

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE

H.P. 1273 - L.D. 1724

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 replace the definition of pre-referral procedures with language defining general education intervention;
2. The rule must be amended in Section V, subsection 6, paragraph F so that the educational observations are not described as unrestricted;
3. The rule must be amended in Section VII, subsection 1, paragraph A, subparagraph (1) in the part concerning "Eligibility Criteria For Children B-2" to include the list of

conditions in the definition of "infant or toddler with a disability" that is included in 34 Code of Federal Regulations, Section 303.21 but is not included in the provisionally adopted rule;

4. The rule must be amended in Section XI to amend the definition of the term health services to be consistent with the definition as amended in 34 Code of Federal Regulations, Section 303.16; and

5. The rule must be amended in Sections XI and XVIII so that reference is made to school psychologists instead of school psychological service providers; and be it further

Sec. 2. Authorization. Resolved: That final adoption of certain sections and the appendix of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, a provisionally adopted major substantive rule of the Department of Education, that were submitted to the 125th Legislature for review in Legislative Document 1782, House Paper 1307, "Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age Twenty, Including Certain Sections and the Appendix, a Major Substantive Rule of the Department of Education," to ensure that the Chapter 101 rule complies with changes in federal regulations pertaining to the Part C provisions of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., as amended, is authorized.

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

In House of Representatives, 2012

Read and passed finally.

..... Speaker

In Senate, 2012

Read and passed finally.

..... President

Approved 2012

..... Governor