

# An Act To Reorganize the Provision of Services for Infants, Toddlers, and Children with Disabilities from Birth to 6 Years of Age and Extend the Age of IDEA Eligibility to 22

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

**Sec. 1. [5 MRSA §285](#), sub-§1, ¶F-7**, as corrected by RR 2009, c. 1, §5, is amended. [Effective July 1, 2026]

F-7. Any employee of The State Intermediate Educational Unit under Title 20-A, section 7104 a ~~regional site of the Child Development Services System under [Title 20-A, section 7209](#)~~, if the group health plan is agreed to in collective bargaining and funds are available;

**Sec. 2. [5 MRSA §12004-C](#), sub-§6**, as \_\_\_\_\_, is further amended to read:

10. Board of Directors, State Intermediate Expenses only 20-A MRSA §7105  
Educational Unit

**Sec. 3. [5 MRSA §12021](#), sub-§6, ¶A**, as enacted by PL 2011, c. 616, Pt. A, §1, is repealed and replaced with the following [Effective July 1, 2026]:

A. The State Intermediate Educational Unit under Title 20-A, section 7104;

**Sec. 4. [20-A MRSA §24051](#), sub-§3, ¶H** is amended to read

H. Three persons representing statewide, membership or constituent organizations that advance the well-being of young children and their families, including early care and education programs, child care centers, Head Start programs, resource development centers, programs for school-age children, ~~child development services~~ the State's intermediate educational unit, physicians and child advocates, nominated by their organizations and appointed by the cabinet

**Sec. 5. [20-A MRSA §24052](#), sub-§1, ¶D, sub-¶3** is amended to read:

(3) Enhance and improve quality and outcomes of early childhood and education programs and services, including ~~child development services~~ the State's intermediate educational unit, home visitation, child care, education services, supervision services, health services and social services; and

**Sec. 6. [20-A MRSA §1001](#), sub-§9-B**, as amended by PL 2005, c. 662, Pt. A, §6, is further amended to read: [Effective July 1, 2026]

**9-B. Disciplinary sanctions for children with disabilities.** They retain the authority to sanction a child with a disability as defined in section ~~7001~~7201, subsection ~~1-A~~1 for misconduct that violates school rules. Notwithstanding the duties of school administrative units as described in section 7202, the school board may authorize the superintendent, principal or assistant principal to enforce this

subsection by allowing the superintendent, principal or assistant principal to suspend a child with a disability up to a maximum of 10 days individually or cumulatively for infractions of school rules. When a child with a disability is suspended for 10 days or less individually or cumulatively within a school year for a violation of school rules, the school board is not required to provide a tutor, transportation or any other aspect of the student's special education program. Discipline of children with disabilities must be consistent with the requirements of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1415(k).

**Sec. 7. 20-A MRSA §5201, sub-§3, ¶E**, as amended by PL 2005, c. 662, Pt. A, §12, is further amended to read [effective July 1, 2026]:

E. The eligibility for a child with a disability is governed by section ~~7001,7201-A~~, subsection ~~1-A1~~.

**Sec. 8. 20-A MRSA §6202, first ¶**, as amended by PL 2015, c. 40, §4, is further amended to read [Effective July 1, 2026]:

The commissioner shall establish a statewide assessment program to measure and evaluate on a continuing basis the academic achievements of students in grades 3 to 12 on the accountability standards set forth in section 6209 and in department rules implementing that section and other curricular requirements. The commissioner may elect to provide for the use of alternative measures of student achievement in grades 9 to 12. This assessment applies to students in the public elementary and secondary schools, in public charter schools, as that term is defined in section 2401, subsection 9, and in all private schools approved for tuition whose school enrollments include at least 60% publicly funded students, as determined by the previous school year's October and April average enrollment. The assessment program must be adapted to meet the needs of children with disabilities as defined in section ~~7001,7201-A~~, subsection ~~1-A1~~ or other students as defined under rules by the commissioner.

**Sec. 9. 20-A MRSA §7001, sub-§1-B, ¶B**, is amended to read:

B. For children at least 3 years of age and under 20 years of age evaluated in accordance with the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1414, subsections (a) to (c) as measured by both standardized, norm-referenced diagnostic instruments and appropriate procedures with delays or impairments such that the children need special education:

(1) A child at least 3 years of age and under 6 years of age with a significant developmental delay, at the discretion of the intermediate educational unit or school administrative unit, as defined in rules adopted by the department, in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; adaptive development; or

(2) A child with at least one of the following:

- (a) Intellectual disability;
- (b) Hearing impairment, including deafness;
- (c) Speech or language impairment;
- (d) Visual impairment, including blindness;
- (e) Serious emotional disturbance;
- (f) Orthopedic impairment;
- (g) Autism;
- (h) Traumatic brain injury;
- (i) Other health impairment;

- (j) Specific learning disabilities;
- (k) Deafness and blindness; and
- (l) Multiple disabilities.

