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**Report to the Joint Standing Committee on Education and
Cultural Affairs by the Stakeholder Group as Established by
Chapter 626 S.P. 623 - L.D. 1658
An Act to Increase Maine's High School Graduation Rates**

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**Report to the Joint Standing Committee on Education and Cultural Affairs
By the Stakeholder Group as established by Chapter 626 S.P. 623-L.D. 1658
An Act to Increase Maine's High School Graduation Rates**

The Commissioner of the Maine Department of Education established a stakeholder group to “develop methodologies and recommendations relating to increasing publicly supported secondary school graduation rates” to 90% by the end of the 2015-2016 school year, and to address “school expulsion, suspension, zero tolerance practices and truancy in the State.” A 23-member group, co-chaired by Shelley Reed (Education Specialist with the Maine Department of Education) and Sara DePasquale (Directing Attorney with KIDS LEGAL), convened June 28, 2010 and met on nine different occasions. The recommendations of this group are presented in this Executive Summary and are based on a “fist of five” model for consensus.

The Graduation Rate

Under the federal ESEA (formerly NCLB), states are now required to calculate high school graduation rates utilizing a four-year cohort for on-time completers, which are those students who earn a high school diploma four years after starting their 9th grade year. Maine started recording this data when the class of 2010 entered 9th grade (the start of the 2006-2007 school year). The first graduation rate utilizing this four-year cohort became available in Maine as of June 30, 2010. The graduation rate as currently calculated is not a complete reflection of Maine's high school graduation rate as it captures only those students who obtain a high school diploma within four years. In order to obtain an accurate recording of Maine's high school graduation rate of school-

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age students attending publicly supported secondary schools, the following

recommendations are made:

- In addition to calculating the federally required four-year cohort graduation rate, the Maine Department of Education will also collect and record
 - A five-year cohort by school district, effective at the conclusion of the 2010-2011 school year
 - A six-year cohort by school district, effective at the conclusion of the 2011-2012 school year
 - Other descriptors of academic success for school-age students on a state-wide aggregate, to include:
 - The State of Maine High School Diploma
 - High school diplomas obtained through Adult Education, and
 - The General Equivalency Diploma (GED).

Compulsory School Age

Currently, Maine requires students between and including the ages of 7 and 16 to attend school. Research demonstrates that early intervention and education improves overall academic success for students. The attainment of a high school diploma increases the lifetime earning potential for graduates as well as offers opportunities for students to continue their education in post-secondary educational programs. Students in Maine are eligible to attend secondary school until the age of 20. The stakeholder group felt that Maine should create an expectation that everyone remain in school until they have completed a high school diploma or its equivalent. As a result, the following recommendations are made:

- A statutory change to the existing compulsory school-age statute (20-A M.R.S.A. §5001-A) reducing the start age to 6 years old and increasing the end “date” to those students who have obtained a high school diploma or its equivalent.
- Exceptions to compulsory school age should be amended as follows:

- a person who has reached the age of majority and has met with the Superintendent to discuss the decision to withdraw from school; or
- a person who
 - has reached the age of 16 and completed grade 9; and
 - has obtained permission to leave school from that person's parent or legal guardian; and
 - been approved by the principal for a suitable program of work and study or training; and
 - has met with the superintendent or designee; and
 - has obtained permission to leave school from the school board or its designee.

Truancy

Maine currently determines truancy by a student's "unexcused" absences; however, students who have multiple absences in a school year, regardless of the cause, may experience a negative impact in their educational performance. Nationally, there is a new focus on interdisciplinary coordination in identifying students at the first signs of absenteeism and in developing and implementing a truancy plan. Because truancy is often one of the first and best indicators of academic failure, school removal, and criminal behavior, prevention and intervention are crucial. The truancy law in Maine has been inconsistently applied and ineffective in correcting on-going absenteeism. As a result, the following recommendations to amend the existing statute are made:

- Truancy be determined by a student's absenteeism regardless of whether the absences are excused or unexcused, such that a student who misses five consecutive or ten cumulative full days (as defined by the local school board) of school in a school year are referred to an attendance coordinator. References to "habitual" should be stricken from the statute.
- Attendance coordinators should be appointed and/or assigned rather than elected by the school board. Qualifications should include school counselors and should also include the term "licensed" when referring to "professionally certified or registered persons in mental health, social welfare or educational system...."

- School districts should develop a process to refer students who are truant to a response to intervention (RTI) team or its equivalent in order to assess the impact, if any, of the absences on the student and create an intervention plan if one is determined to be necessary. Parents or legal guardians and the student should be invited to participate in the RTI or its equivalent team. Attendance coordinators should be participants in the RTI or its equivalent team when the issue involves absenteeism.
- Language in the existing statute regarding notifying local law enforcement of a truant student should be stricken.

