## MAINE STATE LEGISLATURE

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SUSAN A. GENDRON COMMISSIONER

A Report to the Joint Standing Committee on Education and Cultural Affairs on the Study of Data Discrepancies Regarding Students in Special Education Identified under the Category of "Traumatic Brain Injury" as Requested through Resolve, Chapter 112 (LD 866) – Resolve, To Examine Data Discrepancies and Adequately Identify and Serve Children with Brain Injuries

Prepared by: The Maine Department of Education

March 17, 2010

"The Maine Legislature has adopted a broad definition of brain injury, "Acquired Brain Injury," which it defines as "An insult to the brain resulting directly or indirectly from trauma, anoxia, vascular lesions or infection, which:

- Is not of a degenerative or congenital nature;
- Can produce a diminished or altered state of consciousness resulting in impairment of cognitive abilities and physical functioning;
- Can result in the disturbance of behavioral or emotional functioning;
- · Can be either temporary or permanent; and
- Can cause partial or total functional disability or psychosocial maladjustment."

"Brain injuries induced by birth are not included under this definition.

"Traumatic Brain Injury (TBI) is a subcategory of Acquired Brain Injury. In Maine, special education is limited to children with TBI, which is defined as:

"Traumatic brain injury means an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment or both that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing and speech. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma."

The reporting of Child Count data, under the category, 'Traumatic Brain Injury' was reviewed with representatives of Maine Association of Directors of Services for Exceptional Children. It was determined that students who may have a brain injury are reported in a category which represents a manifestation of educational performance and/or functional performance in school. Other categories, in addition to "Traumatic Brain Injury" or "Other Health Impaired," might be 'Specific Learning Disabilities,' or "Seriously Emotionally Disturbed," "Speech and Language Impairment" or "Multiple Disabilities." A key observation is that the definition of "Traumatic Brain Injury" under the federal Individuals with Disabilities Education Act (IDEA) not only establishes Traumatic Brain Injury as a sub-category of Acquired Brain Injury, but also is proscriptive.

With regard to Child Count data for Traumatic Brain Injury, it is a category in which Maine's data is not higher than the national average (Appendix C). This data and the reporting of students in other disability categories are of concern. The Muskie School of Public Service Report states:

"In Maine, under-identification in schools may be a significant problem. National estimates indicate that only 11 percent of children with traumatic brain injury receive special education services, meaning that up to 89 percent may be unidentified or misidentified. Of children receiving special education services, only 81 were identified as having a traumatic brain injury in 2007 (Department of Education), significantly less than the expected number of children with a permanent disability. Given these numbers, it is possible that the majority of children with brain injury are misidentified and inadequately served, possibly blamed for their behaviors rather than helped."

In 2009, the 124<sup>th</sup> Legislature passed Resolve Chapter 112 - LD 866 - Resolve, To Examine Data Discrepancies and Adequately Identify and Serve Children with Brain Injuries.

The Resolve directed the Maine Department of Education (MDOE) to study data discrepancies regarding students in special education identified under the category of "Traumatic Brain Injury." The MDOE determined that this assignment was closely aligned with the work of the Acquired Brain Injury Advisory Council of Maine (ABIACM), supported in part, by a federal grant from the Health Resources and Services Administration. The MDOE also discovered that the Muskie School of Public Service was engaged in research regarding "Brain Injury."

The ABIACM was established in April, 2002, and became a formal State Advisory Council in September of 2007, to address the needs / challenges of persons with brain injuries and their families and to raise awareness of those needs to promote systemic change. Throughout 2007, 2008 and 2009, the Council held eight public hearings (Bangor, Portland, Caribou, Lewiston, Sanford, Houlton, Calais and Farmington).

The ABIACM published the 2009 Report, 'Brain Injury in Maine: A Growing Public Health Issue' in January 2010 (Appendix A). The Muskie School of Public Service issued a report, 'Brain Injury in Maine: A Needs Assessment' also in January 2010 (see Appendix B). The MDOE had reviewed data collected from the Special Education Child Count. It has also reviewed with local school officials the data reported under the categories "Traumatic Brain Injury" and "Other Health Impaired."