This paragraph is repealed July 1, 2023.

**Sec. 10. 20-A MRSA §7001, sub-§2-A** is amended to read:

**2-A. Free, appropriate public education.** "Free, appropriate public education" means special education and related services that are provided at public expense, under public supervision and direction and without charge; meet the standards of the department; include an appropriate preschool, elementary school or secondary school education in the State; and are provided in conformity with the individualized family service plan or individualized education program. The Child Development Services System shall provide free, appropriate public education to a preschool child with disabilities who reaches 5 years of age between July 1st and October 15th if that child is already receiving free, appropriate public education through the Child Development Services System and the child's individualized education program team determines, in accordance with rules adopted by the commissioner, that it is in the best interest of the child not to enroll that child in kindergarten until the start of the following school year. This subsection is repealed July 1, 2023.

**Sec. 11. 20-A MRSA §7008** is enacted to read:

**§7008. Repeal.**

This chapter is repealed July 1, 2026.

**Sec. 12. 20-A MRSA** is amended to read:

**CHAPTER 301-A: EARLY INTERVENTION SERVICES**

**§7101. Purpose and commitment**

The purpose of this chapter is to implement Part C of the federal Individuals with Disabilities Education Act, 20 U.S.C. §1401 et. Seq beginning July 1, 2026. The State of Maine is committed to ensuring that all eligible infants and toddlers with disabilities are identified, evaluated, and provided with the early intervention services selected by their Individualized Family Services Plan Team and described in their Individualized Family Services Plan.

**§7102. Definitions**

Beginning July 1, 2026, as used in this Chapter, the following terms have the following definitions:

**1. Birth to under age three.** "Birth to under age three" means from the day a child is born until their third birthday.

**2. Infant or toddler with a disability.** "Infant or toddler with a disability" means a child from birth to under 3 years of age:

- A. Who needs early intervention services because the child has a significant developmental delay, as measured by both diagnostically appropriate instruments and procedures, in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; and adaptive development; or
- B. With a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay, with the condition being such that the child needs early intervention services.

**3. Early intervention services.** "Early intervention services" means developmental services that are provided under public supervision; are provided at no cost except where federal or state law provides for a system of payments by families, including a schedule of sliding fees; are designed to meet the developmental needs of an infant or toddler with a disability, as identified by the individualized family service plan team, in one or more areas including physical development, cognitive development, communication development, social or emotional development and adaptive development; meet the standards of the State; are provided by qualified personnel; to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which infants or toddlers without disabilities participate; and are provided in conformity with an individualized family service plan.

**4. Individualized Family Services Plan Team.** "Individualized family services plan team" means the group of individuals composed in accordance with Part C of the federal Individuals with Disabilities Education Act, 20 United States Code, 1401 et seq. to determine the individualized family services plan for an infant or toddler with a disability.

**5. Part B.** "Part B" means Part B of the federal Individuals with Disabilities Education Act, 20 United States Code 1401 et seq.

**6. Part C.** "Part C" means Part C of the federal Individuals with Disabilities Education Act, 20 United States Code 1401, et seq.

**7. State intermediate educational unit.** "State intermediate educational unit" or "SIEU" means the State's intermediate educational unit established in section 7104.

### **§7103. Department of Education**

Beginning July 1, 2026, the duties and responsibilities of the Department of Education under this chapter include the following:

- 1. Lead Agency.** Serve as the lead agency for the statewide system pursuant to 20 U.S.C. § 1435, including the identification and coordination of all available resources within the State for

services to eligible infants and toddlers with disabilities from birth to under age 3 and their families.

