

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND ELEVEN

—
H.P. 88 - L.D. 106

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

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 Birth to Age Twenty, 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 following changes are made:

1. The rule must be amended in Section II to clarify that the definition of "adverse effect/adversely affects" means to have a negative impact that is more than a minor or transient hindrance;

2. The rule must be amended in Section VI in the part concerning an abbreviated school day to require that the Individualized Education Program Team must convene every 20 school days if a child with a disability does not return to a full-time school day

within 45 calendar days after the Individualized Education Program Team initially determined that an abbreviated school day is appropriate and necessary for the child;

3. The rule must be amended in Section VII in the part concerning multiple disabilities by deleting the procedural step that requires the Individualized Education Program Team to make a determination that the concomitant disabilities adversely affect the child's educational performance;

4. The rule must be amended in Section VII in the part concerning the procedure for determination of adverse effect on educational performance by deleting "specific learning disability" from the list of disability eligibility categories that require this procedural step;

5. The rule must be amended in Section VIII to correct a cross-reference to the definition of "3-5 (Three to under age 6)," which has been renumbered as part 39, and the table of contents for the rule must also be amended to correct the inadvertent deletion of this part of the definition section; and

6. The rule must be amended in Section X in the part concerning tutorial instruction by deleting the provision that specifies that the Individualized Education Program Team determines who will provide the tutorial instruction to a child with a disability.

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

In House of Representatives, 2011

Read and passed finally.

..... Speaker

In Senate, 2011

Read and passed finally.

..... President

Approved 2011

..... Governor