

**An Act Making Unified Supplemental Appropriations and Allocations for the Expenditures of
State Government, General Fund and Other Funds, and Changing Certain Provisions of the
Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June
30, 2024 and June 30, 2025**

PART W

Sec. W-1. 20-A MRSa §7001 as amended by PL 2023, c.405 is further amended to read:

§7001. Definitions

As used in this subpart, unless the context otherwise indicates, the following terms have the following meanings:

1. Agency. "Agency" means ~~an~~ a public, quasi-governmental, or private agency, school, organization, facility or institution.

1-A. Child Development Services System. "Child Development Services System" means the state intermediate educational unit under section 7209, subsection 3, and any regional sites it chooses to establish regional sites and maintain, to ensure the provision of child find activities, early intervention services and, where designated by the commissioner, free, appropriate public education services to eligible children. As school administrative units begin to assume responsibility for ensuring a free appropriate public education for students under IDEA Part B Section 619, Child Development Services sites shall serve as regional service hubs, providing supports and resources to the local schools as determined by memoranda of understanding between department of education and the SAU.

1-A2. CDS Regional site. CDS is organize into 9 regional sites across the state. By April, 2024, these sites will be aligned with SAUs through the 9 Superintendent Regions.

1-A3. CDS Regional Service Hub. After responsibility for ensuring a free appropriate public education transitions to the School Administrative Units, CDS will support schools in serving children in each region through regional service hubs as determined by an MOU.

1-B. Child with a disability. "Child with a disability" means:

A. For children from birth to under 3 years of age:

(1) A child who needs early intervention services because the child has a significant developmental delay, as measured by both diagnostically appropriate instruments

and procedures, in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; and adaptive development; or

(2) A child with a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay, with the condition being such that the child needs early intervention services; or

B. For children at least 3 years of age and under 22 years of age evaluated in accordance with the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1414, subsections (a) to (c) as measured by both standardized, norm-referenced diagnostic instruments and appropriate procedures with delays or impairments such that the children need special education:

(1) A child at least 3 years of age and under 6 years of age with a significant developmental delay, at the discretion of the intermediate educational unit or school administrative unit, as defined in rules adopted by the department, in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; adaptive development; or

(2) A child with at least one of the following:

- (a) Intellectual disability;
- (b) Deafness, including hearing loss;
- (c) Speech or language impairment;
- (d) Visual impairment, including blindness;
- (e) Emotional disability;
- (f) Orthopedic impairment;
- (g) Autism;
- (h) Traumatic brain injury;
- (i) Other health impairment;
- (j) Specific learning disabilities;
- (k) Deaf-blindness; and
- (l) Multiple disabilities.

1-C. Early intervention services. "Early intervention services" means developmental services that are provided under public supervision; are provided at no cost except where federal or state law provides for a system of payments by families, including a schedule of sliding fees; are designed to meet the developmental needs of a child with a disability, as identified by the individualized family service plan team, in one or more areas including physical development, cognitive development, communication development, social or emotional development and adaptive development; meet the standards of the State; are provided by qualified personnel; to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate; and are provided in conformity with an individualized family service plan.

1-D. Child eligible under IDEA Part B Section 619. "Child eligible under IDEA Part B Section 619" means a pre-K student who is 3, 4, or 5 years of age and requires special education and related services in order to access a free, appropriate, public, education in a pre-k classroom.

2. Exceptional student.

2-A. Free, appropriate public education. "Free, appropriate public education" means special education and related services that are provided at public expense, under public supervision and direction and without charge; meet the standards of the department; include an appropriate preschool, elementary school or secondary school education in the State; and are provided in conformity with the individualized family service plan or individualized education program. The Child Development Services System shall provide free, appropriate public education to a preschool child with disabilities who reaches 5 years of age between July 1st and October 15th if that child is already receiving free, appropriate public education through the Child Development Services System and the child's individualized education program team determines, in accordance with rules adopted by the commissioner, that it is in the best interest of the child not to enroll that child in kindergarten until the start of the following school year.

2-B. Intermediate educational unit. "Intermediate educational unit" means an entity that meets the definition of intermediate educational unit in the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1402, (23) as in effect prior to June 4, 1997 and that is a public authority, other than a local educational agency, under the general supervision of

the department, that is established for the purpose of providing free public education on a regional basis and that provides special education and related services to children with disabilities within the State. An intermediate educational unit is considered a local educational agency under federal law. In this State, a local educational agency is a school administrative unit. For purposes of this chapter all references to school administrative units include intermediate educational units.

