

# Representative Pierce Proposed Amendment to LD 1632, An Act to Update the Laws Regarding the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf

This proposed amendment would strike and replace the draft, and would make the following amendments to Title 20-A, Chapter 304, which governs the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf.

## CHAPTER 304

### MAINE EDUCATIONAL CENTER FOR THE DEAF AND HARD OF HEARING AND THE GOVERNOR BAXTER SCHOOL FOR THE DEAF

#### §7401. School established

The Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf is established as a public school pursuant to this chapter for the purpose of educating deaf and hard-of-hearing students. The school is a body politic and corporate and is an instrumentality and agency of the State. The exercise by the school of the powers conferred by this chapter is the performance of an essential public function by and on behalf of the State.

#### §7402. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. School.** "School" means the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf preschool programs established under this chapter, including the Mackworth Island Preschool and other MECDHH/GBSD preschool programs, ~~center school located at Mackworth Island known as the Governor Baxter School for the Deaf, the center preschool and any satellite school within the State that may be operated under a contracted services agreement~~

**1-A MECDHH/GBSD.** MECDHH/GBSD means the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf established in section 7401.

**2. School board.** "School board" means the School Board of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf.

**3. Sending school.** "Sending school" means any school administrative unit that has a student in attendance at the ~~center school or at a satellite school~~ Mackworth Island Preschool, other MECDHH/GBSD preschool programs or site-based program.

**4. Executive director.** "Executive director" means the Executive Director of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf.

~~**5. Center school.** "Center school" means the kindergarten to grade 12 programs established and operated by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf at the Governor Baxter School for the Deaf located at Mackworth Island or at a location determined by the school board in accordance with section 7407, subsection 17.~~

~~**6. Satellite school.** "Satellite school" means the programs, including a residential program, day school programs, early childhood programs and outreach programs, that are located near the population centers of deaf and hard-of-hearing students within the State established by the School Board of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf.~~

**6-A. Site-based program.** "Site-based program" means the inclusive general education setting and deaf education classroom operating through a memorandum of understanding between the

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*MECDHH/GBSD and the host school administrative unit in which the general education setting and deaf education classroom is located.*

**7. Statewide educational *Education and Family Services* or outreach.** "Statewide educational *Education and Family Services*" or "outreach" means consultation services provided to families of children from birth to 5 years of age who are deaf or hard-of-hearing students and consulting services to school administrative units that serve school-age deaf or hard-of-hearing children *educational outreach services, resources and information provided to children who are deaf or hard of hearing, from three through 22 years of age, their families and school administrative units with site-based programs statewide. These services include but are not limited to specially designed instruction, consultation, evaluation, speech therapy, social-emotional programming, involvement with a 504 plan or an individualized education program plan, family programming and interpreting referral services.*

**8. Statewide resource center.** "Statewide resource center" means the information and referral services provided by the library at the center school and the distance education program and the community education program offered at the center school.

**9. Center *Mackworth Island* preschool.** "Center *Mackworth Island* preschool" means the preschool program established *located at Mackworth Island* and operated by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf at the Governor Baxter School for the Deaf.

**10. Other preschool program.** "*Other preschool program*" means any early childhood programs for children who are deaf or hard of hearing that are operated by the MECDHH/GBSD or operated by child development services, a local preschool or a school administrative unit through a memorandum of understanding with the MECDHH/GBSD.

**11. Early Intervention and Family Services Program.** "*Early Intervention and Family Services Program*" means the program that provides early intervention services to children birth through age two who are deaf or hard of hearing within the State in accordance with a memorandum of understanding with the department and in collaboration with Child Development Services.

**12. Boarding.** "*Boarding*" means the room and board for a student in grades 9 to 12 whose family lives has more than a 50 mile one-way commute from the site-based program the student attends as established through a memorandum of understanding between the host school and the MECDHH/GBSD.

