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Resolve
123rd Legislature
Second Regular Session

Chapter 188
H.P. 1516 - L.D. 2136

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

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1 Adoption. Resolved: That final adoption of portions of Chapter 101: Maine Unified Special Education Regulation, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the provisionally adopted rule is amended as set out in this section.

1. The rule must be amended in Section VII by deleting the part of the rule designated "3. Determination of Adverse Effect for Children Three to Twenty."

2. The rule must be amended in Section VII by deleting the part of the rule designated "4. Needs special education and related services."

3. The rule must be amended in Section V in the part designated "1. Evaluations, Parental Consent, and Reevaluations" to establish provisions that require that an initial evaluation or a reevaluation of a child be conducted within 45 school days of receiving parental consent for the evaluation; and be it further

Sec. 2 Guidance on appropriate assessments. Resolved: That the Commissioner of Education shall provide administrative guidance to local educational agencies, including intermediate educational units and school administrative units, pertaining to the determination of adverse effect on educational performance for children from 3 to 20 years of age as set forth in the Department of Education Rule Chapter 101: Maine Unified Special Education Regulation as amended pursuant to section 1. The guidance provided to local educational agencies must explain the importance of using assessments that are appropriate to identify any area of educational performance that may be negatively influenced by the child's disability; and be it further

Sec. 3 Clarification of content of written notice. Resolved: That the Commissioner of Education shall provide guidance to school administrative units that clarifies the content of the written notice to be provided to the parents of a child with a disability as set forth in the Department of Education Rule Chapter 101: Maine Unified Special Education Regulation in "Appendix 1" in the part designated "Written Notice." The guidance provided to school administrative units must clarify that the contents of the written notice provided to parents must be equivalent to the detailed summary and descriptions required by the former Department of Education Rule Chapter 101 provisions for the minutes of pupil evaluation team meetings.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective April 8, 2008.