§7209. General administration and supervision

1. Department of Education. The department shall serve as the lead agency for the statewide system pursuant to 20 United States Code, Section 1435, including the identification and coordination of all available resources within the State for services to eligible children from birth to under 3 years of age, and shall exercise general supervisory authority over child find as provided in 20 United States Code, Section 1412 (a) (3) and the provision of a free, appropriate public education to children at least 3 years of age and under 6 years of age.

A. The commissioner is responsible for developing and adopting rules necessary to carry out the provisions of the federal Individuals with Disabilities Education Act, Part B, Section 619 and Part C, 20 United States Code, Section 1400 et seq. [PL 2011, c. 655, Pt. OO, §4 (AMD).]

B. [PL 2007, c. 307, §1 (AMD); MRSA T. 20-A §7209, sub-§1, ¶B (RP).]

B-1. The commissioner or the commissioner's designee is responsible for developing and implementing a funding mechanism for the operation of the state intermediate educational unit established pursuant to subsection 3 and the delivery of services to eligible children with disabilities from birth to under 6 years of age. [PL 2011, c. 655, Pt. OO, §4 (NEW).]

C. The commissioner or the commissioner's designee is responsible for ensuring legal and policy compliance throughout the early childhood special education program by reviewing or performing regular audits of program records. [PL 2005, c. 662, Pt. A, §30 (NEW).]

D. The commissioner or the commissioner's designee is responsible for ensuring fiscal compliance throughout the early childhood special education program by reviewing or performing regular audits of program records. [PL 2005, c. 662, Pt. A, §30 (NEW).]

E. The department shall develop a corrective action plan with timelines to achieve compliance with federal or state law. The department shall report at least quarterly to the state interagency coordinating council described in 20 United States Code, Section 1441, to the state advisory panel described in 34 Code of Federal Regulations, Sections 300.167 to 300.169 and to other advisory bodies that may be appropriate about individual regional sites that are under a corrective action plan. These reports must describe any progress or slippage by individual regional sites in meeting compliance requirements. For an individual regional site under a corrective action plan, the reports must describe how long the department expects the regional site to remain under a corrective action plan. [PL 2011, c. 655, Pt. OO, §4 (AMD).]

[PL 2011, c. 655, Pt. OO, §4 (AMD).]

2. State-level advisory committee.

[PL 2007, c. 307, §2 (AMD); MRSA T. 20-A §7209, sub-§2 (RP).]

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 and 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 the extended Part C option is selected by the child's family. The state intermediate educational unit shall also ensure a free, appropriate public education for eligible children at least 3 years of age and under 6 years of age, where designated as the responsible agency by the commissioner. The state intermediate educational unit shall perform the following statewide coordination and administration functions:

A. Establish standard policies and procedures for a statewide salary and benefits administration system, including personnel classifications, position descriptions and salary ranges, and a standard

package of health, retirement and other fringe benefits for Child Development Services System personnel, beginning in fiscal year 2006-07; [PL 2011, c. 655, Pt. OO, §4 (AMD).]

B. Develop a statewide salary and benefits administration system and perform the payroll functions for Child Development Services System personnel; [PL 2005, c. 662, Pt. A, §30 (NEW).]

B-1. Bargain collectively under Title 26, chapter 9-A if the employees of the regional sites choose to be represented by an agent for purposes of collective bargaining. In such circumstances, the state intermediate educational unit must be considered the public employer for purposes of collective bargaining; [PL 2007, c. 307, §3 (NEW).]

C. Establish a centralized system for statewide fiscal administration to be implemented by September 1, 2006. The state intermediate educational unit shall establish internal controls and implement accounting policies and procedures in accordance with standards set forth by the State Controller; [PL 2005, c. 662, Pt. A, §30 (NEW).]

D. Develop and implement a centralized data management system to be fully operational beginning July 1, 2007; [PL 2005, c. 662, Pt. A, §30 (NEW).]

