

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND TWELVE

S.P. 473 - L.D. 1503

**An Act To Promote School Attendance and Increase School Achievement**

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

**Sec. 1. 4 MRSA §152, sub-§4**, as corrected by RR 2001, c. 2, Pt. A, §2, is amended to read:

**4. Exclusive jurisdiction.** Original jurisdiction, not concurrent with that of the Superior Court, of mental health commitment hearings under Title 34-B, chapter 3, subchapter 4, mental retardation certification hearings under Title 34-B, chapter 5, ~~habitual~~ truancy actions under Title 20-A, chapters 119 and 211 under which equitable relief may be granted and small claims actions under Title 14, chapter 738;

**Sec. 2. 20-A MRSA §1, sub-§2-A, ¶C**, as enacted by PL 2007, c. 667, §3, is amended to read:

C. Is ~~habitually~~ truant; or

**Sec. 3. 20-A MRSA §1001, sub-§8-A** is enacted to read:

**8-A. Due process standards for expulsion proceedings.** Following a proper investigation of a student's behavior, a school board that intends to consider expulsion shall ensure proceedings include the following due process provisions.

A. Before a hearing on the expulsion, the superintendent shall:

(1) Provide written notice to the parents and the student of:

(a) The date, time and location of the hearing;

(b) A description of the incident or incidents that occasioned the expulsion hearing;

(c) The student's and parents' right to review the school records prior to the hearing;

(d) A description of the hearing process; and

(e) An explanation of the consequences of an expulsion; and

(2) Invite the parents and student to a meeting prior to the expulsion hearing to discuss the procedures of the hearing.

**B. At a hearing on the expulsion:**

(1) The student has the right to present and cross-examine witnesses;

(2) The student has the right to an attorney or other representation; and

(3) Witnesses must be sworn in and the chair of the hearing has the authority to swear in witnesses.

C. After a hearing on the expulsion, the school board shall provide written notice of its decision to the parents and the student by certified mail. The notice of the school board's written decision may include a reentry plan developed in accordance with subsection 9-C.

**Sec. 4. 20-A MRSA §1001, sub-§9**, as amended by PL 1997, c. 298, §1, is further amended to read:

**9. Students expelled or suspended.** Following a proper investigation of a student's behavior and due process proceedings pursuant to subsection 8-A, if found necessary for the peace and usefulness of the school, ~~they~~ a school board shall expel any student:

A. Who is deliberately disobedient or deliberately disorderly;

B. For infractions of violence;

C. Who possesses on school property a firearm as defined in Title 17-A, section 2, subsection 12-A or a dangerous weapon as defined in Title 17-A, section 2, subsection 9 without permission of a school official;

D. Who, with use of any other dangerous weapon as defined in Title 17-A, section 2, subsection 9, paragraph A, intentionally or knowingly causes injury or accompanies use of a weapon with a threat to cause injury; or

E. Who possesses, furnishes or trafficks in any scheduled drug as defined in Title 17-A, chapter 45.

A student may be readmitted on satisfactory evidence that the behavior that was the cause of the student being expelled will not likely recur. The school board may authorize the principal to suspend students up to a maximum of 10 days for infractions of school rules. In addition to other powers and duties under this subsection, the school board may develop a policy requiring a student who is in violation of school substance abuse or possession rules to participate in substance abuse services as provided in section 6606. Nothing in this subsection or subsection 9-C prevents a school board from providing educational services in an alternative setting to a student who has been expelled.

**Sec. 5. 20-A MRSA §1001, sub-§9-C** is enacted to read:

**9-C. Reentry for students after expulsion.** Upon making a decision to expel a student in accordance with procedures set forth in subsections 8-A and 9, a school board may exercise one of the following options in expelling a student:

A. The school board may expel the student for a specific period of time not to exceed the total number of instructional days approved by the school board for the current school year; or

B. The school board may expel the student for an unspecified period of time and authorize the superintendent to provide the expelled student with a reentry plan that specifies the conditions that must be met in order for the student to be readmitted to school after the expulsion. If a school board authorizes the superintendent to provide the expelled student with a reentry plan, the school board shall ensure that the student who has been expelled is provided with a reentry plan in accordance with this paragraph.

(1) The reentry plan must be developed by the superintendent or the superintendent's designee in consultation with the student and the student's parents to provide guidance that helps the student understand what the student must do to establish satisfactory evidence that the behavior that resulted in the expulsion will not likely recur.

(2) The superintendent or the superintendent's designee shall send a certified letter, return receipt requested, or hand deliver a letter to the parents of the expelled student giving notice of the date, time and location of a meeting to develop a reentry plan for the student.

