



131st MAINE LEGISLATURE

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Legislative Document

No. 1309

H.P. 834

House of Representatives, March 23, 2023

**An Act to Clarify Requirements for Payment of Tuition for
Children with Disabilities by the Department of Education's Child
Development Services System**

(EMERGENCY)

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative GATTINE of Westbrook.
Cosponsored by Senator PIERCE of Cumberland and
Representatives: BRENNAN of Portland, CRAFTS of Newcastle, JAVNER of Chester,
LANIGAN of Sanford, MEYER of Eliot, MILLETT of Cape Elizabeth, MURPHY of
Scarborough.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** Maine has committed to safeguarding and expanding the number of
4 available slots for early childhood education across the State; and

5 **Whereas,** certain special purpose private schools and private general purpose
6 agencies that provide both educational services and medically necessary behavioral health
7 services to children with disabilities who have not attained 6 years of age do not have access
8 to tuition payments for educational services and are receiving only MaineCare payments
9 for medically necessary behavioral health services; and

10 **Whereas,** the ongoing lack of tuition payments for educational services threatens the
11 continued economic viability of schools and agencies that provide both educational
12 services and medically necessary behavioral health services to children with disabilities
13 who have not attained 6 years of age and the ability of those schools and agencies to
14 continue to provide needed special education services; and

15 **Whereas,** a shortage of high-quality, affordable early childhood education and care is
16 a crisis for affected families and for organizations who support them, and the young
17 children with special education needs served by these agencies are not appropriately served
18 by other available community child care providers; and

19 **Whereas,** without these special purpose private preschools, hundreds of children
20 would lose access to professional, specialized prekindergarten education and care and
21 would likely become dependent upon their families for that education and care; and

22 **Whereas,** specialized, early intervention is particularly vital for these children and
23 families, since it gives these children the best chance to develop cognitive, physical, social
24 and emotional skills to prepare them for future education and life challenges; and

25 **Whereas,** tuition payments for educational services are provided to special purpose
26 private schools and agencies serving children in elementary and secondary school, but are
27 not provided when the child has not attained 6 years of age; and

28 **Whereas,** restoration and full payment of tuition payments for educational services
29 for children with disabilities who have not attained 6 years of age will improve the
30 economic viability of schools and agencies and foster their ability to continue to provide
31 these important services; and

32 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
33 the meaning of the Constitution of Maine and require the following legislation as
34 immediately necessary for the preservation of the public peace, health and safety; now,
35 therefore,

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

37 **Sec. 1. 20-A MRSA §7302, sub-§2, ¶G** is enacted to read:

38 G. A special purpose private school or private general purpose agency that provides
39 both educational and medically necessary behavioral health services to children with
40 disabilities who have not attained 6 years of age is entitled to receive payment for the
41 educational services they provide from the Child Development Services System.

Before the beginning of the 2023-2024 school year, the Child Development Services System shall cooperate with special purpose private schools and private general purpose agencies to establish appropriate daily rates for the educational component of services provided by special purpose private schools and private general purpose agencies, relying on the methodology currently being used for the establishment of daily rates for public schools and special purpose private schools serving children in elementary and secondary school. Following the establishment of the daily rates, the Child Development Services System shall make payments required by this paragraph to special purpose private schools and private general purpose agencies at the established daily rates for the educational services they provide.

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

SUMMARY

This bill requires special purpose private schools and private general purpose agencies that provide both educational and behavioral health services to children with disabilities who have not attained 6 years of age receive payments for the educational services they provide from the Child Development Services System within the Department of Education. The bill requires that the Child Development Services System work with these private schools and general purpose agencies to establish, prior to the beginning of the 2023-2024 school year, appropriate daily rates for payments for the educational component of their services. These daily rates rely on the daily rate methodology now used. These daily rates must then be used to calculate payments for educational services.