**13. Host school.** "*Host school*" means the school administrative unit at which the site-based program is located.

**14. 504 plan.** "*504 plan*" means the program developed pursuant to section 504 of the federal Rehabilitation Act of 1973

**§7403. Responsibility; location; geographic access**

The center school programs are operated by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf located on Mackworth Island or at a location determined by the school board in accordance with section 7407, subsection 17. Satellite school programs, including a residential program in accordance with section 7407, subsection 17, may be located near the population centers of deaf and hard-of-hearing students within the State.

**1. Responsibility; repeal.**

**§7404. Funding; tuition**

The following provisions apply to funding for and tuition to the school—*Mackworth Island Preschool, other preschool programs and site-based programs.*

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1. **Funding *of the Mackworth Island Preschool and other preschool programs.*** Students from this State may attend the ~~center school~~ *Mackworth Island Preschool or other preschool program* free of tuition ~~and room and board expense.~~ Funding for these students is provided by legislative appropriation based on the services necessary, ~~including room and board,~~ to satisfy the individualized education programs of the students enrolled in the *Mackworth Island Preschool and other MECDHH/GBSD preschool programs* ~~the center school.~~ Funding must support maintenance of the ~~center school~~ *Mackworth Island Preschool* and that portion of the island used by the ~~center school~~ *Mackworth Island Preschool*, security, outreach services, adult education, access to the education network of Maine and operations of the center school, including the residential program, parent-infant program, preschool program and communication garden program.—Funding must also support maintenance and operations of any additional MECDHH/GBSD preschool programs.

2. **Out-of-state tuition; *site-based programs.*** Students from other states and countries *who meet enrollment criteria and approval from the host school* may attend the ~~school~~ *site-based program* on a space-available basis by paying the cost of tuition, fees and room and board as established by the MECDHH/GBSD school board.

3. ***In-state tuition; site-based programs.*** *The sending school shall pay tuition to the host school and any additional costs for the individualized educational program services and evaluations that are non-specific for deaf and hard-of-hearing students and not otherwise covered by funding through the MECDHH/GBSD. Funding for the site-based individualized education program services shall be provided by legislative appropriation based on the services necessary to satisfy the individualized education program of deaf and hard of hearing students pursuant to section 7405-A.*

4. ***Room and board.*** *The MECDHH/GBSD shall pay the room and board costs for each student in grades nine through 12 placed in a site-based program with a commute beyond 50 miles in distance one-way, through funds appropriated by the State.*

### §7405-A. Placement; state and federal educational services requirements; technical assistance

Beginning July 1, ~~2015~~2022, the following provisions apply to student placement, ~~state and federal educational services requirements and technical assistance.~~

1. **Placement.** The school administrative unit *or child development services regional site* in which a deaf or hard-of-hearing student resides is responsible for providing a free, appropriate public education pursuant to chapter 301 for a student placed in the ~~center school~~ *Mackworth Island Preschool program, other MECDHH/GBSD preschool program* or ~~in one of the~~ *satellite school site-based programs.* An individualized education program *or 504 plan* team for a school administrative unit *or child development services site* in which a deaf or hard-of-hearing student resides is responsible for the placement decision of that student, ~~and, when the center school or one of the satellite school programs~~ *a MECDHH/GBSD preschool program or a site-based program* is being considered as a placement for a student, ~~the school administrative unit or child development services site~~ shall invite ~~a representative of the center school or the satellite school~~ *the MECDHH/GBSD administrator, or the administrator's designee and the host school's special education director, or the director's designee,* to attend the individualized education program *or 504 plan* team meeting at which this placement is being considered. The Maine Educational Center for the Deaf and Hard of Hearing is responsible for the sums necessary to ensure that the services required to meet the individualized education program for each student placed in the center school or in one of the satellite school programs are provided, ~~including:~~ *In collaboration with the student's individualized education program or 504 plan team, the administrator with the host school's special education director is responsible for determining if the child's needs can be served within the existing deaf education site-based program in accordance with the established enrollment criteria established through the memorandum of understanding between MECDHH/GBSD and the host school. The Maine legislature is responsible for ensuring that MECDHH/GBSD has the sums necessary to ensure that the services required to meet the individualized*

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*education program or 504 plan program needs for each student placed in the other preschool programs or one of the site-based programs are provided. Site-based services include the following services that are specific to deaf and hard of hearing students:*

