education service~~ center, school in the unorganized territory or school operated by the State.

Sec. 7. 20-A MRSA §15683-C, as amended by PL 2019, c. 70, §6, is further amended to read:

§15683-C. Education service center members; calculation of education service center administration allocation and state contribution

~~Beginning with fiscal year 2018-19, this~~ This section applies to school administrative units that are members of ~~school management and leadership education service~~ centers pursuant to chapter 123.

1. Calculation of education service center per-pupil rate. The commissioner shall calculate a per-pupil amount for ~~school management and leadership education service center~~ administration. The per-pupil amount for ~~school management and leadership education service center~~ administration is based on the actual General Fund expenditures for school administrative units with 2,500 students or more for the functions of school boards, elections and central offices, as defined in the State's accounting handbook for local school systems for the most recent year available, excluding expenditures for administrative technology-related software and less miscellaneous revenues from other local governments, divided by the average of October and April enrollment counts for that fiscal year and adjusted by appropriate trends in the Consumer Price Index or other comparable index.

2. Categories of services of education service center. The following are the categories of services that a school administrative unit that is a member of a ~~school management and leadership~~ an education service center pursuant to chapter 123 may purchase for funding purposes under section 3806.

A. Category 1, appropriate instructional services in the least restrictive settings that comply with federal regulations and state rules, including:

- (1) Special education programs and administration;
- (2) Gifted and talented programs and administration;
- (3) Alternative education programs and administration;
- (4) Shared educational programs or staff; and
- (5) Educational programs such as summer school, extended school year, tutoring, advanced placement and other programs that serve students and improve student achievement.

B. Category 2, education support services, including the following services:

- (1) Substitute teachers and staff augmentation;
- (2) Technology and technology support;
- (3) Staff training and professional development;
- (5) Shared support services programs; and
- (6) Shared extracurricular or cocurricular programs.

C. Category 3, central office services, including the following services:

- (1) Accounting, payroll, financial management services and procurement;
- (2) Reporting functions;
- (3) Food service planning and purchasing; and
- (4) Superintendent services.

D. Category 4, facilities and transportation system services, including the following services:

- (1) Transportation, transportation routing and vehicle maintenance; and
- (2) Energy management and facilities maintenance.

3. Eligibility for education service center allocation. The commissioner shall determine that a school administrative unit is eligible for a ~~school management and leadership~~ an education service center allocation if according to its ~~school management and leadership~~ education service center interlocal agreement pursuant to section 3801, subsection 3, the school administrative unit purchases at least 2 different services covering a total of at least 2 different cat-

egories from the ~~school management and leadership~~ education service center as specified in subsection 2.

4. Total allocation and state contribution. The commissioner shall determine an eligible school administrative unit's total ~~school management and leadership~~ education service center allocation under subsection 3 as the ~~school management and leadership~~ education service center per-pupil rate in subsection 1 multiplied by the school administrative unit's subsidizable pupil count for October 1st of the most recent calendar year prior to the year of funding. The state contribution for each school administrative unit's ~~school management and leadership~~ education service center allocation is the allocation multiplied by the school administrative unit's state share percentage pursuant to section 15672, subsection 31, not to exceed 70% and not less than 30%.

Sec. 8. 20-A MRSA §15689, sub-§9, ¶¶B and C, as enacted by PL 2017, c. 284, Pt. VVVVV, §11, are amended to read:

B. For direct support to ~~school management and leadership~~ education service centers established pursuant to chapter 123 including those costs specified in section 3806; and

C. For department costs incurred for the review of applications and interlocal agreements for ~~school management and leadership~~ education service centers under chapter 123.

Sec. 9. Role of the Department of Education. In order to provide for the orderly implementation of this Act, the Department of Education shall develop an application form for the formation of an education service center under the Maine Revised Statutes, Title 20-A, section 3805 and convene an application review team. Funds from Title 20-A, section 15689, subsection 9 may be used for the necessary expenses of the department in the development and administration of education service centers.

Sec. 10. Transition. A school management and leadership center pursuant to Public Law 2017, chapter 284, Part VVVVV established before the effective date of this Act is deemed to be an education service center under this Act.

Sec. 11. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 20-A, chapter 123, in the chapter headnote, the words "school management and leadership centers" are amended to read "education service centers" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. 12. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes, Title 20-A the words "school management and leadership center" appear or reference is made to

that entity or those words, those words are amended to read or mean, as appropriate, "education service center" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 220

H.P. 1011 - L.D. 1397

An Act Regarding the Admissibility of Certain Statements of Juveniles

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

Sec. 1. 15 MRSA §3204, first ¶, as amended by PL 1999, c. 624, Pt. B, §7, is further amended to read:

Statements of a juvenile or of a juvenile's parents, guardian or legal custodian made to a juvenile community corrections officer during the course of a preliminary investigation ~~or made to a community resolution team under section 3304~~ are not admissible in evidence at an adjudicatory hearing against that juvenile if a petition based on the same facts is later filed.

Sec. 2. 15 MRSA §3204, as amended by PL 1999, c. 624, Pt. B, §7, is further amended by adding at the end the following:

Statements of a juvenile or of a juvenile's parents, guardian or legal custodian made to a juvenile community corrections officer during an informal adjustment or during a restorative justice program or made to a clinical provider during substance use disorder, sexual behavior or mental health assessment or treatment attended by the juvenile are not admissible in evidence during the State's case in chief at an adjudicatory hearing against that juvenile on a petition based on the same facts that caused the referral for informal adjustment, restorative justice, assessment or treatment.

Statements of a juvenile or of a juvenile's parents, guardian or legal custodian made during school disciplinary proceedings, including but not limited to manifestation determinations, special education meetings, suspension meetings or expulsion hearings, are not admissible in evidence during the State's case in chief at an adjudicatory hearing against the juvenile on a petition based on the same facts that caused the need for the school disciplinary proceedings.

As used in this section, "restorative justice program" means a program in which offenders take responsibility for causing harm and engage in a facilitated process with victims, family members, community

members or advocates and others impacted by the harm that focuses on repairing the harm, addressing needs and preventing future harm.

See title page for effective date.

CHAPTER 221

S.P. 436 - L.D. 1408

An Act To Allow Law Enforcement Officers To Wear Insignia on Their Uniforms To Indicate That They Are Veterans

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

Sec. 1. 25 MRSA c. 411 is enacted to read:

CHAPTER 411

LAW ENFORCEMENT OFFICERS' UNIFORMS

§3851. Definitions

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

1. Law enforcement agency. "Law enforcement agency" means any state, county, municipality or other political unit within the territory belonging to the State or any department, agency or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government that employs law enforcement officers.

2. Law enforcement officer. "Law enforcement officer" means a person who by virtue of public employment is vested by law with a duty to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

§3852. Law enforcement officer uniform

Notwithstanding any provision of law to the contrary, a law enforcement agency may allow a law enforcement officer who is a veteran of the Armed Forces of the United States and who is employed by the agency to wear insignia on the officer's uniform to indicate that the officer is a veteran.

See title page for effective date.