

ACTS, RESOLVES AND CONSTITUTIONAL RESOLUTIONS

AS PASSED BY THE

One Hundred and Sixth Legislature

OF THE

STATE OF MAINE

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THE KNOWLTON AND McLEARY COMPANY  
FARMINGTON, MAINE  
1973

Any unexpended balance shall not lapse but remain a continuing carrying account.

Effective October 3, 1973

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## CHAPTER 609

### AN ACT Relating to Exceptional Children.

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

Sec. 1. R. S., T. 20, c. 404, additional. Title 20 of the Revised Statutes is amended by adding a new chapter 404 to read as follows:

### CHAPTER 404

#### EXCEPTIONAL CHILDREN

##### § 3121. Purpose

It is the declared policy of this State to provide equal educational opportunities for all children. It is the purpose of this chapter to insure that all school administrative units provide equal educational opportunities for all exceptional children. It is deemed to be appropriate to provide educational services within regular programs with supportive assistance, within regulations promulgated by the State Department of Educational and Cultural Services. Exception to this policy shall be based on appropriate supporting evaluative data submitted by a school administrative unit to the commissioner explicitly indicating a child cannot be properly served in a regular program.

##### § 3122. Services mandatory

The commissioner shall provide or cause to be provided by administrative units all regular and special education, corrective and supporting services required by exceptional children to the end that they shall receive the benefits of a free public education appropriate to their needs. It shall be within the jurisdiction of the commissioner to require that schools and classes in all institutions, wholly or partly supported by the State, which are not supervised by public school authorities, be organized according to the regulations established by him for the conduct of schools and classes of the public school system.

##### § 3123. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Exceptional child. "Exceptional child" means any person between the ages of 5 and 20 determined to be mentally handicapped, emotionally handicapped, hearing impaired, speech and language impaired, learning disabled, visually impaired, physically handicapped or multiply handicapped, as defined by the Maine Department of Educational and Cultural Services.

2. Special education. "Special education" means classroom, home, hospital, institutional or other instruction to meet the needs of exceptional children, diagnosis and evaluation, transportation and corrective and supporting services, as defined by the commissioner, required to assist exceptional children.

3. Special education facility. "Special education facility" means a school or any portion thereof, intended for use in meeting the educational, corrective and related needs of exceptional children.

#### § 3124. Facilities

Physical aspects and specifications of schools, classrooms and other facilities for use by exceptional children shall be related to their educational, physical, psychological and social needs. To this end, administrative units, agencies of the State, and its subdivisions, and any private persons or entities constructing, renovating or repairing facilities with or aided by public funds, which facilities are intended to be used for the education of exceptional children, shall plan, locate, design, construct, equip and maintain them with due regard for the special capabilities, handicaps and requirements of the exceptional children to be accommodated therein.

No school or school-related construction, renovation, remodeling, expansion or modification shall be eligible for state aid pursuant to chapter 512, unless the State Board of Education finds that it is in conformity with Title 25, sections 2701 to 2703, prohibiting architectural barriers for the handicapped.

#### § 3125. Plans and specifications

Plans and specifications for every special education facility shall be prepared in 2 parts, as follows :

1. Statement. A statement of the educational and related objectives and functions to be served and the uses to be made of the facility;

2. Plans —architectural plans and specifications. If the administrative unit submits plans and specifications for a building, or other structure, which does not include appropriate accommodations for its exceptional children, the State Board of Education shall require assurance that the submitting authority has other facilities adequate to meet the needs of its exceptional children.

#### § 3126. Identification of a unit

The commissioner is authorized to employ such personnel, subject to the Personnel Law, as may be necessary to achieve the purposes of this chapter.

#### § 3127. Appropriate services for exceptional children

Each administrative unit shall provide appropriate education and training for exceptional children, as set forth in this Title, and in any other statutes and regulations of the Commissioner and State Board of Education, by any one or a combination of the following methods.