2-C. Individualized education program team. "Individualized education program team"

means the group of individuals composed in accordance with Part B of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1414(d)(1)(B) to determine the individualized education program for a child with a disability.

2-D. Individualized family services plan. "Individualized family services plan" means the plan to provide early intervention services in accordance with Part C to an infant or toddler with a disability or to the infant's or toddler's family in the natural setting (home, childcare, or other community setting).

3-A. Part B, Section 619. "Part B, Section 619" means Part B, section 619 of the federal Individuals with Disabilities Education Act (IDEA), 20 United States Code, Section 1400 et seq, which is a federal grant program intended to help states ensure that pre-k students with disabilities receive free appropriate special education and related services in the least restrictive environment.

3-B. Part C. "Part C" means Part C of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., which describes early intervention programs and services, provided in the natural setting, for infants and toddlers with disabilities.

3-C. Extended Part C Option. "Extended part C option" allows families to continue early intervention programming through an Individual Family Service Plan after a child's 3rd birthday. Children in Part C early intervention programs are evaluated when they turn 3 years of age and, if they continue to qualify, they either enroll in a pre-K classroom to receive services through an IEP or they may remain in the "natural setting" (at home, at a childcare setting, or at another community based program) and continue to receive early intervention services under the extended Part C option. This option will be available in Maine beginning in March, 2024.

4-B. Related services. "Related services" means special education transportation and such developmental, corrective and other related services, as defined by the commissioner, as are

required to assist children with disabilities to benefit from their special education programs.

5. Special education. "Special education" means specially designed instruction, at no cost to parents, to meet the unique needs of children with disabilities, as defined by the commissioner, including:

A. Instruction conducted in the classroom, in the home, in hospitals and institutions and in other settings; and

B. Instruction in physical education.

6. Special education facility. "Special education facility" means a public or private school, or portion of a public or private school, intended for use in meeting the educational and related needs of children with disabilities.

6-A. State intermediate educational unit. "State intermediate educational unit" or "SIEU" means the state intermediate educational unit, Child Development Services, established in section 7104,

7. State licensed agency. "State licensed agency" means an institution or facility licensed by the State to provide education, emotional or mental health services, alcohol or drug rehabilitation, boarding care or other child care services to a person between the ages of 5 and 20 years. It includes:

A. Facilities under Title 22, chapter 1661; and

B. Community mental health services under Title 34-B, chapter 3, subchapter 3

C.

D.

8. Children's residential care facility. "Children's residential care facility" is a facility defined in Title 22, section 8101, subsection 4.

9. Special education program. A "special education program" is a full-time or part-time educational program designed to provide an equal educational opportunity to children with disabilities through the delivery of special education services by qualified individuals.

10. Special education services. "Special education services" are educational services provided by qualified individuals as defined by the commissioner. Special education services must be provided by qualified individuals employed or contracted by the school administrative unit.

Sec. W-2. 20-A MRSA §7006 as enacted by PL 2005, c. 662 §A20 is amended to read:

§7006. Responsibility

The Department of Education is designated as the state education agency responsible for carrying out the State's obligations under the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., as amended. ~~The department and every school administrative unit, intermediate educational unit, public school or other public agency that receives federal or state funds to provide early intervention or free, appropriate public education services to children with disabilities shall comply with the federal Individuals with Disabilities Education Act, as amended, and all federal regulations adopted under the Act.~~ The commissioner shall designate responsibility for ensuring child find early intervention under IDEA Part C for children from birth until 3 years of age, or until the start of the school year in which the child is 4 years of age, if extended part C option is selected by the family, to the intermediate educational unit, Child Development Services. The commissioner shall designate responsibility for ensuring child find and a free appropriate public education under IDEA Part B Section 619 to Child Development Services or to the school administrative units where children reside. Where the school administrative unit is responsible for ensuring child find and a free appropriate public education, the Child Development Services site in that region shall transition to serve as a regional service hub to make necessary services and supports available in accordance with a memorandum of understanding that shall be developed by the Department of Education and the SAU before the transition of responsibility occurs.

Every school administrative unit, intermediate educational unit, public school or other agency that receives federal or state funds to provide early intervention or free, appropriate public education services to children with disabilities shall comply with the federal Individuals with Disabilities Education Act, as amended, and all federal regulations adopted under the Act.