(3) If the student and the student's parents do not attend the meeting under subparagraph (2), the reentry plan must be developed by school staff.

(4) The reentry plan must be provided to the parents and the student in writing.

(5) The superintendent shall designate a school employee to review the student's progress with the reentry plan at intervals of one month, 3 months and 6 months after the meeting and at other times as determined necessary by the designated school employee.

(6) The reentry plan may require the student to take reasonable measures determined by the superintendent to be helpful to establish the student's readiness to return to school. Professional services determined to be necessary by the superintendent must be provided at the expense of the student and the student's parents.

(7) The superintendent may, as appropriate, notify an individualized education program team for a child with a disability who has been expelled by a school board.

(8) The superintendent shall annually report data on the number of students who are expelled from school and the number of students who are readmitted to school after expulsion to the commissioner's consultant on truancy, dropouts and alternative education under section 5151.

**Sec. 6. 20-A MRS §1001, sub-§9-D** is enacted to read:

**9-D. Professional services after expulsion for a child with a disability.** Nothing in subsection 9-C may be interpreted to require payment from the parents of an expelled

student for professional services determined by the superintendent to be necessary to establish the student's readiness to return to school if:

A. The student is a child with a disability who has been determined to be eligible for a free, appropriate public education in accordance with 34 Code of Federal Regulations, Section 300.530, Paragraph (d); or

B. The school administrative unit did not have knowledge that the student was a child with a disability prior to taking disciplinary measures against the student and, based on a subsequent evaluation, the student is determined to be a child with a disability who is eligible for a free, appropriate public education in accordance with 34 Code of Federal Regulations, Section 300.534, Paragraph (d).

**Sec. 7. 20-A MRSA §1001, sub-§15-A** is enacted to read:

**15-A. School disciplinary policies.** When revising the prescribed consequences for violation of the student code of conduct pursuant to subsection 15, paragraph C, a school board shall consider districtwide disciplinary policies that:

A. Focus on positive interventions and expectations and avoid focusing exclusively on unacceptable student behavior. For the purpose of this subsection, "positive interventions" means instructional and environmental supports that are designed to teach students prosocial alternatives to problem behaviors with high rates of positive feedback;

B. Focus on positive and restorative interventions that are consistent with evidence-based practices rather than set punishments for specific behavior and avoid so-called zero-tolerance practices unless specifically required by federal or state laws, rules or regulations. For the purpose of this paragraph, "restorative interventions" means school practices that are designed to strengthen relationships, improve the connection to school and promote a strong sense of accountability and that help students learn from their mistakes, understand the impact of their actions on others and find opportunities to repair the harm they have caused through their misbehavior;

C. Allow administrators to use their discretion to fashion appropriate discipline that examines the circumstances pertinent to the case at hand; and

D. Provide written notice to the parents of a student when a student is suspended from school, regardless of whether the suspension is an in-school or out-of-school suspension.

The school board shall ensure that administrators inform students, parents and school personnel of the districtwide school disciplinary policies.

**Sec. 8. 20-A MRSA §3271, sub-§3, ¶C**, as enacted by PL 1985, c. 490, §8, is amended to read:

C. A person who has been adjudged ~~an habitual~~ a truant and has been excused from attendance pursuant to procedures established by the commissioner.

**Sec. 9. 20-A MRSA §3272, sub-§1**, as enacted by PL 1985, c. 490, §8, is repealed.

**Sec. 10. 20-A MRSA §3272, sub-§2**, as repealed and replaced by PL 2007, c. 304, §1, is amended to read:

**2. Truancy.** A person is ~~habitually~~ truant if:

A. The person is required to attend school or alternative instruction and has completed grade 6 under this chapter and has the equivalent of 10 full days of unexcused absences or 7 consecutive school days of unexcused absences during a school year; or

B. The person is required to attend school or alternative instruction and is at least 7 years of age and has not completed grade 6 under this chapter and has the equivalent of 7 full days of unexcused absences or 5 consecutive school days of unexcused absences during a school year.

**Sec. 11. 20-A MRSA §3273, sub-§1**, as repealed and replaced by PL 2007, c. 304, §3, is amended to read:

**1. Civil violations.** A parent who has control of a person who is ~~habitually~~ truant under section 3272, subsection 2 and who is primarily responsible for that person's truancy commits a civil violation under this chapter.

