

STATE OF MAINE

 IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

 S.P. 38 - L.D. 151

An Act To Align State Law with Current Practice Regarding Required School Attendance

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

Sec. 1. 20-A MRSA §3271, sub-§1, as enacted by PL 1985, c. 490, §8, is amended to read:

1. Required attendance. Persons residing in the unorganized territory who are at least ~~7~~ 6 years of age and under 17 years of age shall attend a public day elementary or secondary school or an approved private school during the time it is in session.

Sec. 2. 20-A MRSA §3271, sub-§1-A, as enacted by PL 2019, c. 235, §1, is amended to read:

1-A. Attendance of persons 5 years of age or older and under 6 years of age. A person 5 years of age or older and under ~~7~~ 6 years of age who is enrolled in and who has not withdrawn from a public day school is required to attend that school during the time it is in session.

Sec. 3. 20-A MRSA §3271, sub-§2, as amended by PL 2019, c. 235, §2, is further amended to read:

2. Alternative instruction. Alternative instruction may be substituted for attendance in a day school in the following cases when approved by the school principal. A person 5 years of age or older and under ~~7~~ 6 years of age is not required to meet the requirements of this subsection.

A. The person is enrolled in an approved special education program.

B. The person obtains equivalent instruction through alternative learning or in any other manner arranged or approved by the commissioner.

Sec. 4. 20-A MRSA §3272, sub-§2, ¶B, as amended by PL 2019, c. 235, §3, is further amended to read:

B. The person is required to attend school or alternative instruction and is at least 7 6 years of age and has not completed grade 6 under this chapter and has the equivalent of 7 full days of unexcused absences or 5 consecutive school days of unexcused absences during a school year; or

Sec. 5. 20-A MRSA §4502, sub-§1-A is enacted to read:

1-A. Developmentally appropriate educational practices; kindergarten to grade 2. The commissioner shall adopt rules to address developmentally appropriate educational practices for kindergarten to grade 2. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 275, subchapter 2-A.

Sec. 6. 20-A MRSA §5001-A, sub-§1, as enacted by PL 1983, c. 806, §49, is amended to read:

1. Requirement. Persons 7 6 years of age or older and under 17 years of age shall attend a public day school during the time it is in regular session.

Sec. 7. 20-A MRSA §5001-A, sub-§1-A, as enacted by PL 2019, c. 235, §4, is amended to read:

1-A. Attendance of persons 5 years of age or older and under 6 years of age. A person 5 years of age or older and under 7 6 years of age who is enrolled in and who has not withdrawn from a public day school is required to attend that school during the time it is in session.

Sec. 8. 20-A MRSA §5001-A, sub-§3, as amended by PL 2019, c. 235, §5, is further amended to read:

3. Alternatives to attendance at public day school. Alternatives to attendance at public day school are as follows. A person 5 years of age or older and under 7 6 years of age is not required to meet the requirements of this subsection.

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.

B. A person may be excused from attendance at a public day school pursuant to section 5104-A or section 8605.

Sec. 9. 20-A MRSA §5051-A, sub-§1, ¶C, as amended by PL 2019, c. 235, §7, is amended to read:

C. Is at least ~~7~~ 6 years of age and has not completed grade 6 and has the equivalent of 7 full days of unexcused absences or 5 consecutive school days of unexcused absences during a school year; or

Sec. 10. Basic approval standards; rulemaking. The Commissioner of Education shall amend the Department of Education rule Chapter 125: Basic Approval Standards: Public Schools and School Administrative Units to address developmentally appropriate educational practices for kindergarten to grade 2. The rule must be amended to provide for:

1. Classroom instruction with hands-on experiences with concrete materials and opportunities for students to interact with the world, ask questions, seek answers to questions and reflect on learning;

2. Instruction that includes integration of learning experiences from all content areas arranged around themes relevant to the lives of students in kindergarten to grade 2; and

3. An integrated school day that includes opportunities for student-centered and teacher-directed time combined with large and small group instruction.

Rules adopted or amended pursuant to this section are major substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A. The commissioner shall provisionally adopt the amended rules and submit the provisionally adopted rules to the Executive Director of the Legislative Council by January 10, 2020.