Sec. W-3. 20-A MRSA §7209, sub-§3 as amended by PL 2011 c.655, Part OO, §4 is further amended to read:

3. State intermediate educational unit establishment; administrative functions. The commissioner shall establish and supervise the state intermediate educational unit. The state intermediate educational unit is established as a body corporate and politic and as a public

instrumentality of the State for the purpose of conducting child find activities as provided in 20 United States Code, Section 1412 (a) (3) for children from birth to under 6 years of age, ensuring the provision of early intervention services for eligible children from birth to under 3 years of age and for eligible children until the start of the school year when they are 4 years of age, if extended Part C option is selected by the family. ~~and ensuring~~ The state intermediate educational unit shall also ensure ~~ensuring~~ a free, appropriate public education for eligible children at least 3 years of age and under 6 years of age, where designated the responsible agency by the commissioner. The state intermediate educational unit shall perform the following statewide coordination and administration functions:

Sec. W-4. 20-A MRSA §7209, sub-§3-A as amended by PL 2017 c.284, Part AAAAAA,

§§1 is further amended to read:

3-A. State intermediate educational unit; program functions. The state intermediate educational unit established pursuant to subsection 3, through a network of regional sites ~~as appropriate~~ where designated by the commissioner, shall:

- A. Engage in child find activities as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;
- B. Engage in child count activities as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;
- C. Engage in appropriate data collection, training, staff development and direct service provision to eligible children with disabilities, from birth to under 3 years of age, or until the start of the school year when a child is 4 years of age, if extended Part C option is selected by the family, in accordance with Part C of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;
- D. Ensure that eligible children with disabilities, from birth to under 3 years of age, receive early intervention services, in accordance with the payment provisions established by the State;
- E. Where designated by the commissioner, ensure ~~Ensure~~ that eligible children with disabilities, from 3 years of age to under 6 years of age, receive free, appropriate public education services and where a local SAU has assumed responsibility for FAPE, provide

services to support schools in carrying out this responsibility in accordance with an MOU;

F. Coordinate with eligible families the development of individualized family service plans for children with disabilities from birth to 2 years of age, or until the start of the school year when the child is 4 years of age, if extended Part C option is selected, or, where designated by the commissioner, coordinate an individualized education program for a child 3 years of age to under 6 years of age;

G. Ensure that children from birth until 6 years of age who are referred to the Child Development Services System also receive appropriate referrals for support outside of the system, including appropriate public and private programmatic resources, regardless of a child's eligibility for early intervention or free, appropriate public education; and

H. Engage in appropriate training and staff development for identification of and to provide intervention services for children with autism.

Sec. W-5. 20-A MRSA §7209, sub-§4-A, ¶A-2 is enacted to read:

A-2. To aid in the transition of responsibility under IDEA Part B Section 619 for ensuring child find and a free appropriate public education from CDS to SAUs and to coordinate services to be provided through memoranda of understanding to support schools in carrying out Part B Section 619 responsibilities.

Sec. W-5. 20-A MRSA §7209, sub-§9 is enacted to read:

9. Transition of responsibility for ensuring a free appropriate public education for children eligible under IDEA Part B Section 619 from CDS to school administrative units.

Notwithstanding any provision of this section to the contrary, beginning July 1, 2028, all school administrative units shall be designated as responsible for child find and for ensuring a free, appropriate public education for children eligible under IDEA Part B Section 619.

A. Transition schedule and supports.

1) Beginning July 1, 2024, SAUs may be approved to pilot the assumption of responsibility for FAPE. Community readiness assessments, professional learning in working with young children and their families, and technical support will be provided by the department throughout the planning and implementation of the pilot year. Funding will be provided on a quarterly basis, in accordance with Section 10. A memorandum of

understanding will be created between the department and each SAU to determine the services to be provided by the regional CDS service hub and will be reviewed and updated in response to unanticipated needs each month. Funding and programing will be monitored regularly by the department, led by a contracted national expert and recommended augmentations or changes will be considered as part of the pilot year activities. A midyear report and any recommended changes will be provided to the ECA in January.

2) During the 2026 and 2027 school years, additional SAUs will be approved as holding responsibility for Part B Section 619 implementation. Readiness assessments, training, and technical support will be provided by the department, led by a contracted national expert, throughout the pilot year and throughout the transition period.

