

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
123<sup>RD</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills and adopted amendments and laws enacted or finally passed during the First Regular Session of the 123<sup>rd</sup> Maine Legislature coming from the

**JOINT STANDING COMMITTEE ON EDUCATION AND  
CULTURAL AFFAIRS**

July 2007

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# STATE OF MAINE

123<sup>RD</sup> LEGISLATURE

FIRST REGULAR SESSION

## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS



This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 123<sup>rd</sup> Maine Legislature, which was in session from December 6, 2006 to June 21, 2007.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CON RES XXX.....	Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE.....	Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES.....	House & Senate disagree; bill died
DIED IN CONCURRENCE.....	One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT.....	Action incomplete when session ended; bill died
EMERGENCY.....	Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....	Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....	Bill failed to get majority vote
FAILED MANDATE ENACTMENT.....	Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY.....	Ruled out of order by the presiding officers; bill died
INDEF PP.....	Bill Indefinitely Postponed
ONTP (or Accepted ONTP report).....	Ought Not To Pass report accepted
OTP-ND.....	Committee report Ought To Pass In New Draft
P&S XXX.....	Chapter # of enacted Private & Special Law
PASSED.....	Joint Order passed in both bodies
PUBLIC XXX.....	Chapter # of enacted Public Law
RESOLVE XXX.....	Chapter # of finally passed Resolve
UNSIGNED.....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for non-emergency legislation enacted in the First Regular Session is **September 20, 2007**. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

*Joint Standing Committee on Education and Cultural Affairs*

**LD 1900**

**Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a Major Substantive Rule of the Department of Education**

**RESOLVE 138  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	H-562
	OTP-AM MIN	H-627 MARLEY

This resolve provides for legislative review of portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a major substantive rule of the Department of Education.

**Committee Amendment "A" (H-562)**

This amendment is the majority report of the Joint Standing Committee on Education and Cultural Affairs. The amendment provides that final adoption of the provisionally adopted major substantive rule is authorized contingent upon the Department of Education amending the provisionally adopted rule to accomplish the following:

1. Amend the proposed definition of "adverse effect" to establish a definition for "educational performance" that includes a list of academic basic skills and the 5 domains of functional performance recognized in federal regulations. This part of the rule interprets and defines the phrases from federal law "adversely affects educational performance" and "needs special educational and related services" in a way that will guide the Individualized Family Service Plan Team or the Individualized Education Plan Team to greater uniformity in determining eligibility throughout the State;
2. Amend the proposed rule to require that an initial evaluation or a reevaluation of a child be conducted within 60 calendar days of receiving parental consent for the evaluation;
3. Amend the proposed rule to delete the note that states that a school administrative unit is permitted to use a discrepancy model to determine if a child has a "specific learning disability";
4. Amend the proposed rule to permit the Individualized Education Program Team to begin transition planning at age 14 for the student's postsecondary participation in advanced placement courses, a vocational education program or an adult education program;
5. Amend the proposed rule to clarify that the timeline for filing a due process hearing request is 2 years for either a state or federal cause of action under the federal Individuals with Disabilities Education Act, as amended;
6. Amend the proposed rule to incorporate provisions that are equivalent to those contained in the former Chapter 101 rules pertaining to the minutes of Pupil Evaluation Team meetings to ensure that content of the written notice must include a summary of the comments made by the parent, including the parent's description of their child's progress, and the names and titles of each member of the team;
7. Amend the proposed rule to restore the so-called "stay put" provisions contained in the former Chapter 101 rules that permit a child with a disability to remain in their educational placement while the child's parent was seeking mediation or a complaint investigation and awaiting a pending decision from a due process hearing or court proceeding; and
8. Amend the proposed rule to provide that Neurocognitive Testing Assistants who are registered with the Maine Psychological Association shall continue to be able to administer and score psychological and neurological tests as long as they meet the minimum qualifications established for registration and when they are supervised by a psychologist who is the evaluator and who is licensed by the Department of Professional and Financial Regulation

## *Joint Standing Committee on Education and Cultural Affairs*

Board of Examiners of Psychologists.

### **House Amendment "C" (H-627)**

This amendment removes the requirements proposed in the committee amendment that the rule be amended to establish a definition of the term "educational performance," to define certain other phrases with reference to the federal regulations and to identify what is necessary for documenting intervention strategies. It requires that the rule be amended by deleting the part of the rule relating to the determination of adverse effect for children 3 to 20.

The amendment changes the timeline for filing a due process hearing request for either a state or federal cause of action under the federal Individuals with Disabilities Education Act from 2 years to 4 years.

The amendment also directs the Commissioner of Education to establish a stakeholder group to examine the portions of "Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty," the provisionally adopted rule that was submitted for legislative review during the First Regular Session of the 123rd Legislature by the Department of Education, that pertain to the determination of adverse effect and to develop recommendations to the Commissioner of Education regarding any necessary changes to the Chapter 101 rules.