A. The cost of tuition; and

B. The costs of transportation and other related services as defined by section 7001, subsection 4-B, including the following related services:

(1) Speech-language therapy, *including listening and spoken-language services;*

(2) Audiology in conjunction with the student's *primary managing* audiologist;

(3) Occupational therapy;

(4) *Transportation for students attending site-based programs from towns other than the host school towns;*

(5) *American Sign Language* Interpreting services *for educational programming;*

(6) Extended school year services;

~~(7) Frequency modulation systems;~~

(8) Evaluation for the following services:

(a) Occupational therapy;

(b) Speech-language therapy;

(c) American Sign Language;

(d) Psychoeducational ~~assessment for placement evaluations;~~ and

(e) Academic achievement; and

*(f) Functional listening evaluations; and*

*(g) Observations in the learning environment;*

(9) Behavioral supports and planning, *specifically, functional behavioral evaluations and behavior intervention plans;*

*(10) Specially designed instruction;*

*(12) Social work services;*

*(13) Cued speech transliteration services for educational programming;*

*(14) Transition planning;*

*(15) Remote hearing technology designed for educational use;*

*(16) Acoustic consultation, including measurement of unoccupied classroom noise levels and observation of the environment to make recommendations for acoustically appropriate treatment;*

*(17) Educational technicians in general education classes;*

*(18) Social Emotional Programming; and*

*(18) Boarding for high school students.*

*Beginning July 1, 2015, in the 2022-2023 school year, the costs of related services not listed in this paragraph are the responsibility of the school administrative unit in which a deaf or hard-of-hearing student resides for those students attending the center school or in one of the satellite school*

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programs—regardless if said student attends Mackworth Island Preschool or one of the site-based programs—operated by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf—beginning in the 2015-2016 school year.

The school board The Maine Educational Center for the Deaf and Hard of Hearing shall pay the room and board costs for each student that resides more than 50 miles one way that is placed in a residential program in the center school or in one of the satellite school site-based high school programs through funds appropriated by the State.

***1-A. Responsibility of school administrative unit.*** The sending school is responsible for providing any special education or related services not listed in subsection 1, paragraph B necessary for the provision of a free and appropriate education, including but not limited to:

A. Physical therapy and physical therapy evaluations;

B. Board-certified behavioral analysis; or

C. Extracurricular activities, including but not limited to fees, interpreting services and transportation costs when no accommodations are listed on the individualized education program for that student.

The sending school is responsible for ensuring compliance with individualized education programs and for coordination, scheduling, and facilitating individualized education program team meetings and issuing advanced written notices and written notices and oversight and distribution of the individualized education program plan. The sending school shall invite the administrators of the MECDHH/GBSD and the host school to provide input and participate in all site-based individualized education program team meetings. The designated case manager of the MECDHH/GBSD is responsible for writing the individualized education program plan and providing it to the sending school for approval and distribution in compliance with any applicable department rule.

**2. State and federal educational services requirements.** The center school, center Mackworth Island Preschool and other MECDHH/GBSD preschool programs and any satellite school site-based program shall comply with all standards for state public schools and shall comply with all federal and state laws and department rules for the provision of educational services to children with disabilities.

**3. Technical assistance.** A school administrative unit may request technical assistance from the school in matters relating to the education of deaf and hard-of-hearing students at no cost to the school administrative unit.

**§7405-B. Early Intervention Services; Statewide Education and Family Outreach**

***1. Responsibility for early intervention services.*** The MECDHH/GBSD is responsible for the following early intervention services in collaboration with the child development services through an established memorandum of understanding with The Maine Department of Education

A. Coordination of early intervention specialists, including but not limited to teachers of the deaf, speech language pathologists, special educators and occupational therapists specializing in deafness statewide;

B. Special instruction through primary service delivery;

C. Consultations;

D. Family training in American Sign Language and Cued Language.

***2. Supports.*** The MECDHH/GBSD is responsible for providing the following support to Child Development Services:

A. Coordination of statewide Hearing Assistive Technology;

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*B. Coordination of statewide American Sign Language interpreting services and cued speech transliteration services; and*

