



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 464

H.P. 348

House of Representatives, January 29, 2019

**An Act To Change the Period To Request a Due Process Hearing for
Costs Related to a Unilateral Private School Placement from a
Public School**

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

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

ROBERT B. HUNT
Clerk

Presented by Representative PIERCE of Falmouth.
Cosponsored by Senator MILLETT of Cumberland and
Representatives: DAUGHTRY of Brunswick, FARNSWORTH of Portland, HUBBELL of Bar
Harbor, KORNFIELD of Bangor, McCREA of Fort Fairfield, Senators: BREEN of
Cumberland, POULIOT of Kennebec, SANBORN, L. of Cumberland.

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

2 **Sec. 1. 20-A MRSA §7207-B, sub-§1**, as amended by PL 1999, c. 424, Pt. A,
3 §§8 and 9, is further amended to read:

4 **1. Rules.** The commissioner shall adopt rules governing the procedures for
5 conducting due process hearings. The rules ~~shall~~ must include:

6 ~~A. A maximum period within which a parent, surrogate parent, guardian or~~
7 ~~administrative unit may exercise the rights listed in subsection 2;~~

8 A-1. The procedures for discovery, including rules for the production of documents
9 by a parent, surrogate parent, guardian and school administrative unit;

10 B. A maximum time within which a final decision must be issued by the hearing
11 officer;

12 C. The use of mediation;

13 D. The procedures for conducting the hearings; and

14 E. The procedures for determining the award of attorney's fees consistent with the
15 requirements of the federal Individuals with Disabilities Education Act.

16 **Sec. 2. 20-A MRSA §7207-B, sub-§2**, as enacted by PL 1985, c. 318, §3, is
17 amended to read:

18 **2. Request for hearing.** The parent, surrogate parent, guardian or administrative
19 unit may:

20 A. Request the commissioner to appoint an impartial hearing officer who shall
21 conduct a hearing regarding the identification, evaluation and educational program of
22 the student and shall make findings of fact and issue a decision; and

23 B. Appeal the decision of the hearing officer to the Superior Court or to a United
24 States District Court.

25 Notwithstanding any other limitation on the time frame for filing a request for a due
26 process hearing, an action against a school administrative unit to recover the costs of a
27 unilateral special education placement may be commenced by a parent, surrogate parent
28 or guardian only by requesting a due process hearing pursuant to this section within 90
29 days of the unilateral special education placement. For the purposes of this subsection,
30 "unilateral special education placement" means the unilateral placement of a student by a
31 parent, surrogate parent or guardian in a private school.

32 **SUMMARY**

33 This bill removes a requirement that rules adopted by the Commissioner of Education
34 governing due process hearings include a maximum period within which due process
35 hearings and appeals may be requested. It provides that an action against a school
36 administrative unit to recover the costs of a unilateral special education placement in a
37 private school may be commenced only by requesting a due process hearing within 90

1 days of the placement. It also provides that rules adopted by the Commissioner of
2 Education governing the procedures for conducting due process hearings must include
3 procedures for discovery, including rules for the production of documents.