2. **Federal Part C Coordinator.** Appoint a Federal Part C Coordinator.
3. **Monitoring and Oversight.** Ensure, through regular, comprehensive monitoring and oversight of the SIEU that:
  - A. Appropriate early intervention services based on scientifically based research, to the extent practicable, are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State and infants and toddlers with disabilities and their families who are homeless children and their families;
  - B. A comprehensive child find system that meets the requirements of Part C is available throughout the state;
  - C. A timely, multidisciplinary evaluation of the functioning of each infant and toddler with a disability, and a family-directed identification of the needs of each family of such an infant or toddler to assist appropriately in the development of the infant or toddler is conducted;
  - D. Each infant or toddler with a disability has an IFSP, developed in accordance with Part C, including service coordination in accordance with such plan;
  - E. To the maximum extent appropriate, early intervention services are provided in natural environments, and that the provision of early intervention services for any infant or toddler with a disability occurs in a setting other than a natural environment that is most appropriate, as determine by the parent and the IFSP Team, only when early intervention cannot be achieved satisfactorily for the infant or toddler in the natural environment, and
  - F. Parents are provided with procedural safeguards in accordance with Part C.
4. **Application.** The Department shall:
  - A. Submit an annual application to the United State Department of Education for a Part C grant; and
  - B. Include in its annual application a policy for the so-called Extended Part C Option under which a parent of a child with a disability who is eligible for preschool services pursuant to Part B and who previously received early intervention services pursuant to Part C may decline the right to an Individualized Education Plan and a Free Appropriate Public Education in order to choose the continuation of early intervention services from age three until the beginning of the school year following the child's third birthday.
5. **Funding mechanism.** Develop and maintain a funding mechanism for the SIEU. The funding mechanism must maximize billing through private insurance and MaineCare. The Department shall require the SIEU to enter into a subgrantee agreement with the Department that makes the distribution of federal Part C and state funds contingent on the delivery of early intervention services in accordance with the agreement.
6. **Financial oversight of SIEU.** Provide monitoring and oversight of fiscal activities of the SIEU.

7. **Interagency Agreements.** Enter into interagency agreements, including agreements that define the financial responsibility of each agency for paying for early intervention services and procedures for resolving interagency disputes.
8. **Interagency Coordinating Council.** Establish and support a state interagency coordinating council in accordance with Part C.
9. **Personnel Development.** Develop and implement a comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the state.
10. **Public Awareness Program.** Develop and implement a public awareness program focusing on early identification of infants and toddlers with disabilities and disseminate to all primary referral sources, especially hospitals and physicians, information to be given to parents, especially to parents with premature infants, or infants with other physical risk factors associated with learning or developmental complications, on the availability of early intervention services pursuant to Part C and this chapter as well as procedures for assisting such sources in disseminating such information to parents of infants and toddlers with disabilities.
11. **Rules.** Develop and adopt rules necessary to carry out Part C and this Chapter including, but not limited to:
  - A. A rigorous definition of the term “developmental delay;”
  - B. Child find;
  - C. Multidisciplinary assessment and family directed assessment;
  - D. The role of the IFSP Team;
  - E. Development, implementation, and periodic review of the IFSP;
  - F. Procedural safeguards;
  - G. Qualifications for all personnel involved in Part C including early intervention service providers;

Rules developed pursuant to the section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A .

#### **§7104. State Intermediate Educational Unit**

Beginning July 1, 2026, the State Intermediate Educational Unit is established as a body corporate and politic and as a public instrumentality of the State for the purpose of identifying, evaluating and providing early intervention services to eligible infants and toddlers with disabilities from birth to under age three and their families. The exercise by the SIEU of the powers conferred by this chapter is the performance of an essential public function by and on behalf of the State.

#### **§7105. Board of Directors.**

The Board of Directors is established in Title 5, section 12004-C, subsection 10 as the policy-making authority and the governing body of the SIEU.

1. **Membership.** In appointing members to the Board of Directors, the Governor shall give proper consideration to achieving statewide geographical representation, cultural equity and gender equity. Each member appointed by the Governor is subject to review by the joint standing committee having jurisdiction over education matters and confirmation by the Senate. The Board consists of 13 voting members and 3 nonvoting members as follows:
  - A. The Commissioner of Education or the commissioner's designee;
  - B. The Commissioner of Health and Human Services or the commissioner's designee;
  - C. Three parents of infants and toddlers with disabilities who are accessing or have accessed Part C services;
  - D. Two providers of early intervention services;
  - E. A representative of the State Interagency Coordinating Council;
  - F. One representative from a private preschool;
  - G. One representative from a public pre-K program;
  - H. Three members of the general public;
  - I. Two employees of the SIEU who are selected by the executive director of the SIEU and are non-voting members; and
  - J. The executive director of the SIEU who serves as the clerk of the Board and is a non-voting member.
2. **Term.** Each member appointed by the Governor serves for a term of 3 years. . Board members may serve no more than 3 consecutive terms.
3. **Chair.** The Board shall elect a Chair annually from among its members. A member may not serve more than 2 consecutive terms as Chair.
4. **Meetings.** The Board shall meet at least quarterly.