1. Approval. An appropriate program for exceptional children may be established in any administrative unit provided it is approved by the commissioner as to requirements for admission, teacher preparation, plan of instruction, necessary facilities and supervision.

2. Contract. An administrative unit may contract with, or tuition to, another administrative unit or any approved public or private agency or institution to provide a program for the education of exceptional children. Such contract shall be subject to approval by the commissioner.

3. Cooperative agreement. An administrative unit may enter into a cooperative agreement with one or more administrative units under sections 309, 309-A and 309-B. Programs established under this section shall be subject to approval by the State Board of Education.

In addition to subsections 1, 2 and 3, an administrative unit shall make any other provisions, subject to approval by the commissioner, to insure the education of all exceptional children as may become necessary.

#### § 3128. Responsibility of administrative units

Every administrative unit shall appropriate sufficient funds and shall provide adequate instructional facilities for the education of all exceptional children as set forth in this Title and in any other statutes.

The guidelines developed by the commissioner will establish procedures to assure the rights of due process for all children referred to in this Title.

#### § 3129. State plan

The commissioner shall make and keep current by annual review a state plan for the education of all exceptional children. This state plan shall be presented to the Governor and be made available for public distribution.

#### § 3130. Local planning and responsibility

The administrative unit shall provide the commissioner with such information as may be required to insure compliance with the policy set forth in this Title.

#### § 3131. Identification of exceptional children

The administrative unit shall establish procedures to identify all children who require special education. The administrative unit of residence shall provide diagnosis and evaluation as necessary for the planning and implementation of a special education program for each exceptional child.

Nothing in this chapter shall be construed to authorize or require physical examinations or medical treatment of any child whose parent objects thereto on the grounds he relies solely upon nonmedical remedial care and treatment in accordance with a recognized religious method of healing.

#### § 3132. Records

The administrative unit shall make and keep current records of all exceptional children under section 3131 and all other children who are residents of the administrative unit and are receiving home, hospital, institutional or other special education in other than regular programs.

§ 3133. Technical assistance

The commissioner, upon the request of any school administrative unit, shall provide technical assistance in the formulation of any plan or subsequent report required pursuant to section 3129. However, any such assistance shall not be designed to transfer either in whole or in part the responsibility for or actual development of the plan or report. The commissioner shall give final approval to all plans or reports.

§ 3134. In-service education

Administrative units may raise and appropriate money for in-service education of teachers and other school personnel.

§ 3135. Direct state action

1. Denial of state aid. If, at any time after July 1, 1975, an administrative unit is found by the commissioner to have failed to provide the necessary education to all exceptional children who by law are entitled to receive the same from such administrative unit, the commissioner may withhold all or such portion of the state aid for the administrative unit as, in his judgment, is warranted. The denial of state aid may continue until the failure to provide appropriate education for exceptional children is remedied.

2. —public hearing. No action pursuant to subsection 1 shall be taken by the commissioner, except after public hearing, by the State Board of Education, on due notice and on a record that establishes the failure of the administrative unit to provide an appropriate education for exceptional children.

3. —waiver. Notwithstanding the provision of subsection 1, if the commissioner is presented with substantial evidence by an administrative unit that significant hardship exists, he may waive enforcement of this statute until July 1, 1977.

§ 3136. State aid to be provided

The State shall provide financial aid to administrative units for educational and related services provided by them for exceptional children. Such aid shall include the following elements:

1. Remedial services. The education of exceptional children in school programs designed to meet their special needs; and the furnishing of corrective or remedial services designed to assist exceptional children.

2. Evaluation. Screening, diagnosis and evaluation as is necessary for the planning and implementation of a special education program;

3. Transportation. The furnishing of round-trip transportation to the facility where the public or private day program is provided;

4. Tuition. The furnishing of tuition to day or residential schools, in-state or out-of-state;

5. Room and board. The furnishing of room and board, not to exceed an amount determined by the commissioner, in lieu of daily conveyance to a special education facility, in-state or out-of-state;

6. Contracts. Contracts with appropriate agencies for provisions of educational services for exceptional children, providing the contract is approved by the commissioner.