*C. Coordination of referrals pursuant to Part C and Part B 619 of the federal Individuals with Disabilities Education Act to Child Development Services for children who are deaf or hard of hearing.*

**3. Responsibility for Statewide Education and Family Services.** Pursuant to Part B of the federal Individuals with Disabilities Education Act, the MECDHH/GBSD is responsible for the following deaf education services:

*A. Specially designed instruction in which the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf shall ensure staffing up to four hours per week towards a child's determined individualized education program services;*

*B. Speech Language Services in which the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf shall ensure staffing for Speech Language Consultative Services.*

*C. Consultation (Teacher of the Deaf, Speech Language Pathologists, Special Educators, ASL Specialists, Interpreters, Social Worker);*

*D. Parent training and counseling in American Sign Language and Cued Language;*

*E. Evaluations in American Sign Language, Speech language and functional listening;*

*E. Coordination of statewide Hearing Assistive Technology; and*

*F. Coordination of statewide American Sign Language interpreting services and Cued Speech Transliteration Services.*

*G. Statewide Social Emotional Programming – Kids Like Me Program*

*The school administrative unit in which the student resides is responsible for funding the costs of American Sign Language interpreting and cued speech transliteration services in their district for students, and transportation to extracurricular events hosted by the MECDHH/GBSD.*

**§7406. School board**

The School Board of the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf is established as the policy-making authority and the governing body of the school. MECDHH/GBSD.

**1. Membership.** In appointing members to the school board, the Governor shall give proper consideration to achieving statewide geographical representation, cultural equity and gender equity. In appointing voting members to the school board, the Governor shall select nominees with experience or special knowledge in one or more of the following areas: law, finance, organizational issues, management, education, human resources and collective bargaining. The school board and interested parties may submit a list of recommended candidates to the Governor to aid in making appointments of voting and nonvoting members. The appointments of voting members made by the Governor are subject to review by the joint standing committee of the Legislature having jurisdiction over education matters and subject to confirmation by the Legislature. The appointments of nonvoting members made by the Governor are not subject to review by the joint standing committee of the Legislature having jurisdiction over education matters or subject to confirmation by the Legislature. The Governor shall appoint the school board consisting of 15 voting members and 2 nonvoting members as follows:

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- A. Four parents of students who are deaf or hard-of-hearing, including a minimum of one parent with a child enrolled in a site-based residential program and one parent with a child receiving service from the school's outreach program
- B. Three deaf representatives of the State's deaf community;
- C. Eight members of the general public, at least 2 of whom must have expertise in deaf education; and
- D. Two students, one who attends a site-based program ~~the school~~ and one who receives outreach services, both of whom are nonvoting members and who may not participate as board members in executive sessions or receive materials as board members from executive sessions.

2. **Chair.** The school board shall choose annually one of its members to serve as chair.

3. **Meetings.** The school board shall meet at regular intervals determined by the school board.

4. **Quorum.** Each voting member of the school board is entitled to one vote. A majority of voting members of the school board constitutes a quorum for the transaction of any official business.

5. **Terms of voting members.** The terms of the voting members of the school board are for 3 years, unless otherwise designated, and are staggered with 1/3 of the voting members appointed each year. Members may be appointed for consecutive terms.

6. **Terms of nonvoting members.** The terms of the nonvoting student members, pursuant to subsection 1, paragraph F, must be determined by the school board.

7. **Expenses.** Voting members of the school board must be compensated according to the provisions of Title 5, chapter 379.

8. **Appointments.**

### §7407. Powers and duties of school board

The powers and duties of the school board include the following.

1. **Policies.** The school board shall develop and adopt policies and rules necessary for the operation of the ~~school~~ MECDHH/GBSD preschool programs, site-based programs and all Early Intervention and Family Services and Statewide Education and Family Services programs.

2. **Selection of executive director.** The school board shall hire an executive director.