#### **§7106. Administrative and Programmatic Functions.**

1. **Administrative Functions.** The powers and duties of the Board of Directors include the following administrative functions:
  - A. Develop and adopt policies, including bylaws, necessary or useful for the operation of the SIEU;
  - B. Develop and adopt policies necessary or useful for the implementation of Part C and any related Department regulations;
  - C. Delegate duties and responsibilities as necessary for the efficient operation of the SIEU;

- D. Hire an executive director;
- E. Appoint a treasurer, who need not be a member of the board of directors, and to accept donations, bequests or other forms of financial assistance for any educational purpose from a public or private person or agency and to comply with rules and regulations governing grants from the federal government or from any other person or agency;
- F. Prepare and adopt an annual budget for the operation of the SIEU and exercise budgetary responsibility and allocate for expenditure by the SIEU all the resources available for the operation of the SIEU and its programs;
- G. Employ professional and other personnel at the state level and regional levels, including those necessary to ensure the implementation of the centralized fiscal and data management systems. All SIEU employees are employees for the purposes of the Maine Tort Claims Act;
- H. Establish standard policies and procedures for a statewide salary and benefits administration system, including personnel classifications, position descriptions and salary ranges, and a standard package of health, retirement and other fringe benefits for SIEU employees;
- I. Develop and implement a statewide salary and benefits administration system and perform the payroll functions for SIEU employees;
- J. Bargain collectively under Title 26, chapter 9-A if the employees of the SIEU choose to be represented by an agent for purposes of collective bargaining. In such circumstances, the SIEU must be considered the public employer for purposes of collective bargaining;
- K. Develop and implement a centralized system for statewide fiscal administration. The SIEU shall establish internal controls and implement accounting policies and procedures in accordance with standards set forth by the State Controller;
- L. Indemnify the directors, officers, and employees affiliated with the SIEU and to purchase and maintain insurance to indemnify any such person to the extent provided in Title 13-B, section 714;
- M. Collect any fees or costs permitted by Part C and established by Department rule;
- N. Submit quarterly financial statements to the commissioner, the joint standing committee of the Legislature having jurisdiction over education matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs;
- O. Develop and implement a centralized Part C data management system;
- P. Design and implement a standard, statewide template for contracts with service providers, including policies and procedures for the review of contracts;
- Q. Design and implement a statewide plan to provide professional development and training to SIEU personnel;
- R. Enter into contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter;
- S. Sue or be sued in the name of the SIEU; and
- T. Perform any other act necessary or useful for carrying out its powers, duties or purposes.



**2. Programmatic functions.** Beginning July 1, 2026, the powers and duties of the Board of Directors include the following programmatic functions:

A. Engage in child find activities as required by Part C;

B. Engage in child count activities as required by Part C;

C. Evaluate potentially eligible infants and toddlers and their families, and, using a properly constituted IFSP Team, determine eligibility for early intervention services as required by Part C;

D. Develop, using a properly constituted IFSP Team, an IFSP for every eligible infant and toddler with a disability as required by Part C;

E. Ensure that eligible infants and toddlers with disabilities and their families receive the early intervention services contained in their IFSPs, either by providing the services directly or by contracting with qualified services providers as defined by Department rule;

F. Ensure that children with a disabilities who are eligible for preschool services pursuant to Part B and who previously received early intervention services pursuant to Part C to decline the right to access a Free Appropriate Public Education and to continue to receive early intervention services from age three until the beginning of the school year following the child's third birthday if the parent chooses to remain in Part C instead of transitioning to Part B in accordance with the so-called federal Extended Part C Option;

G. Coordinate with the receiving Part B school administrative units to ensure that infants and toddlers with disabilities are identified as potentially eligible for Part B services;

H. Ensure that parents are provided with procedural safeguards as required by Part C; and

I. Ensure that infants or toddlers and their families who are referred to the SIEU also receive appropriate referrals for support outside of the Part C program, including appropriate public and private programmatic resources, regardless of their eligibility for early intervention services.

### **§7108. Executive Director**

**1. Employment.** The executive director shall be qualified by training or experience and hired by the Board.

**2. Duties and responsibilities.** The executive director shall:

A. Perform the duties prescribed for them by the Board;

B. Hire and supervise SIEU staff;

C. Ensure SIEU staff meet all certification and licensure requirements;

D. Report to Legislature for Part C.

**Sec. 13. 20-A MRSA §7201, sub-2-A,** \_\_\_\_\_, is further amended to read [Effective July 1, 2026]:

**2-A. Natural or Least restrictive environment.** To the maximum extent appropriate:

~~A. Early intervention services must be provided in natural environments, including the home, and community settings in which children from birth to under 3 years of age without disabilities participate;~~

~~B. Children with disabilities at least 3 years of age and under 202 years of age, including children in public or private institutions or other care facilities, must be educated with children without disabilities. Special classes, separate schooling or other removal of children with disabilities from the regular educational environment may occur only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.~~

**Sec. 14. 20-A M RSA §7201-A** is enacted to read:

**§7201-A. Definitions.**

Beginning July 1, 2023, as used in this Chapter, the following terms have the following definitions:

**1. Child with a disability.** “Child with a disability” means a child at least 3 years of age and under 22 years of age evaluated in accordance with the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1414, subsections (a) to (c) as measured by both standardized, norm-referenced diagnostic instruments and appropriate procedures with delays or impairments such that the children need special education:

-  
(1) A child at least 3 years of age and under 6 years of age with a significant developmental delay, at the discretion of the school administrative unit, as defined in rules adopted by the department, in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; or adaptive development; or

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(2) A child with at least one of the following:

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(a) Intellectual disability;

(b) Hearing impairment, including deafness;

(c) Speech or language impairment;

(d) Visual impairment, including blindness;

(e) Serious emotional disturbance;

(f) Orthopedic impairment;

(g) Autism;

- (h) Traumatic brain injury;
- (i) Other health impairment;
- (j) Specific learning disabilities;
- (k) Deafness and blindness; and
- (l) Multiple disabilities.

**2. Free, appropriate public education.** "Free, appropriate public education" or "FAPE" means special education and related services that are provided at public expense, under public supervision and direction and without charge; meet the standards of the department; include an appropriate preschool, elementary school or secondary school education in the State; and are provided in conformity with the individualized education program.

**3. Three to under age 6.** "Three to under age 6" means from a child's third birthday until their 6<sup>th</sup> birthday.

**4. Three to under age 22.** "Three to under age 22" means from a child's third birthday until their 22<sup>nd</sup> birthday.

**Sec. 15. [20-A §7202](#), sub-§1,** \_\_\_\_\_, is further amended to read:

- 1. Identification.** Identify all children at least 3 years of age and under 22 years of age within its jurisdiction who require special education;

**Sec. 16. [20-A §7202](#), sub-§3,** \_\_\_\_\_, is further amended to read:

- 2. Diagnosis and evaluation.** Provide the evaluations and assessments required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., as amended, to plan and implement a special education program for children with disabilities at least 3 years of age and under 202 years of age within its jurisdiction;

**Section 17. [20-A MRSA §7203-A](#) [Effective date July 1, 2026] is enacted to read:**

### **§7203-A. Responsibility**

Beginning July 1, 2026, the Department of Education is designated as the state education agency responsible for carrying out the State's obligations under the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., as amended. The department and every school administrative unit, intermediate educational unit, public school or other public agency that receives federal or state funds to provide early

intervention or free, appropriate public education services to children with disabilities shall comply with the federal Individuals with Disabilities Education Act, as amended, and all federal regulations adopted under the Act.

**Sec. 18. 20-A §7204, sub-§4**, as amended by PL 2005, c. 662, Pt. A, §25, is further amended to read [Effective July 2026]:

**4. Program approval.** Shall approve plans for all ~~early intervention and~~ special education programs. The criteria for approval must include:

- A. Requirements for admission;
- B. Qualification or certification of staff;
- C. Plan of instruction;
- D. Adequacy of facilities;
- E. Adequacy of supportive services;
- F. Professional supervision; and
- G. Teacher-student ratio;

**Sec. 19. 20-A MRSA §7209** is amended to read:

**9. Transition to school administrative units for children from 3 years of age to under 6 years of age.** Notwithstanding this section, beginning July 1, 2023, school administrative units are responsible for child find and the provision of free, appropriate public education for children with disabilities from 3 years of age to under 6 years of age in accordance with section 7211.

**10. Repeal.** This section is repealed July 1, 2026.

**Sec. 20. 20-A MRSA §7210, 2<sup>nd</sup> ¶** is enacted to read:

This section is repealed July 1, 2026.

**Sec. 21. 20-A MRSA §7211** is enacted to read:

**§ 7211. Special education and related services for children with disabilities ages 3 to under 6**

Notwithstanding section 7209, beginning July 1, 2023, school administrative units are responsible for child find and the provision of free, appropriate public education for children with disabilities from 3 years of age to under 6 years of age in accordance with this section. Every school administrative unit shall take responsibility for its own resident children whether or not they operate a public preschool program.

**1. Service provision.** School administrative units shall provide services using their own employees or through contracts with public or private providers. School administrative units may contract with the Child Development Services System to provide services until July 1, 2026.

**2. Support.** The department shall provide technical assistance and support to school administrative units to implement the provisions of this section.

**3. Other resources for services.** The department shall make the following other resources for services available for school administrative units:

A. The commissioner shall consider any school administrative unit facility upgrades and renovations necessary for providing special education and related services for children at least 3 years of age and under 6 years of age to have Priority 1 status under the School Revolving Renovation Fund under Title 30-A, section 6006-F.