#### § 3137. Tuition computation

Any administrative unit operating a program under the authority granted in this chapter may compute an annual tuition rate in either of the following manners:

1. Actual costs. Itemization of the actual costs of the program which was offered;

2. Salary. The salary paid to special education teachers shall be increased by 35% to compensate for the operating costs not included in salaries, and the resulting amount shall be divided by the average daily membership of students in special education classes for the same fiscal year. The per pupil cost thus determined shall become the legal tuition charge for the following school year.

A private school shall compute an annual tuition rate based on the actual per pupil cost incurred in the operation of the program during the preceding school year. The per pupil tuition charge shall be computed on the basis of financial reports filed by the private school. Such financial reports shall be filed July 1st of each year in such form as the commissioner may require, and the allowable tuition charge may not exceed the per pupil operating cost as determined from the financial reports of the preceding school year.

The commissioner shall approve all tuition charges. It is the legislative intent that any increase shall not be in excess of 115% of the preceding year's cost, unless sufficient evidence is presented to the commissioner by the private facility that a hardship would exist if the proposed tuition rate is not granted.

Any administrative unit or private agency establishing a new special education program may charge a tuition rate which is based on the estimated cost of the new program as it is approved by the commissioner.

#### § 3138. Preschool hearing impaired

Appropriations made under this chapter may be used to make expenditures to institutions and organizations for speech and language education of hearing and language impaired children who have not become of compulsory school age.

#### § 3139. Amounts of aid

Any administrative unit which has maintained an approved program of education for exceptional children shall receive reimbursement from the State for all of the cost in excess of the unit's per pupil expenditure.

## § 3140. Contributions

The commissioner is authorized to receive contributions and donations to be used in conjunction with appropriations made to carry out the provisions and requirements of this chapter. The Department of Educational and Cultural Services is designated as the agency for cooperation with the Federal Government in any program for the education of exceptional children.

## § 3141. Savings provision

Nothing contained in this chapter shall be construed to prevent or impair the administration or enforcement of any other provision of the laws of this State.

Sec. 2. R. S., T. 20, c. 403, repealed. Chapter 403 of Title 20 of the Revised Statutes, as amended, is repealed.

Effective October 3, 1973

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## CHAPTER 610

### AN ACT Relating to the Public Employees Labor Relations Board.

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

Sec. 1. R. S., T. 26, § 968, sub-§ 1, repealed and replaced. Subsection 1 of section 968 of Title 26 of the Revised Statutes, as enacted by section 1 of chapter 424 of the public laws of 1969 and as repealed and replaced by section 9 of chapter 609 of the public laws of 1971, and as amended, is repealed and the following enacted in place thereof:

1. Public Employees Labor Relations Board. The Public Employees Labor Relations Board shall consist of 3 members and 3 alternates to be appointed by the Governor, with the advice and consent of the Council. The Governor, in making his appointments, shall name one member and one alternate to represent public employees, one member and one alternate to represent public employers and the 3rd member and alternate to represent the public. The member representing the public shall be the board's chairman. Members of the board shall each receive \$75 a day, except for the chairman who shall receive \$100 per day, for their services for the time actually employed in the discharge of their official duties. The alternates shall be paid at the same per diem rate as the member that the alternate replaces. The term of each member and each alternate shall be for a period of 4 years; provided that of the members and alternates first appointed, one member and one alternate shall be appointed for a period of 4 years, one member and one alternate shall be appointed for a period of 3 years and one member and one alternate shall be appointed for a period of 2 years. The members of the board and the alternate shall receive necessary expenses on the approval of the Commissioner of Labor and Industry.

Sec. 2. Appropriation. There is appropriated from the General Fund to the Public Employees Labor Relations Board the sum of \$27,778 to carry out their duties imposed under the law. The breakdown shall be as follows: