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Public Law
123rd Legislature
First Regular Session

Chapter 111
H.P. 132 - L.D. 150

**An Act To Amend and Improve the Education Laws
Concerning Portable Space and Rule-making Authority**

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

Sec. 1. 20-A MRSA §5001-A, sub-§3, ¶A, as amended by PL 2003, c. 181, §1, is further amended to read:

A. Equivalent instruction alternatives are as follows.

(1) A person is excused from attending a public day school if the person obtains equivalent instruction in:

(a) A private school approved for attendance purposes pursuant to section 2901;

(b) A private school recognized by the department as providing equivalent instruction;

(c-1) A home instruction program that complies with the requirements of subparagraph (4); or

(d) Any other manner arranged for by the school board and approved by the commissioner.

(2) A student is credited with attendance at a private school only if a certificate showing the name, residence and attendance of the person at the school, signed by the person or persons in charge of the school, has been filed with the school officials of the administrative unit in which the student resides.

(4) The following provisions govern a home instruction program.

(a) The student's parent or guardian shall provide a written notice of intent to provide home instruction simultaneously to the school officials of the administrative unit in which the student resides and to the commissioner within 10 calendar days of the beginning of home instruction. The notice must contain the following information:

(i) The name, signature and address of the student's parent or guardian;

(ii) The name and age of the student;

(iii) The date the home instruction program will begin;

(iv) A statement of assurance that indicates the home instruction program will provide at least 175 days annually of instruction and will provide instruction in the following subject areas: English and language arts, math, science, social studies, physical education, health education, library skills, fine arts and, in at least one grade from grade 6 to 12, Maine studies. At one grade level from grade 7 to 12, the student will demonstrate proficiency in the use of computers; and

(v) A statement of assurance that indicates that the home instruction program will include an annual assessment of the student's academic progress that includes at least one of the forms of assessment described in division (b).

(b) On or before September 1st of each subsequent year of home instruction, the student's parent or guardian shall file a letter with the school officials of the administrative unit in which the student resides and the commissioner stating the intention to continue providing home instruction and enclose a copy of one of the following forms of annual assessment of the student's academic progress:

(i) A standardized achievement test administered through the administrative unit in which the student resides or through other arrangements approved by the commissioner. If the test is administered through the administrative unit in which the student resides, that administration must be agreed to by the school officials of the administrative unit prior to submission of the written notice of intent to provide home instruction;

(ii) A test developed by the school officials of the administrative unit in which the student resides appropriate to the student's home instruction program, which must be agreed to by the school officials of the administrative unit prior to submission of the written notice of intent to provide home instruction;

(iii) A review and acceptance of the student's progress by an identified individual who holds a current Maine teacher's certificate;

(iv) A review and acceptance of the student's progress based on, but not limited to, a presentation of an educational portfolio of the student to a local area homeschooling support group whose membership for this purpose includes a currently certified Maine teacher or administrator; or

(v) A review and acceptance of the student's progress by a local advisory board selected by the superintendent of the administrative unit in which the student resides that includes one administrative unit employee and 2 home instruction tutors. For the purpose of this subdivision, a "home instruction tutor" means the parent, guardian or other person who acts or will act as a primary teacher of the student in the home instruction program. This provision must be agreed to by the school officials of the administrative unit in which the student resides prior to submission of the written notice of intent to provide home instruction.

(c) Dissemination of any information filed under this subparagraph is governed by the provisions of section 6001; the federal Family Educational Rights and Privacy Act of 1974, 20 United States Code, Section 1232g (2002); and the federal Education for All Handicapped Children Act of 1975, 20 United States Code, Sections 1401 to 1487 (2002), except that "directory information," as defined by the federal Family Educational Rights and Privacy Act of 1974, is confidential and is not subject to public disclosure unless the parent or guardian specifically permits disclosure in writing or a judge orders otherwise. Copies of the information filed under this subparagraph must be maintained by the student's parent or guardian until the home instruction program concludes. The records must be made available to the commissioner upon request.