3. **Administration.** The school board shall oversee the administration of the ~~center school and any satellite school, including the hiring of academic, residential, outreach and support staff of the center school~~ MECDHH/GBSD administrative, professional and support staff for Early Intervention and Family Services, Statewide Education and Family services, preschool programs and site-based programs and the approval of contracts for those providing boarding services to eligible students.

3-A. **Employee retirement plan.** Employees of the school are state employees for purposes of Title 5, chapters 421 and 423, unless a decision is made pursuant to a collective bargaining agreement or is otherwise made consistent with applicable law other than Title 5, section 18201 to provide for retirement coverage in some way other than as state employees in the Maine Public Employees Retirement System regular retirement plan. The school board shall consult with the Executive Director of the Maine Public Employees Retirement System in proposing any change to the Maine Public Employees Retirement System retirement status of school employees. The school board shall provide certification to the Maine Public Employees Retirement System of any decision to provide retirement coverage in some way other than as state employees at least 60 days prior to any change in retirement coverage. Any decision that removes school employees from the definition of "state employee" as provided in Title 5, section 17001, subsection 40 is irrevocable unless changed by law.

4. **Budget development.**

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**4-A. Budget development.** The school board shall, with the aid of the Executive Director and staff *the Director of Operations*, prepare an annual budget for the operation of the school and exercise budgetary responsibility. The school board shall allocate for expenditure by the school and programs under its jurisdiction all the resources available for the operation of the school and its programs.

**4-B. Budget presentation.** Annually, not later than January 1st, in addition to complying with the provisions of Title 5, sections 1665 and 1666, the school board shall present the budget for the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf to the Governor and the Legislature for review by the commissioner and the joint standing committee of the Legislature having jurisdiction over education matters. Beginning for fiscal year 2013-14, the budget must be presented in a cost center summary budget format pursuant to section 1485, subsection 1, paragraph A and must include specific budget information, including revenues and expenditures, for the *center school, the center preschool and statewide educational services or outreach early intervention program, MECDDHH/GBSD preschool programs, site-based programs and statewide education and family services*. Revenue sources must include revenue received through state appropriation pursuant to section 7404, as well as fees and other revenues collected from school administrative units. The school board shall provide a detailed accounting of the fees and other revenue collected from each school administrative unit and the services provided to each unit. A liability or obligation may not be incurred under this chapter beyond the amount approved in the administrative operating budget. The school board may make expenditures only in accordance with allocations approved by the Legislature. Any balance of an allocation or subdivision of an allocation made by the Legislature for the school that at the time is not required for the purpose named in the allocation or subdivision may be transferred prior to the closing of the books for the fiscal year to any other allocation or subdivision of any allocation made by the Legislature for the use of the school for the same fiscal year. The transfer is subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Financial statements describing the transfer must be submitted by the school board to the Office of Fiscal and Program Review 30 days before the transfer is implemented. In case of extraordinary emergency transfers, the 30-day prior submission requirement may be waived by vote of the committee. These financial statements must include information specifying the accounts that are affected, the amounts to be transferred, a description of the transfer and a detailed explanation of the reason the transfer is needed.

**4-C. Capital Fund Reserve.** *The school board may establish a capital reserve fund and may vote to transfer any amount of unexpended funds at June 30th of each year to the capital reserve fund. Funds may be used for building and ground repairs and improvements. Expenditures from the reserve fund must be approved by a school board vote. Projects funded by the capital reserve must be approved by the State of Maine Bureau of General Services via a Project Approval Application Request.*

**4-D. Special Education Contingency Fund.** *The school board may establish a special education contingency fund and may vote to transfer any amount of unexpended funds at June 30th of each year to the special education contingency fund. Funds may be used for unanticipated costs in order to fulfill the needs of a child's IEP/IFSP, or one time costs associated with Special Education Programs such as new curriculum or professional development costs. Expenditures from the reserve fund must be approved by a school board vote.*

**5. Financial management.** The school board may accept donations, bequests or other forms of financial assistance for any educational purpose from a public or private source and shall comply with rules and regulations governing grants from the Federal Government or from any other source.

**6. Collection of fees.** The school board may charge service and rental fees for use of facilities of the school. Except as provided in subsections 12-A and 12-B, any funds received for service and rental fees must be retained by the school.



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**7. Indemnification.** The school board shall indemnify the employees and other agents of the school and purchase and maintain insurance to indemnify those persons to the extent provided in Title 13-B, section 714. The school board may indemnify members of the school board.

**8. Bonds.** The school board shall require security for the faithful performance of duties by employees and other agents of the school who are entrusted with the custody of the school securities or authorized to disburse the funds of the school. The security must consist of a bond, either a blanket bond or individual bond with a surety bond, or bonds having a minimum limitation of \$100,000 coverage for each insured person. The expense of a bond is assumed by the school.

**9. Property management.** The school board may acquire by purchase any property, lands, buildings, structures, facilities or equipment and make improvements to facilities necessary to fulfill the purposes of this chapter. The State retains ownership of Mackworth Island and the school facilities. Notwithstanding section 7403, the school board may make alternative plans regarding the location of the school.

**10. Island access.** The school board shall consult annually with the Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands on public access and management of that portion of Mackworth Island under the jurisdiction of that bureau.

**11. Certificates and diplomas.** The school board shall offer courses of study and grant diplomas and certificates on completion of courses of study. This granting of diplomas and certificates may be done in cooperation with the sending school.

**12. Contracts and agreements.** The school board may enter into any contracts and agreements, to the extent that funds are available, in the execution of its powers under this chapter.

**12-A. Lease of school property.** The Department of Administrative and Financial Services may enter into lease agreements consistent with the deed of gift from Governor Percival Baxter and in accordance with state law and policy on the lease of state-owned facilities, including but not limited to the provisions of Title 5, chapter 154. Any funds received pursuant to this subsection must first be applied in accordance with Title 5, section 1784. Any excess revenue above the requirements of Title 5, section 1784 may be retained by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf to be applied to statutorily authorized programs.

**12-B. Lease of school property to State's protection and advocacy agency.** The Department of Administrative and Financial Services may enter into lease agreements in accordance with state law and policy on the lease of state-owned facilities, including but not limited to the provisions of Title 5, chapter 154, to lease school property to the protection and advocacy agency for persons with disabilities designated pursuant to Title 5, section 19502. Any funds received pursuant to this subsection must first be applied in accordance with Title 5, section 1784. Any excess revenue above the requirements of Title 5, section 1784 may be retained by the school to be applied to statutorily authorized programs.

**13. Delegation.** The school board may delegate duties and responsibilities as necessary for the efficient operation of this chapter.

**14. Criteria for enrollment.** The school board shall establish and disseminate to school administrative units the criteria to be used in determining eligibility of applicants for enrollment in the center school *Mackworth Island Preschool and site-based programs. Individual memorandums of understanding may be established to further define enrollment criteria for specific site-based programs.*

**15. Student conduct.** The school board shall prepare and adopt procedures and rules to ensure the smooth operation of student conduct standards. *All students attending site-based programs shall, at all times, be subject to the rules of the host school. Discipline of program students must comply with the host school policy and the requirements of federal Individuals with Disabilities Education Act and the department's rules adopted pursuant to Title 20-A chapters 301 and 303. Representatives of the*

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*school administrative unit where the student resides must be notified of disciplinary actions that may impact a student's educational program.*

**16. Individualized education programs, standards and measurements.** The school board shall ensure that services required to meet the individualized education program for each student are provided by the school. The school board shall establish standards and methods of measuring progress in the levels of academic achievement for students who participate in the school in accordance with the statewide system of learning results established under section 6209. The school board shall also establish standards and methods of measuring progress in the professional development of teachers who participate in school programs. The school board shall assess students and teachers according to those standards and measurements.