B. The commissioner shall consider any school administrative unit space necessary for providing early childhood special education and related services for children at least 3 years of age and under 6 years of age as instructional space or regional programs and services space under section 15672, subsection 2-A, paragraph B. Shared space with a community partner is permissible, while meeting the necessary licensing standards for the external spaces.

C. For the purposes of transporting students at least 3 years of age and under 6 years of age pursuant to this section, the commissioner shall include seat belts and car seats as an allowable component for bus purchases pursuant to approvals under chapter 215 and for the purposes of school funding under chapter 606-B.

D. The commissioner shall consider any additional administrative and technical support that would enhance consistent delivery of services to children from three to under 6 years of age.

**4. Funding.** Beginning in fiscal year 2023-2024, a school administrative unit must receive:

A. The public preschool subsidy under Chapter 606-B;

B. For each child with a disability who is three years of age to under 4 years of age, a per-pupil allocation that covers 100% of the cost based on the average of the pupil counts for October 1<sup>st</sup> of the 2 most recent calendar years prior to the year of funding; and

C. Funding for 100% of the special education and related services costs for a child with a disability.

Subsidy and funds received pursuant to this subsection may be used by the school administrative unit to provide services through private prekindergarten programs, public-private partnerships or the school administrative unit's public prekindergarten program.

**Sec. 22. 20-A MRSA §7252-A**, as amended by PL 2005, c. 662, Pt. A, §31, is further amended to read [Effective July 1, 2026]:

**§ 7252-A. ~~Early Intervention;~~ Special education programs; approval**

~~Early intervention and special~~ Special education programs may be established for the delivery of ~~early intervention and~~ special education services to children with disabilities in accordance with section 7204, subsection 4. ~~An early intervention program may be provided by an intermediate educational unit, an approved private school or a state licensed agency.~~ A special education program may be offered by a school administrative unit, an approved private school or a state licensed agency. All ~~early intervention and~~ special education programs offered by approved private schools or state licensed agencies must:

- 1. Supervision.** Be provided under the supervision of the school administrative unit responsible for the education of the child with a disability enrolled in the program;
- 2. Description.** Be described in a master contractual agreement between the agency or private school and the commissioner; and
- 3. Approval.** Be approved in advance of the enrollment of any child with a disability.

**Sec. 23. 20-A MRSA §7252-B**, as amended by PL 2005, c. 662, Pt. A, §32, is further amended to read:

**§ 7252-B. ~~Early intervention;~~ Special education services; approval**

The commissioner shall adopt or amend rules to define allowable ~~early intervention and~~ special education services and the qualifications of individuals who provide ~~early intervention or~~ special education services. ~~Each intermediate educational unit, approved private school or state licensed agency providing early intervention services shall submit a report at such time and in such form as the commissioner may require.~~ Each school administrative unit, approved private school or state licensed agency providing special education services shall submit a report at such time and in such form as the commissioner may require.

**Sec. 24. 22 MRSA §1532, sub-§2**, as enacted by PL 2013, c. 397, §1, is amended to read:

**2. Referrals.** The department shall in a timely fashion refer newborn infants with confirmed treatable congenital, genetic or metabolic conditions or critical congenital heart disease to the ~~Child Development Services System as defined in Title 20-A, section 7001, subsection 1-A~~ State's intermediate educational unit established in Title 20-A, Part 4, subpart 1. The department shall in a timely fashion refer a newborn infant to the ~~Child Development Services System~~ State's intermediate educational unit if at least 6 months have passed since an initial positive test result of a treatable congenital, genetic or metabolic condition without the specific nature of the condition having been confirmed. The department and the Department of Education shall execute an interagency agreement to facilitate all referrals made pursuant to this section. In accordance with the interagency agreement, the Department of Education shall offer a single point of contact for the Department of Health and Human Services to use in making referrals. Also in accordance with the interagency agreement, the ~~Child Development Services~~

~~System~~State's intermediate educational unit may make direct contact with the families who are referred. The referrals may be made electronically. For purposes of quality assurance and improvement, the ~~Child Development Services System~~State's intermediate educational unit shall supply aggregate data to the department at least annually on the numbers of children referred to the ~~Child Development Services System~~State's intermediate educational unit under this section who were found eligible and ineligible for early intervention services. The department shall supply data at least annually to the ~~Child Development Services System~~State's intermediate educational unit on how many children in the newborn blood spot screening program as established by rule of the department under section 1533, subsection 2, paragraph G were screened and how many were found to have a disorder.