**Sec. 12. 20-A MRSA §5031, sub-§1**, as enacted by PL 2009, c. 626, §1, is amended to read:

**1. Goal.** It is the goal of the State to achieve a graduation rate of 90% by the end of the 2015-2016 school year for each publicly supported secondary school. In addition to calculating the 4-year adjusted cohort graduation rate following the procedures outlined in 34 Code of Federal Regulations, Section 200.19, the department shall also calculate and record for each publicly supported secondary school:

A. Beginning with the graduation rate reported for school year 2011-2012 and for each school year thereafter, the 5-year adjusted cohort graduation rate;

B. Beginning with the graduation rate reported for school year 2012-2013 and for each school year thereafter, the 6-year adjusted cohort graduation rate; and

C. Beginning with the graduation rate reported for school year 2011-2012 and for each school year thereafter, other descriptors of academic success for school-age students on a statewide aggregate basis, including the rates of attainment of a:

(1) Department of Education diploma as described under section 5161;

(2) High school equivalency diploma as described under section 257; and

(3) High school equivalency diploma obtained through a high school completion course that includes general educational development preparation courses from an adult education program as described in chapter 315.

The department shall adopt rules specifying that the methods used to calculate publicly supported secondary school graduation rates through the 2015-2016 school year must include calculations for 5-year and 6-year adjusted cohort graduation rates under paragraphs A and B and other descriptors of academic success under paragraph C.

**Sec. 13. 20-A MRSA §5051-A**, as amended by PL 2007, c. 304, §§5 to 7, is further amended to read:

**§5051-A. Truancy**

**1. Truant.** A student is ~~habitually~~ truant if the student is subject to section 5001-A and:

B. Has completed grade 6 and has the equivalent of 10 full days of unexcused absences or 7 consecutive school days of unexcused absences during a school year; or

C. Is at least 7 years of age and has not completed grade 6 and has the equivalent of 7 full days of unexcused absences or 5 consecutive school days of unexcused absences during a school year.

**2. Procedures; written notice; referral.** This subsection governs the procedure to be followed when a student is ~~habitually~~ truant.

~~A. If a principal of a public school and the attendance coordinator determine that a student is habitually truant, the principal shall inform the superintendent. The superintendent or the superintendent's designee shall first try to correct the problem informally. Informal attempts to correct the problem must include meeting with the student and the student's parents to identify possible causes of the habitual truancy and develop a plan to implement solutions to the problem. If an initial meeting does not resolve the problem, the superintendent or superintendent's designee shall implement interventions that best address the problem. The interventions may include, but are not limited to:~~

- ~~(1) Frequent communication between the teacher and the family;~~
- ~~(2) Changes in the learning environment;~~
- ~~(3) Mentoring;~~
- ~~(4) Student counseling;~~
- ~~(5) Tutoring, including peer tutoring;~~
- ~~(6) Placement into different classes;~~
- ~~(7) Evaluation for alternative education programs;~~
- ~~(8) Attendance contracts;~~
- ~~(9) Referral to other agencies for family services; and~~
- ~~(10) Other interventions, including, but not limited to, referral to the school attendance coordinator, student assistance team or dropout prevention committee.~~

~~Failure of the student or the student's parents to appear at scheduled meetings does not preclude the school administrators from implementing a plan to address the student's habitual truancy.~~

A-1. The principal, upon determining that a student is truant under subsection 1, shall notify the superintendent of the student's truancy within 5 school days of the last unexcused absence.

A-2. A student who is determined truant under subsection 1 must be referred to the school's student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system under section 4710 to determine the cause of the truancy and assess the effect of the student's absences, as well as any future absences for the student. If it is determined that a negative effect exists, the student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system under section 4710 shall develop an intervention plan to address the student's absences and the negative effect of these absences. An intervention plan may include, but is not limited to:

- (1) Frequent communication between the teacher and the family;
- (2) Changes in the learning environment;
- (3) Mentoring;
- (4) Student counseling;
- (5) Tutoring, including peer tutoring;
- (6) Placement into different classes;
- (7) Consideration of multiple pathways as described under section 4703;
- (8) Attendance contracts;
- (9) Referral to other agencies for family services; and
- (10) Other interventions, including, but not limited to, referral to the school attendance coordinator, student assistance team or dropout prevention committee.

Failure of the student or the student's parents to appear at scheduled meetings does not preclude the school administrators from implementing an intervention plan to address the student's truancy.