E. Establish a standard, statewide template for regional site contracts with therapeutic service providers, including policies and procedures for the review of contracts, beginning in fiscal year 2006-07; [PL 2011, c. 655, Pt. OO, §4 (AMD).]

F. Refine program accountability standards for compliance with federal mandates, including the development of a performance review system to monitor and improve regional site performance through the use of efficiency ratings aligned with the accountability standards and through a compliance plan that requires the regional site to address the unmet needs of eligible children in accordance with specific targets and time frames; [PL 2011, c. 655, Pt. OO, §4 (AMD).]

G. Design and implement a statewide plan to provide professional development and training to Child Development Services System personnel; [PL 2007, c. 307, §3 (AMD).]

H. Employ professional and other personnel at the state level and at the regional sites, including those necessary to ensure the implementation of the centralized fiscal and data management systems. All state intermediate educational unit employees are employees for the purposes of the Maine Tort Claims Act; and [PL 2011, c. 655, Pt. OO, §4 (AMD).]

I. Enter into contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter. [PL 2007, c. 307, §3 (NEW).]

[PL 2023, c. 643, Pt. W, §12 (AMD).]

3-A. State intermediate educational unit; program functions. The state intermediate educational unit established pursuant to subsection 3, through a network of regional sites, 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.; [PL 2011, c. 655, Pt. OO, §4 (NEW).]

B. Engage in child count activities as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.; [PL 2011, c. 655, Pt. OO, §4 (NEW).]

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 the extended Part C option is selected by the child's family, in accordance with Part C; [PL 2023, c. 643, Pt. W, §13 (AMD).]

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; [PL 2011, c. 655, Pt. OO, §4 (NEW).]

E. Ensure that eligible children with disabilities, from 3 years of age to under 6 years of age, receive free, appropriate public education services and, when a local school administrative unit has assumed responsibility for child find activities and for ensuring a free, appropriate public education, provide services to support school administrative units in carrying out that responsibility in accordance with a memorandum of understanding between the department and the school administrative unit; [PL 2023, c. 643, Pt. W, §13 (AMD).]

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 the extended Part C option is selected or, when designated by the commissioner, coordinate an individualized education program for a child 3 years of age to under 6 years of age; [PL 2023, c. 643, Pt. W, §13 (AMD).]

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 [PL 2017, c. 284, Pt. AAAAAA, §1 (AMD).]

H. Engage in appropriate training and staff development for identification of and to provide intervention services for children with autism. [PL 2017, c. 284, Pt. AAAAAA, §2 (NEW).]

[PL 2023, c. 643, Pt. W, §13 (AMD).]

4. Director of early childhood special education. The commissioner or the commissioner's designee shall supervise a director of early childhood special education. The director has the following powers and duties:

A. To administer the state intermediate educational unit established under subsection 3 and programs established pursuant to subsection 3-A. The director shall develop operating policies and establish organizational and operational procedures that include supervision, monitoring, data and accountability structures; [PL 2013, c. 338, §1 (AMD).]

A-1. To oversee the operation of the regional sites; [PL 2011, c. 655, Pt. OO, §4 (NEW).]

B. To develop statewide policies and procedures for carrying out federal and state laws and rules relating to child find, early intervention services and the provision of a free, appropriate public education to children from birth to under 6 years of age; [PL 2007, c. 450, Pt. A, §1 (AMD).]

C. To provide training in federal and state laws, regulations, rules and policies relating to child find as provided in 20 United States Code, Section 1412 (a) (3), early intervention services and the provision of a free, appropriate public education to children from birth to under 6 years of age and to conduct regular file reviews to determine compliance with federal and state laws, regulations, rules and policies and conduct training and provide technical assistance where deficiencies are found; [PL 2013, c. 338, §1 (AMD).]