3) Those SAUs requiring additional time and support in regions where related services and staffing are not available to support this transition will be provided with necessary resources and an additional year and may qualify for a modified plan for managing Part B Section 619 students.

B. Service provision. A school administrative unit may directly provide services or may contract with public or private providers and a school administrative unit may also access their CDS regional site to provide certain services as delineated in an MOU as defined in section 7001, subsection 1-A to provide services.

Sec. W-7. 20-A MRSA §7209, sub-§10 is enacted to read:

10. Funding.

A. Funding for school administrative units who assume responsibility for FAPE for children with IEPs under IDEA Part B Section 619 shall be calculated on a per pupil basis in the same manner by which operating allocations are generated in Title 20-A Chapter 606B subsections 15674 and 15675. Department of Education shall ensure that operating allocations for all eligible students under Part B Section 619 are paid at 100% state share for an SAU that assumes responsibility under Part B Section 619. These funds will be appropriated to DOE outside of GPA and will not flow through the distribution formula.

B. An allocation for special education and related services shall also be provided outside of the EPS formula and calculated at the per pupil operating allocation as described in this section,

multiplied by 1.5, for each eligible resident student. Special Education and Related Services funding shall be paid at 100% state share at the start of each quarter, based on estimated student count on July 1 and adjusted to reflect actual counts on October 1, with additional adjustments in subsequent quarters.

C. A separate allocation must be determined for high-cost in-district, regional program, and out-of-district special education placements for Part B Section 619 students in accordance with this paragraph.

(1) For high cost in-district students, additional funds must be allocated for each student estimated to cost 4 times the average EPS per-pupil rate for Pre-K students. The additional funds must equal the amount by which that student's estimated costs exceed 3 times the statewide pre-k per-pupil rate.

2) For private school placements, additional funds must be allocated for each student estimated to cost 4 times the statewide special education EPS per-pupil rate. The additional funds for each student must equal the amount by which that student's estimated costs exceed 4 times the statewide special education EPS per-pupil rate.

(3) For public school out of district placements, additional funds must be allocated for each student estimated to cost 3 times the statewide special education EPS per-pupil rate. The additional funds for each student must equal the amount by which that student's estimated costs exceed 3 times the statewide special education EPS pre-K per-pupil rate.

(4) For public regional special education program placements, additional funds must be allocated for each student estimated to cost 2 times the statewide special education EPS per-pupil rate. The additional funds for each student must equal the amount by which that student's estimated costs exceed the statewide average Pre-K per pupil rate.

Sec. W-8. 20-A MRSA §7303. Preschool Special Education is enacted to read:

§7303. Preschool Special Education

1. Fund established. The Preschool Special Education Fund, referred to in this chapter as "the fund," is established as a nonlapsing fund within the department to provide funding for special education and related services for children aged 3 through 5. The department shall distribute funds through a quarterly allocation.

2. Eligibility requirements. Beginning in fiscal year 2024-25, school administrative units may voluntarily assume responsibility for the free, appropriate public education of children aged 3 through 5 who are eligible for services under the Individuals with Disabilities Education Act Part B-619.

3. Purposes. Allocations from the fund may be made to participating school administrative units for the provision of special education and related services as outlined in each child's individualized education program for preschool children aged 3 through 5 who are eligible under IDEA Part B Section 619. In school year 2024-2025 only, funds may also be used for general education costs through a per pupil allocation using the pupil count for public preschool students with an active Individualized Education Program under section 15674, subsection 4.

PART W

SUMMARY

This bill reorganizes oversight and updates practices for serving infants, toddlers and children with disabilities from birth to 6 years of age. The bill:

1. Requires organizational improvements within the state intermediate education agency, Child Development Services, including data and financial systems improvements, expansion of eligibility for Part C early intervention services, and allows for extended Part C option to continue IFSPs until the start of the school year when the child is 4 years of age, if the family chooses this.
2. Provides that, beginning July 2029, all school administrative units are responsible for child find and ensuring a free, appropriate public education for resident children eligible under IDEA Part B Section 619, whether or not the school administrative units operate public preschool programs, and requires the Department of Education to implement a funding formula to provide funds for school administrative units when they assume responsibility for the Section 619 children.
3. Reorganizes the resources and staffing in CDS Part B to support the work of schools through regional service hubs.
4. Establishes the Preschool Special Education Fund and authorizes the distribution of funds to school administrative units who have voluntarily assumed the free, appropriate public

education for the costs of special education and related services for children aged 3 through 5.