~~B. As part of correcting the problem informally, the superintendent or superintendent's designee shall require the student and the student's parents to attend one or more meetings with the student's teacher or other school personnel designated by the superintendent. The purpose of the meetings is to reinforce the plan developed in paragraph A or to develop an alternative plan. The meeting or meetings may involve the presence of others, including, but not limited to, case managers, therapeutic treatment providers and representatives of the Department of Human Services, the Department of Behavioral and Developmental Services and the Department of Corrections. The superintendent or superintendent's designee shall arrange mutually convenient meeting times.~~

B-1. The superintendent shall develop procedures to refer a student who is truant to the student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system under section 4710 in accordance with this section. These procedures may include, but are not limited to:

(1) Identifying school personnel responsible for notifying the student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system when a student is truant;

(2) A process for referral of a student who is truant, including identifying school personnel responsible for inviting the parents and the student to participate in any meeting that results from this referral;

(3) A timeline for setting up a meeting and developing an intervention plan under paragraph A-2;

(4) A plan for dealing with future absences of a student who is truant; and

(5) A plan for reporting of the results of the intervention plan developed pursuant to paragraph A-2.

C. If the ~~superintendent or superintendent's designee~~ intervention plan developed pursuant to paragraph A-2 is unable to correct the truancy of the child, the ~~superintendent or superintendent's designee~~ shall serve or cause to be served upon the parent in hand or by registered mail a written notice that attendance of the child at school is required by law. The notice must:

(1) State that the student is required to attend school pursuant to section 5001-A;

(2) Explain the parent's right to inspect the student's attendance records, attendance coordinator's reports and principal's reports;

(3) Explain that the failure to send the student to school and maintain the student in regular attendance is a civil violation in accordance with section 5053-A and ~~explain the possible penalties~~ will jeopardize the student's status in the grade that the student is in;

(4) State that the superintendent ~~or the superintendent's designee~~ may notify the local law enforcement department of a violation of ~~this statute~~ section 5053-A and the Department of Health and Human Services of a violation under subsection 1, paragraph C; and

(5) Outline the plan developed to address the student's ~~habitual~~ truancy and the steps that have been taken to implement that plan.

D. Prior to notifying the local law enforcement department under paragraph E, the ~~superintendent or superintendent's designee~~ shall schedule at least one meeting as required in paragraph ~~B B-1~~ and may invite a local prosecutor.

E. If, after 3 school days after service of the notice referred to in paragraph C, the student remains truant and the parent and student refuse to attend the meeting scheduled according to paragraph D, the superintendent ~~or superintendent's designee~~ shall report the facts of the unlawful absence to the local law enforcement department, which may proceed with an action to enforce section 5053-A against the parent unless the student is at once placed in an appropriate school or otherwise meets the requirements under section 5001-A.

F. When a student is determined ~~habitually~~ to be truant and in violation of section 5001-A and the student assistance team or the school personnel designated by the



superintendent in accordance with the school administrative unit's intervention system under section 4710 and the superintendent or superintendent's designee has made a good faith attempt to meet the requirements of paragraph ~~B~~ B-1, the superintendent ~~or superintendent's designee~~ shall notify the school board ~~and the local law enforcement department~~ of the student's truancy. ~~After this notification, a local law enforcement officer who sees the truant student may transport the truant student to the appropriate school if the truant student:~~

- ~~(1) Is off school grounds during school hours; and~~
- ~~(2) Is not under the supervision of school personnel.~~

**3. Reports.** This subsection applies to reports of ~~habitual~~ truancy.

A. A superintendent shall submit an annual report to the commissioner before October 1st. The report must:

- (1) Identify the number of ~~habitual~~ truants in the school administrative unit in the preceding school year;
- (2) Describe the unit's efforts to deal with ~~habitual~~ truancy;
- (3) Account for actions brought under this section including the number of truants reported to the student assistance team or the school personnel designated by the superintendent in accordance with the school administrative unit's intervention system under section 4710; and
- (4) Include any other information on truancy requested by the commissioner.

B. The commissioner shall submit an annual report to the Governor and the Legislature before January 15th. The report must aggregate the information provided by superintendents under paragraph A and must evaluate the effect of state laws on the incidence of truancy.

**Sec. 14. 20-A MRSA §5052-A**, as amended by PL 2007, c. 143, §1, is further amended to read:

**§5052-A. Attendance coordinators**

The following provisions apply to attendance coordinators.

**1. Appointment.** The following provisions apply to the ~~election~~ appointment of attendance coordinators.

A. A ~~school board~~ superintendent shall ~~elect~~ appoint an attendance coordinator or coordinators.

B. Vacancies ~~shall~~ must be filled as they occur.

**2. Qualifications.** An attendance coordinator ~~shall~~ must be a professionally certified or registered person in the mental health, social welfare or educational system who is qualified to carry out the duties in accordance with rules to be established by the State Board of Education.