The Federal Child Count, under the Individuals with Disabilities Education Act (IDEA) provides a snapshot of students who qualify for Special Education services on December 1<sup>st</sup> of each year. Maine's Child Count documents that the number of Special Education students in Maine, in all disability categories, are higher than the national average (see Appendix D). This has been standard for some time in Maine. In recent years, while the total numbers in the Child Count, across all disability categories, are declining, two categories, Autism and Other Health Impaired, have been increasing.

Specific to the Resolve, it was determined that a comparison of Maine Department of Health and Human Services (MDHHS) MaineCare data and MDOE Child Count data would not be useful. The MDOE Child Count data includes only students served by Special Education and the definition, under IDEA, is significantly different than the definition used by MDHHS, and whose data is cumulative over the year.

The significant finding regarding this comparison is best stated in the Muskie School of Public Service Report, as follows:

"How brain injury is defined has significant public policy implications. At a macro level, the definition of brain injury is important because it is used to define the dimensions of the population of persons with brain injury, which is in turn used as the basis for assessing the needs of the population group, and can then become the basis for allocating resources to address those needs. On a micro level, the definition of brain injury is important because it can serve as the gateway through which access to, or eligibility for, services is limited.

Again, the Muskie School of Public Service Report highlights the need for personnel preparation activities, consistent with the finding of the ABIACM.

"The training of professionals is considered a major issue in Maine: 'A lack of sufficient knowledge, training and skill among Maine's healthcare, mental health and education professionals' was identified by Maine's Acquired Brain Injury Advisory Council as a leading issue in its 2007-2008 report. (Maine Acquired Brain Injury Advisory Council 2009a). The misidentification of brain injury and the lack of skills for responding to behavioral needs were among several issues identified. These findings are consistent with the State's earlier needs assessment, stakeholder forums and public testimony."

Strategies have been proposed to improve awareness, assessment and interventions at the local school level. The ABIACM has both a plan and priorities, and the MDOE is committed to coordinating with the Council and the MDHHS, specifically in the areas of prevention, education and care coordination, personnel preparation and improving services for children and youth in schools.

The MDOE will organize a presentation of the ABIACM report and this Resolve to the Maine Advisory Council on the Education of Children with Disabilities for their assistance in developing a coordinated plan specific to Education.

Representatives of both these Councils will be engaged in the development of strategies for enhancing coordination between agencies. The MDOE will coordinate with the Office of Adults with Cognitive and Physical Disabilities (OACPD), Brain Injury Services, MDHHS, on personnel development activities, including programs for school personnel.

Areas that may require policy development will be reviewed with representatives of the Maine School Management Association, Maine Principals' Association, Maine Association of Directors of Services for Exceptional Children, Maine Education Association, Maine Association of School Nurses, Maine Parent Federation and the Disability Rights Center.

Definitions, training, and resources will also be made available to school nurses through the School Health Advisory Council. Pertinent documents and resources will be added to the School Health Manual.

The MDOE will coordinate with OACPD, Brain Injury Services, to determine if data and information from the MDOE can be included in the annual report of the ABIACM. The MDOE would also propose to the Joint Standing Committee on Education and Cultural Affairs that the annual report also be presented to the Committee in addition to the presentation to the Joint Standing Committee on Health and Human Services.