**Sec. 25. 22 MRSA §3174-PP**, as enacted by PL 2009, c. 643, §1, is amended to read:

## **§ 3174-PP. Medicaid reimbursement for eligible services provided through school administrative units**

**1. Consultation.** Prior to adopting or amending any rule that pertains to the administration of a program of Medicaid coverage established by the department pursuant to this chapter for services that qualify for reimbursement and are provided through the auspices of ~~the Child Development Services System and~~State's intermediate educational unit and school administrative units in accordance with the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., the Office of MaineCare Services shall consult with the following interested parties on the proposed adoption or amendment of rules:

- A. The Commissioner of Education or the commissioner's designee;
- B. The Executive Director of the Maine School Management Association or the executive director's designee;
- C. The executive director of a statewide organization of administrators of services for children with disabilities or the executive director's designee;
- D. The executive director of a statewide organization for disability rights or the executive director's designee; and
- E. The Executive Director of the Maine Developmental Disabilities Council or the executive director's designee.

**2. Monthly report.** The Office of MaineCare Services shall prepare and submit at the beginning of each month a report that includes a detailed statement of the status of any proposed adoption or amendment of rules that pertain to the Medicaid programs specified in subsection 1 to the joint standing committee of the Legislature having jurisdiction over education matters and the joint standing committee of the Legislature having jurisdiction over health and human services matters.

**Sec. 26. 22 MRSA §8301-A, sub-§1-A, ¶B**, as amended by PL 2009, c. 211, Pt. B, §20, is further amended to read [**Effective July 1, 2026**]:

- B. "Child care facility" means a child care center, small child care facility or nursery school. "Child care facility" does not include a facility operated by a family child care provider, a youth camp

licensed under section 2495, programs offering instruction to children for the purpose of teaching a skill such as karate, dance or basketball, a formal public or private school in the nature of a kindergarten or elementary or secondary school approved by the Commissioner of Education in accordance with Title 20-A or a private school recognized by the Department of Education as a provider of equivalent instruction for the purpose of compulsory school attendance. Any program for children under 5 years of age that is located in a private school ~~and programs that contract with one or more Child Development Services System sites are~~ required to be licensed as a child care facility.

**Sec. 27. [22 MRSA §8824](#), sub-§1-A**, as amended by PL 2007, c. 695, Pt. A, §28, is further amended to read:

**1-A. Referral to Department of Education.** The department shall adopt rules according to which it shall in a timely fashion refer children identified in subsection 1 as having a high likelihood of having a hearing impairment to the ~~Child Development Services System~~ State's intermediate educational unit. The rules must also describe the timetables under which the department shall refer to the ~~Child Development Services System~~ State's intermediate educational unit children identified by the department in accordance with subsection 1 as having possible hearing impairment but for whom hearing impairment has been neither confirmed nor disconfirmed by 6 months of age. The Department of Education and the Department of Health and Human Services shall execute an interagency agreement to facilitate the referrals in this subsection. In accordance with the interagency agreement, the Department of Education shall offer a single point of contact for the Department of Health and Human Services to use in making referrals. Also in accordance with the interagency agreement, the ~~Child Development Services System~~ State's intermediate educational unit may make direct contact with the families who are referred. The referrals may take place electronically. For purposes of quality assurance and improvement, the ~~Child Development Services System~~ State's intermediate educational unit shall supply to the Department of Health and Human Services aggregate data at least annually on the number of children referred under this subsection who are found eligible for early intervention services and on the number of children found not eligible for early intervention services.

**Sec. 28. [22 MRSA §8943](#)**, as amended by PL 2007, c. 450, Pt. A, §9, is further amended to read:

### **§ 8943. Central registry**

The department shall establish and maintain a central registry for cases of birth defects to accomplish the purposes of this chapter and facilitate research on birth defects. The submission of information to and distribution of information from the central registry are subject to the requirements of this chapter and other provisions of law. Information that directly or indirectly identifies individual persons contained within the registry is confidential and must be distributed from the registry in accordance with rules adopted by the department. The department shall adopt rules according to which it will in a timely fashion refer to the ~~Child Development Services System~~ State's intermediate educational unit children with confirmed birth defects who may be eligible for early intervention. The department and the Department of Education shall execute an interagency agreement to facilitate the referrals under this section. In accordance with the interagency agreement, the Department of Education shall offer a single point of contact for the Department of Health and Human Services to use in making referrals. Also in accordance with the interagency agreement, the ~~Child Development Services~~



~~System~~State's intermediate educational unit may make direct contact with the families who are referred. The referrals may take place electronically. For purposes of quality assurance and improvement, the ~~Child Development Services System~~State's intermediate educational unit shall supply to the department aggregate data at least annually on the number of children referred under this section who were found eligible for early intervention services and on the number of children found not eligible for early intervention services. In addition, the department shall supply data at least annually to the ~~Child Development Services System~~State's intermediate educational unit on how many children had data entered into the registry. For a child whose parent or legal guardian objects on the basis of sincerely held religious belief, the department may not require the reporting of information about that child to the central registry or enter into the central registry information regarding birth defects of that child.

