

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

H.P. 95 - L.D. 127

Resolve, Regarding Legislative Review of Portions of Chapter 101: Maine Unified Special Education Regulation Birth to Age 20, 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 20, 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 to the provisionally adopted major substantive rule.

The rule must be amended in Section VII.2.L(2), which concerns the determination by the Individualized Educational Program Team, referred to in this resolve as "the IEP Team," of the existence of a specific learning disability using a pattern of appropriate assessments, by:

1. Inserting in Section VII.2.L(2)(a)(ii)(aa) the requirement that the general education interventions under Section III of the rule must be included in the data collected by the IEP Team when the team uses a process based on the child's response to scientific, research-based intervention; and

2. Removing from Section VII.2.L(2)(a)(ii)(dd) the limitation that the psychological processing data from standardized measures to identify contributing factors must be considered only as available and as determined to be relevant by the child's IEP Team.

The Department of Education is not required to hold hearings or undertake further proceedings prior to final adoption of the rule in accordance with this section.

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