**17. School programs.** ~~The school board may create, maintain and expand center school programs and programs for children and families that may be served by the school at any satellite school, through statewide educational services and through the statewide resource center. For the 2000-01 and 2001-02 school years only, the residential program at the Governor Baxter School for the Deaf located on Mackworth Island is limited to enrolling up to 20 students who are deaf or hard-of-hearing. The superintendent may request that the commissioner approve a waiver of the residential enrollment limit and establish additional placements for students in the residential program at the Governor Baxter School for the Deaf located on Mackworth Island; the commissioner may approve those placements on a case-by-case basis and only if the individual education plan of the prospective student who is deaf or hard-of-hearing requires placement in a residential program. Beginning with the 2002-03 school year, the school board shall establish a satellite school program that offers an array of educational programs that provide students who are deaf or hard-of-hearing with geographically convenient access to placement options that may be required by their individualized education program.~~

**17-A. Additional Programs.** *The school board may create, maintain, and expand site-based and other appropriate programs for deaf and hard of hearing children and families as needed to meet the needs of deaf and hard of hearing children statewide.*

**18. Fees and charges.** ~~The school board shall establish and collect necessary fees and set policies relating to other appropriate charges for students. The school board shall annually submit a schedule of fees to be charged to school administrative units for each service provided by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf to the Governor. A detailed accounting of fees collected from each unit and the services provided, including statewide educational services or outreach, must be included in the presentation of the budget pursuant to subsection 4-B.~~

**19. Report.** The school board shall report annually to the Governor, the joint standing committee of the Legislature having jurisdiction over education matters and the commissioner on the general status of the finances and operations of the school, including the ~~center school~~ *Mackworth Island Preschool, additional preschool* programs and any ~~satellite school site-based~~ programs, the status of the professional qualifications of the school board members and the results of the assessments required by subsection 16 and the general status of the school and shall provide an annual financial audit conducted by an independent auditor.

### **§7408. Powers and duties of executive director**

The powers and duties of the executive director include the following.

**1. Staff and administration.** The executive director shall hire staff and administer school operations.

**2. Enrollment.** The executive director shall work with school administrative units, pursuant to section 7405-A, to enroll students.

### **§7409. School year**

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The school must operate on a calendar year that meets or exceeds the minimum number of statewide student instructional days.

**§7410. Department assistance; limitation**

**(REPEALED)**

**§7411. Emergency power**

Notwithstanding any other provision of law, the commissioner may assume and exercise the authority of the school board if the commissioner declares an emergency exists such that the health, safety or welfare of students in academic, extracurricular or ~~residential programs~~ **boarding services** is in jeopardy or the school is in substantial and persistent violation of federal and state law. The commissioner's declaration of an emergency is not reviewable, but the commissioner shall exercise this emergency authority for a period not to exceed 3 months unless the commissioner again declares that an emergency continues.

**§7412. Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf Student Trust Fund established**

**1. Fund established.** Notwithstanding the provisions of Title 5, section 135-A, the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf Student Trust Fund, referred to in this section as the "fund," is established.

**2. Investment of funds.** The money in the fund may be invested by the Treasurer of State with the assistance of one or more fiduciaries or registered investment advisors. The duties and expenses of the fiduciaries or registered investment advisors must be handled in a manner consistent with Title 5, section 17108, subsections 2 and 3. All earnings must be credited to the fund.

**3. Nonlapsing fund; transfer to General Fund.** Until July 1, 2007, any unexpended funds remaining in the fund may not lapse but must be carried forward for the benefit of the fund. On July 1, 2007, any unexpended funds remaining in the fund must be transferred to the General Fund.

**4. Expenditures from the fund.**

**§7413. Private support organization**

**1. Designation of private support organization.** The executive director shall designate a nonprofit organization as the private support organization for the school. The designated organization must be incorporated as a nonprofit corporation under the laws of the State, and its sole purpose, as reflected in its bylaws, must be to organize and foster support for the school and the school's programs.

**2. Nonvoting member on board of directors.** The executive director, or the executive director's designee, shall serve as a nonvoting ex officio member of the private support organization's board of directors.

**3. Plan of work.** The executive director shall negotiate an annual memorandum of understanding between the school and the private support organization that outlines a plan of work identifying priority projects of mutual benefit and cooperation.

**4. Use of property.** The executive director may permit the appropriate use of fixed property, equipment and facilities of the school by the private support organization. Such use must be directly in keeping with the purpose of the private support organization as set out in subsection 1 and must comply with all appropriate state policies and procedures.