**3. Duties.** The duties of an attendance coordinator include, but are not limited to, the following:

A. ~~When notified by a principal that a student's attendance is irregular, interviewing the student and the parent or parents or guardian or guardians~~ Interviewing a student whose attendance is irregular and meeting with the student and the parents to determine the cause of the irregular attendance and ~~file~~ filing a written report with the principal;

B. Filing an annual report with the superintendent summarizing school year activities, findings and recommendations regarding truants;

C. Serving as a member of the dropout prevention committee in accordance with section 5103; and

D. Serving as the liaison between the school and the local law enforcement agency in matters pertaining to student absenteeism under ~~sections~~ section 5001-A ~~and 5051-A.~~

**4. Department assistance.** The department shall provide technical assistance to school attendance coordinators for carrying out these duties, through the Office of Truancy, Dropout Prevention and Alternative Education.

**Sec. 15. 20-A MRSA §5053-A, sub-§1,** as amended by PL 2007, c. 304, §8, is further amended to read:

**1. Civil violation.** If a parent has control of a student who is ~~habitually~~ truant under section 5051-A, subsection 1 and that parent is primarily responsible for that truancy, that parent commits a civil violation for which a fine of not more than \$250 may be adjudged, all or part of which may be suspended upon the parent's compliance with a court order under subsection 2.

**Sec. 16. 20-A MRSA §5053-A, sub-§2,** as enacted by PL 2003, c. 533, §5, is amended to read:

**2. Dispositions.** The court may also order a parent adjudicated as violating subsection 1 to take specific action to ensure the child's attendance at school; comply with the intervention plan developed in accordance with section 5051-A, subsection 2, paragraph ~~A~~ A-2; participate in a parent-training class; attend school with the child; perform community service hours at the school; or participate in counseling or other services as appropriate.

**Sec. 17. 20-A MRSA §5053-A, sub-§4,** as amended by PL 2007, c. 304, §9, is further amended to read:

**4. Prima facie proof.** Evidence that shows that the parent received the notice under section 5051-A, subsection 2 and that the child has accumulated ~~7~~ 10 cumulative full days of absences or 5 consecutive school days of absences that are not justified under the established attendance policies of the school administrative unit is prima facie proof that the parent is primarily responsible for the child's ~~habitual~~ truancy or the parent failed to take corrective measures for the child's ~~habitual~~ truancy.

**Sec. 18. 20-A MRSA §5054**, as enacted by PL 1989, c. 415, §26, is amended to read:

**§5054. Employment of truants prohibited**

Any firm or corporation, or agent or manager of any firm or corporation, who hires or otherwise engages any student who is ~~habitually~~ truant as defined in this subchapter without a release from the student's supervising superintendent of schools ~~shall be~~ is subject to the penalty provided in Title 26, section 781.

**Sec. 19. 20-A MRSA §5103, sub-§5, ¶A**, as amended by PL 2007, c. 667, §7, is further amended to read:

A. The dropout prevention committee shall:

- (1) Study the problem of dropouts and ~~habitual~~ truancy and the need for alternative education programs, kindergarten to grade 12;
- (2) Make recommendations for addressing the problems; and
- (3) Submit a plan of action to the school board, in accordance with section 4502, subsection 5, paragraph L-1.

**Sec. 20. 20-A MRSA §5151, sub-§2, ¶J**, as enacted by PL 1985, c. 774, §5, is amended to read:

J. Collect data on the scope of the dropout and truancy problem in the State, including data on the number of students who are expelled from school and the number who are readmitted to school after expulsion;

**Sec. 21. 26 MRSA §775, sub-§2, ¶A**, as enacted by PL 1991, c. 544, §5, is amended to read:

A. If the school is in session or the minor is attending summer school, the minor must be enrolled in school, not ~~habitually~~ truant, not under suspension and passing a majority of courses during the current grading period. Upon request of the minor, the superintendent may waive the requirements for one grading period if, in the opinion of the superintendent, there are extenuating circumstances or if imposing the requirements would create an undue hardship for the minor;

**Sec. 22. 30-A MRSA §451, sub-§9, ¶A**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

A. Is ~~habitually~~ truant;

**Sec. 23. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 20-A, chapter 211, subchapter 2, in the subchapter headnote, the words "habitual truants" are amended to read "truants" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

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In House of Representatives, ..... 2012

Read twice and passed to be enacted.

..... Speaker

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In Senate, ..... 2012

Read twice and passed to be enacted.

..... President

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Approved ..... 2012

..... Governor