**Sec. 29. Transition provisions.** The following provisions govern the transition of responsibility for providing special education and related services to children with disabilities who are at least 3 years of age and under 6 years of age from the Child Development Services System to the school administrative units of residence and the closure of the Child Development Services System.

**1. Responsibility for children with disabilities from age three to under age six.** Notwithstanding the Maine Revised Statutes, Title 20-A, section 7209, subsection 3-A, the school administrative unit of residence is responsible for providing child find and special education and related services to children with disabilities at least 3 years of age and under 6 years of age on July 1, 2023.

**2. Regional sites.** The Department of Education shall adjust the Child Development Services System regional sites as necessary based on the school administrative units' capacity to serve students. As of July 1, 2023, the Child Development Services System will no longer be responsible for the provision of early childhood special education services to children with disabilities but will remain available to serve as a provider for the school administrative units until July 1, 2026.

**3. Funds.** The funds appropriated to the Child Development Services System, state intermediate educational unit for Part B, Section 619 services may be reallocated as necessary to the school administrative units effective July 1, 2023.

**4. Child Development Services System.** The Department shall ensure that any transition issues relating to the elimination of the Child Development Services System by July 1, 2026 are addressed.

**5. Funding mechanism.** The department shall develop a funding mechanism for the SIEU to be in place on or before July 1, 2026, which includes maximizing insurance billing for private insurance and MaineCare.

**6. Compensatory services.** The department shall pay 100% of costs for compensatory services for children with a disability from three years of age to under 6 years of age who have been underserved through the independent education unit model in for fiscal years 2024-2025 and 2025-2026.

**7. Budget.** The department shall develop a budget to include costs for school administrative units to serve children with disabilities at least 3 years of age and under 6 years of age.

**8. Total cost.** The department shall develop a projection of the total cost for each year of the transition and the anticipated total cost for each year after the transition.

**9. Infants and toddlers with disabilities.** On July 1, 2026, the responsibility for early intervention services for infants and toddlers with disabilities transfers from the Child Development Services System to the Board of the State Intermediate Educational Unit.

**10. Positions.** Child Development Services System positions must be eliminated on or before July 1, 2026. Part C employees shall be transferred to the State Intermediate Educational Unit on July 1, 2026. CDS Part B employees shall be offered the following beginning July 1, 2022:

1. Career counseling through the Department of Labor;
2. Coursework and expedited certification pathways to obtain certification in early childhood special education;
3. Retraining in early intervention services to serve in the State Intermediate Educational Unit; and
4. Retirement options.

**11. MePERS one-time election.** A CDS employee who transfers from CDS to a School Administrative Unit between July 1, 2022 and July 1, 2026, may, within 30 days of the transfer, make a one-time election to remain in Social Security or move into MePERS. MePERS shall establish a definition as necessary for employees under this section, and shall create a participating local district plan for employees who do not meet the definition of “teacher.”

**12. Report to the Joint Committee on Education and Cultural Affairs.** No later than February 1, 2023, and annually thereafter until the transition is complete, the Department of Education shall submit a report to the Joint Committee on Education and Cultural Affairs on the transition of the provision of services to eligible children birth to under age 6.

**Sec. 30. Rulemaking.** The Department of Education shall adopt rules to implement this Act. Rules adopted pursuant to this section are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A. The department shall submit the provisionally adopted rules under this section to the Legislature no later than January 13, 2023. Upon receipt of the Resolve provisionally adopting the rules under this section, the Joint Standing Committee on Education and Cultural Affairs may report out a bill to the 131<sup>st</sup> Legislature in 2023.

**Sec. 31. Board of Directors; appointments; staggered terms.** The Governor shall make all appointments to the Board of Directors of the State Intermediate Educational Unit pursuant to Title 20-A section 7105 no later than [DATE]. Notwithstanding Title 20-A section 7105, subsection 2, the Governor, for original appointments, shall designate their first appointment for a 2-year term or a 3-year term. An initial term of 2 years may not be considered a full term for purposes of limiting the number of terms for which a member may serve.

**Sec. 32. Effective date.** Those sections of this Act that amend the Maine Revised Statutes, Title 5, section 285, sub-§1, ¶F-7 and section 12021, sub-§6, ¶A, Title 20-A section 1001, sub-§9-B, section 5201, sub-§3, ¶E, section 6202, first ¶, section 7201, sub-§2-A, section 7204, sub-§4 and section 7252-A and Title 22 section 8301, sub-§1, ¶B take effect July 1, 2026.