D. [PL 2013, c. 338, §1 (RP).]

E. To report annually by February 15th to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs, the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs on the performance of the Child Development Services System. This report must be posted on the publicly accessible website of the department. The report must include:

(1) The following financial information for the Child Development Services System in total and separately for the services provided to eligible children from birth to under 3 years of age and at least 3 years of age and under 6 years of age when the information can be separated for these age categories:

(a) Actual expenditures compared to the budget for each of the last 3 fiscal years for each regional site, the central office and the total Child Development Services System by function, including case management, direct services and administration;

(b) Actual expenditures compared to the budget for each of the last 3 fiscal years for each regional site, the central office and the total Child Development Services System by expense type, including salaries, benefits, contracted services and transportation;

(c) Actual revenues received compared to the budget for each of the last 3 fiscal years by revenue source; and

(d) The total dollar value of MaineCare claims paid through the Department of Health and Human Services for each of the last 3 fiscal years for services provided pursuant to children's individualized education programs or individualized family service plans that were billed directly to the MaineCare program by contracted service providers;

(2) The following data for the Child Development Services System in total and separately for the services provided to eligible children from birth to under 3 years of age and at least 3 years of age and under 6 years of age, including descriptions of any notable variations in these data among regional sites and any notable year-to-year trends over the past 5 years:

(a) The number of children referred to the Child Development Services System in the prior year by referral source, including the screening programs in Title 22, sections 1532, 8824 and 8943, and the percentage of children referred found eligible for services;

(b) The number of children who entered the Child Development Services System in the prior year, categorized by primary disability;

(c) The number of children who exited the Child Development Services System in the prior year, categorized by primary disability and the reason for exit;

(d) The number of children who transitioned in the prior year from early intervention services for children from birth to under 3 years of age to special education and related services for children at least 3 years of age and under 6 years of age;

(e) The unduplicated count of children who received direct services as of December 1st in the prior year;

(f) The number of children who received direct services in the prior year by regional site and in total for the Child Development Services System, categorized by primary disability;

(g) For each primary disability category, the number of children who received, in the prior year, each primary type of therapy or service;

(h) The percentage of children who received direct services in the prior year who had MaineCare coverage for all or some of the services specified in their individualized education programs or individualized family service plans and the percentage of children who received direct services in the prior year who had private insurance coverage for all or some of the services specified in their individualized education programs or individualized family service plans;

(i) Beginning January 1, 2015, the number of children who received direct services in the prior year who were born in the State and the number of children who received direct services in the prior year who were born in the State and who were delivered at home;

(j) Beginning January 1, 2015, the total number of children who were referred in the prior year for support outside of the Child Development Services System under subsection 3-A, paragraph G and the number of children who received direct services in the prior year who were referred for support outside of the Child Development Services System under subsection 3-A, paragraph G; and

(k) Beginning January 1, 2015, the number of children who received direct services in the prior year who received all of the services in their individualized family service plan or individualized education program and the number of children who received direct services in the prior year who received less than 90% of the services in their individualized family service plan or individualized education program;

(3) A listing of the regional sites and their locations and the following data for the Child Development Services System in total and by regional site, including descriptions of any notable variations in these statistics among regional sites and any notable year-to-year trends over the past 5 fiscal years:

(a) The total number of employees by function and the number of new employees hired in the prior fiscal year by function;

(b) The number of private providers that contracted with the Child Development Services System to provide direct services, including transportation services, and the number of contracted providers delivering each type of service in the prior fiscal year;

(c) The number of children who received direct services provided by Child Development Services System employees in the prior fiscal year and the number of children who received direct services provided by contracted private providers in the prior fiscal year;

(d) The number of preschool or day care programs operated by each regional site, the average enrollment in each program, the percentage of enrollees that are children receiving services under individualized education programs or individualized family service plans and expenses and revenues for the prior fiscal year associated with the programs in each site; and

(e) The number of children who received direct services in the prior fiscal year while placed in preschool programs operated by public school systems;

(4) Statistics and analysis of the following Child Development Services System performance measures for the prior fiscal year, including descriptions of any notable variations in these measures among regional sites and any notable year-to-year trends over the past 5 fiscal years:

(a) Measures of compliance with key federal requirements related to timeliness, quality and effectiveness of service as set out in required annual federal reporting under the federal Individuals with Disabilities Education Act;

(b) Measures of compliance with key state requirements related to timeliness, quality and effectiveness of service as set out in statute and rules;

(c) Measures of productivity for Child Development Services System employees providing case management and direct services to children;

(d) Measures of per unit costs, including the average cost of delivered services per child by primary disability type, the average cost per unit of each type of therapy or service delivered by Child Development Services System staff and the average cost per unit of each type of therapy or service delivered by contracted providers;

(e) Beginning January 1, 2015, the average age, both in aggregate and by primary disability type, at which children who were born in the State began receiving services from the Child Development Services System and the average age, both in aggregate and by primary

disability type, at which children who were born in the State and who were delivered at home began receiving services from the Child Development Services System; and

(f) Any other performance goals and measures established by the Child Development Services System to monitor effectiveness, efficiency and the cost of the Child Development Services System, which may include results of surveys of parents and guardians on the quality and effectiveness of services;

(5) Beginning January 1, 2015, a report by each regional site in the Child Development Services System demonstrating trends of Child Development Services System employee costs and the results of coordination, utilization and development of services with a broad base of community resources, including private providers and public schools, midwives, resources from other agencies and other resources serving families and children from birth to under 6 years of age, consistent with the provisions of Title 22, section 3571, subsection 3; and

(6) A description of current and emerging trends and challenges that are having an effect on or are expected to have an effect on costs, services or service delivery methods of the Child Development Services System; [PL 2023, c. 643, Pt. W, §14 (AMD).]

F. To provide the following data by the 20th day of each month to the Office of Fiscal and Program Review, either in a monthly report or by providing the office electronic access to the computer systems and applications by which the raw data are stored, for each regional site and the central office:

(1) Monthly actual and budgeted revenue by funding source for the prior month; and

(2) Monthly actual and budgeted expenditures by funding source and by expenditure category for the prior month; and [RR 2023, c. 2, Pt. A, §28 (COR).]

G. To aid in the transition of responsibility for child find activities and for ensuring a free, appropriate public education in the least restrictive environment from the Child Development Services System to school administrative units pursuant to section 7209-A and to coordinate services to be provided through memoranda of understanding between the department and school administrative units in carrying out responsibilities under Part B, Section 619. [PL 2023, c. 643, Pt. W, §16 (NEW).]

For the purposes of this subsection, "direct services" includes evaluations; therapies; special instruction; the use of specially designed materials for instruction, screening and testing; the use of assistive technology devices; and transportation and use of physical space associated with providing other direct services.

[RR 2023, c. 2, Pt. A, §28 (COR).]

5. Regional site board of directors.

[PL 2011, c. 655, Pt. OO, §4 (RP).]

6. Regional site board of directors; annual entitlement plan; site budget approval.

[PL 2011, c. 655, Pt. OO, §4 (RP).]

7. Regional site; administration.

[PL 2011, c. 655, Pt. OO, §4 (RP).]

8. Regional site; duties and obligations.

[PL 2011, c. 655, Pt. OO, §4 (RP).]

SECTION HISTORY

PL 2005, c. 662, §A30 (NEW). RR 2007, c. 1, §9 (COR). PL 2007, c. 307, §§1-7 (AMD). PL 2007, c. 450, Pt. A, §§1-6 (AMD). PL 2007, c. 530, §1 (AMD). PL 2007, c. 572, Pt. B, §§1-4

(AMD). PL 2011, c. 655, Pt. OO, §4 (AMD). PL 2013, c. 338, §1 (AMD). PL 2017, c. 284, Pt. AAAAAA, §§1, 2 (AMD). PL 2017, c. 284, Pt. SSS, §1 (AMD). PL 2021, c. 398, Pt. II, §1 (AMD). PL 2023, c. 643, Pt. W, §§12-16 (AMD). RR 2023, c. 2, Pt. A, §28 (COR).

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