### **Enacted Law Summary**

Resolve 2007, chapter 138 provides that final adoption of the provisionally adopted major substantive rule is authorized contingent upon the Department of Education amending the provisionally adopted rule to accomplish the following:

1. Amend the proposed rule by deleting the part of the rule relating to the determination of adverse effect for children 3 to 20.
2. Amend the proposed rule to require that an initial evaluation or a reevaluation of a child be conducted within 60 calendar days of receiving parental consent for the evaluation;
3. Amend the proposed rule to delete the note that states that a school administrative unit is permitted to use a discrepancy model to determine if a child has a "specific learning disability";
4. Amend the proposed rule to permit the Individualized Education Program Team to begin transition planning at age 14 for the student's postsecondary participation in advanced placement courses, a vocational education program or an adult education program;
5. Amend the proposed rule to clarify that the timeline for filing a due process hearing request is 4 years for either a state or federal cause of action under the federal Individuals with Disabilities Education Act, as amended;
6. Amend the proposed rule to incorporate provisions that are equivalent to those contained in the former Chapter 101 rules pertaining to the minutes of Pupil Evaluation Team meetings to ensure that content of the written notice must include a summary of the comments made by the parent, including the parent's description of their child's progress, and the names and titles of each member of the team;
7. Amend the proposed rule to restore the so-called "stay put" provisions contained in the former Chapter 101 rules that permit a child with a disability to remain in their educational placement while the child's parent was seeking mediation or a complaint investigation and awaiting a pending decision from a due process hearing or court proceeding; and
8. Amend the proposed rule to provide that Neurocognitive Testing Assistants who are registered with the Maine Psychological Association shall continue to be able to administer and score psychological and neurological tests as long as they meet the minimum qualifications established for registration and when they are supervised by a psychologist who is the evaluator and who is licensed by the Department of Professional and Financial Regulation

# Joint Standing Committee on Education and Cultural Affairs

Board of Examiners of Psychologists.

The resolve also directs the Commissioner of Education to establish a stakeholder group to examine the portions of "Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty," the provisionally adopted rule that was submitted for legislative review during the First Regular Session of the 123rd Legislature by the Department of Education, that pertain to the determination of adverse effect and to develop recommendations to the Commissioner of Education regarding any necessary changes to the Chapter 101 rules.

Resolve 2007, chapter 138 was enacted as an emergency measure effective June 27, 2007.

## LD 1901 **Resolve, To Analyze the Feasibility of Establishing an Education Bill of Rights for Deaf and Hard-of-hearing Children**

**RESOLVE 94**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ADAMS EDMONDS	OTP-AM	H-468

This bill establishes an education bill of rights for deaf and hard-of-hearing children. These rights are based on current federal and state rules and laws. This bill encourages the development of a communication-driven and language-driven educational delivery system in Maine for children who are deaf and hard-of-hearing. It promotes the well-being and growth of students who are deaf or hard-of-hearing by ensuring that educational programs recognize the unique nature of deafness and the hard-of-hearing condition and by ensuring that all students who are deaf or hard-of-hearing have appropriate, ongoing and fully accessible opportunities. This bill also provides that all Department of Education rules relating to deaf and hard-of-hearing children be contained in a single section of the department's rules relating to special education in Chapter 101. By collecting rules relating to deaf and hard-of-hearing children in one place, school districts will be able to become more knowledgeable about all the rules that relate to these children. Collecting rules relating to deaf and hard-of-hearing children in a single section will increase the accessibility of these rules and minimize confusion.

### **Committee Amendment "A" (H-468)**

This amendment replaces the bill with a resolve to require the Department of Education and the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf to jointly convene a working group to analyze the feasibility of establishing a set of basic education rights for deaf and hard-of-hearing children. The amendment requires that, no later than January 31, 2008, the Department of Education and the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf jointly submit a report that includes their findings and recommendations, including suggested legislation, to the Joint Standing Committee on Education and Cultural Affairs. The amendment also authorizes the Joint Standing Committee on Education and Cultural Affairs to submit a bill to the Second Regular Session of the 123rd Legislature to implement its recommendations on matters relating to the report.

### **Enacted Law Summary**

Resolve 2007, chapter 94 requires the Department of Education and the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf to jointly convene a working group to analyze the feasibility of establishing a set of basic education rights for deaf and hard-of-hearing children. The resolve requires that, no later than January 31, 2008, the Department of Education and the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf jointly submit a report that includes their findings and recommendations, including suggested legislation, to the Joint Standing Committee on Education and Cultural Affairs. The resolve also authorizes the Joint Standing Committee on Education and Cultural Affairs to submit a bill to the Second Regular Session of the 123rd Legislature to implement its recommendations on matters relating to the report.