(d) If the home instruction program is discontinued, students of compulsory school age must be enrolled in a public school or an equivalent instruction alternative as provided for in this paragraph. The receiving school shall determine the placement of the student. At the secondary level, the principal of the receiving school shall determine the value of the prior educational experience toward meeting the standards of the system of learning results as established in section 6209.

~~(e) The commissioner shall amend or adopt rules to accomplish the purposes of this subparagraph. Rules adopted pursuant to this division are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.~~

Sec. 2. 20-A MRSA §7404, sub-§1, as amended by PL 1999, c. 775, §5, is further amended to read:

1. Funding. Students from this State may attend the school free of tuition and room and board expense. Funding for these students is provided by legislative appropriation based on the services necessary, including room and board, to satisfy the individualized education programs of the students; ~~as defined by department rule. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter H-A.~~ Funding must support maintenance of the center school

and that portion of the island used by the center school, security, outreach services, adult education, access to the education network of Maine and operations of the center school, including the residential program, parent-infant program, preschool program and communication garden program. Funding must also support maintenance and operations of any satellite school.

Sec. 3. 20-A MRSA §15672, sub-§2-A, ¶B, as enacted by PL 2005, c. 2, Pt. D, §36 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is amended to read:

B. Lease costs for school buildings when the leases, including leases under which the school administrative unit may apply the lease payments to the purchase of portable, temporary classroom space beginning January 1, 1988, have been approved by the commissioner for the year prior to the allocation year. ~~Beginning July 1, 1998 lease~~Lease costs include costs for leasing:

(1) Administrative space. ~~A school administrative unit may lease administrative space with state support until July 1, 2003.~~ A school administrative unit engaged in a state-approved lease-purchase agreement for administrative space is eligible for state support until July 1, 2008;

(2) Temporary and interim nonadministrativeinstructional space. Temporary space is instructional space consisting of one or more mobile or modular buildings that are portable, that are constructed on- or off-site and that can be disassembled and moved economically to a new location. Interim instructional space is fixed instructional space that a school administrative unit rents for a defined period of time and then vacates at the end of the lease.

(a) A school administrative unit with state-approved need for nonadministrativeinstructional space may lease temporary or interim space, with state support, for a maximum of 5 years. A school administrative unit may appeal to the state board~~commissioner~~ if this limitation presents an undue burden. When making a determination on a school administrative unit's request for relief based on undue burden, the state board~~commissioner~~ may consider, but is not limited to considering, the following:

(i) Fiscal capacity;

(ii) Enrollment demographics; and

(iii) Unforeseen circumstances not within the control of the appealing school administrative unit.

An extension granted by the commissioner beyond the 5-year maximum for state support is limited to a period of one year. Any additional request for extensions must be submitted and reviewed on an annual basis. The state board's commissioner's decision is final.

(b) A school administrative unit ~~engaged with state-approved need for instructional space may engage~~ in a lease-purchase agreement for temporary or interim nonadministrative instructional space ~~is eligible for~~ state support for a maximum of ~~105~~ years; and

(3) Permanent small ~~nonadministrative instructional~~ space that replaces ~~or is converted from~~ existing approved leased ~~portable temporary or interim instructional~~ space. ~~The existing approved leased portable space will be eligible for state support until July 1, 2003.~~ Permanent small instructional space consists of new buildings or additions to existing buildings that are secured to a permanent foundation. Once an existing leased ~~portable temporary or interim instructional~~ space has been ~~converted into~~ replaced by a permanent ~~nonadministrative small instructional~~ space through an approved lease-purchase financing agreement, that space is eligible for state support for a maximum of 10 years.

The department shall adopt rules necessary to implement this paragraph. Rules adopted by the department to implement this paragraph are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A; and

Sec. 4. 20-A MRSA §15672, sub-§2-A, ¶C, as enacted by PL 2005, c. 2, Pt. D, §36 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is amended to read:

C. The portion of the tuition costs applicable to the insured value factor for the base year computed under section 5806; and.

Sec. 5. 20-A MRSA §15672, sub-§2-A, ¶D, as enacted by PL 2005, c. 2, Pt. D, §36 and affected by §§72 and 74 and c. 12, Pt. WW, §18, is repealed.

Effective September 20, 2007