Zero Tolerance, Discipline and the Code of Conduct

The term “zero tolerance” is not defined in federal or state statute. It is an ill-defined term that has not been consistently or uniformly applied throughout the various school districts in Maine. The impact of zero tolerance practices has resulted in policies and/or practices that are severe and mandate predetermined consequences for specific offences. This has resulted in the loss of discretion by school professionals who can no longer make an assessment of student and school needs based upon individual circumstances. There is no substantive research that indicates zero tolerance policies make schools safer or lead to positive changes in student behavior. As a result, the following recommendations are made. The Maine DOE should adopt regulations that address the following:

- The term “zero tolerance” should not be used in school disciplinary policies.
- School disciplinary policies should focus on evidence-based positive and restorative interventions rather than set punishments for specific behavior.
- All disciplinary policies should allow administrators to use their discretion to fashion appropriate discipline that examines the individual circumstances.
- Suspensions and expulsions should be used as a last resort since they cause disrupted learning for students.
- Schools shall provide notice to parent/legal guardian of a student’s suspension regardless of whether it is in-school or out-of-school suspension.

The statute regarding the student code of conduct should be amended to add:

- School boards shall review the code of conduct to focus on positive intervention and expectations and avoid focusing exclusively on unacceptable student behavior

Standards for Expulsion Procedures

Students' constitutional rights to due process in the school setting have long been established by the Supreme Court of the United States; however, Maine educational statutes and regulations are silent in defining what constitutes due process in the context of a school expulsion. There is no uniform process in Maine, and students and their parents or legal guardians may be unaware of what their rights are and what an expulsion from school means in terms of removal from educational services for an unspecified period of time. Because expulsion is a severe action, recommendations for state regulations include the following:

- Pre-hearing Procedures
 - The superintendent shall provide written notice to the parent/legal guardian and student of:
 - the date, time and location of the hearing,
 - a description of the incidents, and the exhibits and testimony the administration intends to introduce at the hearing, provided with sufficient specificity to allow the student to present a defense
 - the student's and/or parent's/legal guardians' right to review the school records prior to the hearing
 - a description of the hearing process
 - an explanation of the consequences of an expulsion, and
 - the student's right to appeal the decision of the school board to the Superior Court within 30 days.

- The superintendent shall invite the parent/legal guardian and student to a meeting prior to the expulsion hearing to discuss the procedures of the hearing
- Hearing
 - The student shall have the right to present and cross-examine witness
 - The student shall have the right to an attorney or other representation
 - Witnesses should be sworn in and the chair of the meeting shall have the authority to swear witnesses in. The statute regarding who has the authority to place witnesses under oath should be amended to include a school board chair in the context of an expulsion/readmission hearing.
 - The school board shall maintain a record of the hearing
- Post-Hearing
 - The school board shall provide written notice of its decision to the parent/legal guardian and student by certified mail/return receipt or deliver in hand. The written decision shall include findings of fact, conclusions of law, and right to appeal the decision to Superior Court within 30 days

Re-Entry Plans

Currently, Maine law allows for an expulsion from school for an indefinite period of time. If students are not identified as a student with a disability under the federal IDEA, they are not entitled to educational services during the period of their expulsion. The burden currently rests on the expelled student to request readmission to school from the school board upon a showing by satisfactory evidence that the behavior resulting in the expulsion is not likely to recur. A message to the student that he or she is expected to return to school can assist the student in his/her return to school. The following recommendations are made:

- The expulsion statute should be amended to require that all students who have been expelled be provided with a re-entry plan. That plan should be developed by the superintendent or his/her designee in consultation with the student and his/her

parent or legal guardian to help the student understand and provide guidance as to what he/she must do to establish satisfactory evidence that the behavior will not likely recur. If the parent and/or student does not attend the meeting, the plan will be developed by school staff. The plan shall be provided to the parent and student in writing. The superintendent shall designate a school employee to review the student's progress with the re-entry plan at one month, three months, six months and other times as determined necessary by the designated school employee.

- The Department of Education shall collect data to record the number of student who are re-admitted to school after expulsion.

Educational Services During Expulsion

The stakeholder group agreed that there is a need for students who have been expelled to have educational services but did not reach consensus on who was responsible for the provision and/or payment of those services. Further discussion needs to occur as to who is responsible for the payment for and provision of these services. Discussion was held about the state setting aside a set amount of money for the provision of educational services to those students who have been expelled. The group did reach consensus and recommends:

- The statute regarding expulsions pursuant to 20-A M.R.S.A. §1001(9) should be amended to include the language in the federal gun-free school zone act of 1994 [20-A M.R.S.A. §1001(9-A)] that states "nothing prevents the school board from authorizing instruction in an alternative setting" to suspension/expulsion for non-firearm offenses.