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#### Appendix A

Brain Injury in Maine: A Grouping Public Health Issue, published by the Acquired Brain Injury Advisory council of Maine in January of 2010. Contact Katharyn Zwicker, Maine CDC, Department of Health and Human Services

#### Appendix B

Maine Injury in Maine: A Needs Assessment, published by the Muskie School of Public Services, University of Southern Maine, January, 1020

http://webapp.usm.maine.edu/MuskieWebDBfrontend/publicationView.action?publicationId=7089

## Appendix C

Identification Change over Time
Maine Statewide Totals
(Autism, Traumatic Brain Injury,
Other Health Impairment)

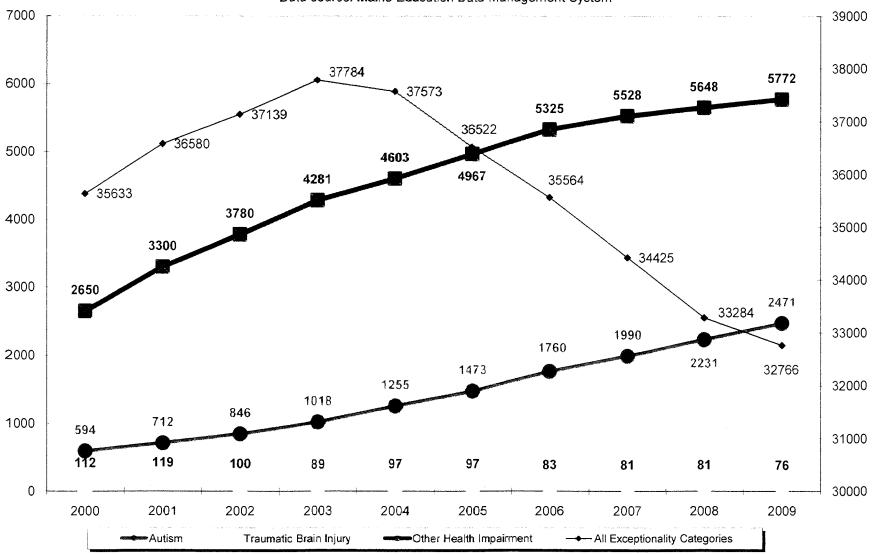
Data Source: Maine Education Data Management System

January, 2010



# Identification Change over Time - Maine Statewide Totals (Autism, Traumatic Brain Injury, Other Heath Impairment)

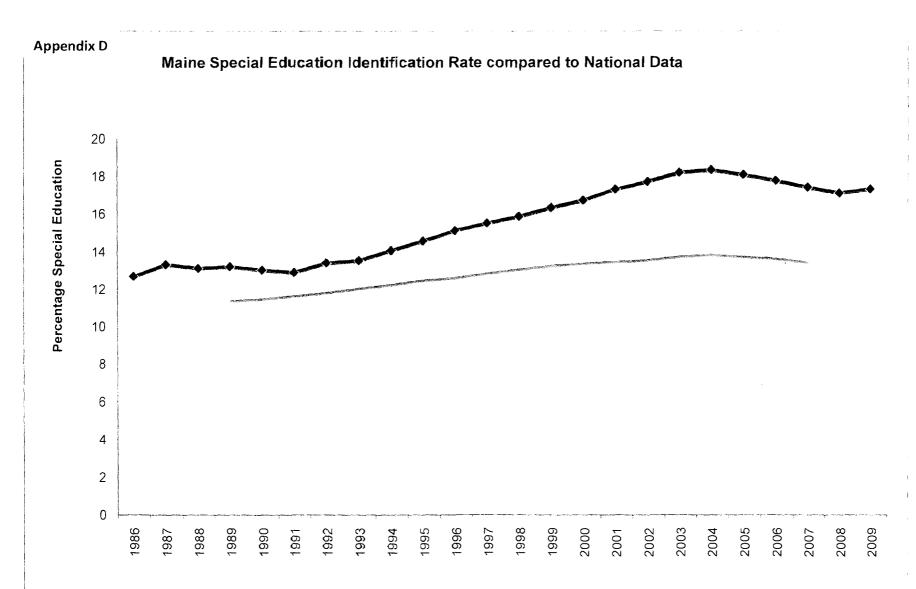
Data source: Maine Education Data Management System



## Appendix D

### Maine Special Education Identification Rate Compared to National Data

January, 2010



**Child Count Date** 

National (see NatID\_Rate\_76-07)

Maine ID Rate