



STATE OF MAINE  
DEPARTMENT OF EDUCATION  
23 STATE HOUSE STATION  
AUGUSTA, ME 04333-0023

JANET T. MILLS  
GOVERNOR

PENDER MAKIN  
COMMISSIONER

April 15, 2025

Senator Rafferty, Senate Chair  
Representative Murphy, House Chair  
Members of the Joint Standing Committee on Education and Cultural Affairs

Senator Rafferty, Representative Murphy, and Distinguished Members of the Education and Cultural Affairs Committee:

LD 1439, An Act to Protect the Health and Welfare of Children in Public Schools by Requiring Parental Consent for Certain Tests, Analyses and Diagnoses, requires signed parental consent prior to a school administrative unit (SAU) conducting any evaluation of a student for the purpose of diagnosing an intellectual, emotional, behavioral, psychological, or physical condition.

Title 20-A, §7006 states “a school administrative unit that has been designated to have responsibility for child find activities and for ensuring a free, appropriate public education for children eligible under Part B, Section 619.” It is clearly outlined as the responsibility of Maine’s SAUs to identify and serve their community’s children with disabilities. To receive federal funding, SAUs must sign an assurance that they will comply with state and federal regulations.

Maine Department of Education’s Office of Special Services & Inclusive Education’s (OSSIE) general supervision system monitors all SAUs for compliance with state and federal regulations. This includes activities supporting child find, including initial referral to special education and consent for evaluations. If the Department of Education (DOE) finds noncompliance, the SAU is informed of the findings and is ordered to complete a corrective action plan.

SAUs engage families in the child find process by conducting Individual Educational Program (IEP) meetings to elicit participation in understanding concerns and obtaining consent to conduct evaluations related to child find activities. There are unique circumstances that occur across the state that necessitate exploration of evaluating without parental consent.

This bill conflicts with federal guidance in the Individual with Disabilities Education Act (IDEA) [20 USC 1414(a-c) and 34 CFR 300.300- 306], which allows SAUs to evaluate children for an initial referral in the absence of parental contact for the purposes of child find. If an SAU is unable to obtain consent, an evaluation may take place. The SAU is not mandated to pursue an evaluation in the absence of parental contact, but it is allowable. In practice, most SAUs in Maine do not have to exercise this option in pursuit of child find. There are occasions, however, where the need to support a child in their education requires a SAU to evaluate students to assist them in accessing the necessary services to participate in their general education programming. The legal reference for this action is reflected below, as listed in Maine Unified Special Education Regulations (MUSER), and is a direct reference to IDEA:

**MUSER V.1.A. - Evaluations, Parental Consent, and Reevaluations [20 USC 1414(a-c) and 34 CFR 300.300- 306].**

(4) Parental consent community's children in need of special education services.

(a) In general

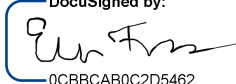
(i) Consent for initial evaluation.--The SAU proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability under 34 CFR 300.8 [Section VII] after providing notice consistent with 34 CFR 300.503 and 504 [Section XV], obtain informed consent consistent with 34 CFR 300.9 [Section II.6], from the parent of such child before conducting the evaluation. Parental consent for initial evaluation must not be construed as consent for placement for receipt of special education and related services. The SAU must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability. [34 CFR 300.300(a)]

(b) Absence of consent

(i) **For initial evaluation.--If the parent of a child, enrolled in public school or seeking to be enrolled in public school does not provide consent for an initial evaluation under clause (a)(i), or the parent fails to respond to a request to provide the consent, the SAU may, but is not required to pursue the initial evaluation of the child by utilizing the procedures described in 20 USC 1415, if appropriate. The SAU does not violate its obligation under 300.111 and 300.301 through 300.311 if it declines to pursue the evaluation. [34 CFR 300.300(a)(3)(i,iii)].**

The Department will be available to provide additional information on LD 1439 and respond to any questions during the upcoming work session.

Sincerely,

DocuSigned by:  
  
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Erin Frazier

State Director of Special Services & Inclusive Education

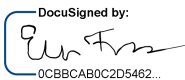
## Certificate Of Completion

Envelope Id: A4A1D0CE-7B30-454B-BA76-44035D87F85E	Status: Completed
Subject: Complete with Docusign: LD 1439 Information Letter final.docx	
Source Envelope:	
Document Pages: 2	Signatures: 1
Certificate Pages: 1	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Danielle Mckay
Time Zone: (UTC-05:00) Eastern Time (US & Canada)	Danielle.Mckay@maine.gov
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Signature	Timestamp
Erin Frazier Erin.Frazier@maine.gov Director of Special Services B-22 Dir. Special Services Birth to 22, Maine DOE Security Level: Email, Account Authentication (None)	Sent: 4/15/2025 8:56:01 AM Viewed: 4/15/2025 9:21:49 AM Signed: 4/15/2025 9:21:56 AM
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## Agent Delivery Events

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## Certified Delivery Events

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## Witness Events

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## Envelope Summary Events

Status	Timestamps
Envelope Sent	4/15/2025 8:56:01 AM
Certified Delivered	4/15/2025 9:21:49 AM
Signing Complete	4/15/2025 9:21:56 AM
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