

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2017 to December 31, 2017**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A, sub-§5*

**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 20 MRS ch. 230 §2384 subpart 1; 20-A MRS §§ 8601-8609  
**Chapter number/title:** **Ch. 230**, Adult Education Program Requirements  
**Filing number:** **2017-056**  
**Effective date:** 4/5/2017  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

1. Requirements and Waivers for Students under Age 17  
Delete the reference in the title and the text the Phrase “enrolled in Day school or” and add the phrase “who have withdrawn from school”.

**Basis statement:**

This amendment changes the rule to align with the statute by adding the requirement that a student under age 17 has withdrawn from school in order to access adult education.

**Fiscal impact of rule:**

N/A

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 20-A MRS §130011(1)  
**Chapter number/title:** Ch. 115, Certification, Authorization and Approval of Education Personnel  
**Filing number:** 2017-109  
**Effective date:** 8/12/2017  
**Type of rule:** Major Substantive  
**Emergency rule:** No

**Principal reason or purpose for rule:**

Refinements were made in the following manner:

**Overarching concepts:**

- Align with state statute;
- Streamline the certifications to be easier for the field and easier to process on the state level;
- Delete unnecessary or duplicative sections of the regulation.

**Specific refinements:**

- Conditionals will be for three years without yearly check-ins to the Certification Office;
- Have renewals occur at five years from date of initial approval, so the renewals will flow throughout the year, rather than summers;
- Administrative certificates - refine renewal and allow interstate reciprocity;
- Delete the section on Substitute Personnel, allow the school administrative units to address the substitute needs of their SAUs;
- In Part II fine tune the certifications and endorsements to reflect current course needs;
- Added new Mathematical Instructional Leader and Educator Effectiveness Coordinator certificates;
- The refined certifications and endorsements will go into effect July 1, 2019.

**Basis statement:**

These proposed amendments make several minor changes to the regulation in order to streamline the certification process, respond to concerns from the field and remove duplicative or unused portions of the regulation. Specific changes to Part I include: making conditional certificates valid for up to three years, moving to the date of expiration of the credential for renewals for teachers and administrative positions and deleting the eight options for professional certificate application due to the detailed requirements already contained in Part II. Changes were made in Part II to fine tune the certifications and endorsements and reflect current course offerings. Two new certificates were added.

The State Board initially proposed more significant changes that would revise and consolidate the types of certificates available in order to respond to concerns raised by the federal government pertaining to special educators and would expand the scope of the rule to include volunteers and charter schools. After consideration of the comments provided and discussions with the Department and its counsel, the State Board has decided not to go forward with those proposed changes at this time. Some of the proposed changes will be addressed by statute.

**Fiscal impact of rule:**

None.

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 20-A MRS §7005(1)  
**Chapter number/title:** Ch. 101, Maine Unified Special Education Regulation  
Birth to Age 20  
**Filing number:** 2017-113  
**Effective date:** 8/25/2017  
**Type of rule:** Major Substantive  
**Emergency rule:** No

**Principal reason or purpose for rule:**

1. Inserts the requirement that the general education interventions under Section III of the rule must be included in the data collected by the IEP Team when the team uses a process based on the child's response to scientific, research-based intervention; and
2. Removes the limitation that the psychological processing data from standardized measures to identify contributing factors must be considered only as available and as determined to be relevant by the child's IEP team.

**Basis statement:**

This adoption amends Section VII.2.L(2)(a)(ii), which concerns the determination by the Individualized Educational Program Team, referred to as "the IEP Team" of the existence of a specific learning disability using a pattern of appropriate assessments by (1) inserting the requirement that the general education interventions under Section III of the rule must be included in the data collected by the IEP team when the team uses a process based on the child's response to scientific, research-based intervention; and (2) omitting the limitation that the psychological processing data from standardized measures to identify contributing factors must be considered only as available and as determined to be relevant by the child's IBP team. This filing also corrects an error in the current rule regarding consultation services to clarify that it can be a special education service and not only a related service.

**Fiscal impact of rule:**

N/A

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 29-A MRS §2311; 20-A MRS §5401(17)  
**Chapter number/title:** Ch. 81, School Transportation Safety  
**Filing number:** 2017-139  
**Effective date:** 9/16/2017  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The existing Ch. 81 is repealed and replaced with separate, shorter, and cleaner regulations. The new regulations are written to align with MRS Title 29-A and federal regulations, and modernize the transportation rule. Technical, language, and process updates will provide a more durable rule.

**Basis statement:**

In order to provide increased clarity and durability to its regulations relating to student transportation, the Department has decided to break the existing Ch. 81 into six shorter regulations, Ch. 81-86. The new regulations provide a better framework, cleaner language, and documents that will be more workable to make technical updates as they occur.

This rule repeals and replaces the transportation safety portion of the former Ch. 81. It establishes uniform safety requirements that include: student riding safety practices training, transportation employee in-service safety training, entry-level school bus driver training, prohibitions, school bus daily inspections, contracts, year-end transportations reports, and records retention. Most of the language of the former Ch. 81 remains; however, minor changes to the existing regulatory language were made in order to modernize the regulations with technical, language, and process updates to make it easier for all to understand and use.

**Fiscal impact of rule:**

N/A

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 29-A MRS §2311; 20-A MRS §5401(17)  
**Chapter number/title:** Ch. 82, School Bus Driver Fitness Determination  
**Filing number:** 2017-140  
**Effective date:** 9/16/2017  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The existing Ch. 81 is repealed and replaced with separate, shorter, and cleaner regulations. The new regulations are written to align with MRS Title 29-A and federal regulations, and modernize the transportation rule. Technical, language, and process updates will provide a more durable rule.

**Basis statement:**

In order to provide increased clarity and durability to its regulations relating to student transportation, the Department has decided to break Ch. 81 into six shorter regulations, Ch. 81-86. The six new regulations provide a better framework, cleaner language, and documents that will be more workable to make technical updates as they occur.

This regulation contains the school bus driver fitness determination portion of the former Ch. 81. Most of the language of the former Ch. 81 remains; however, minor changes to the existing regulatory language were made in order to modernize the regulation with technical, language, and process updates to make it easier for all to understand and use. While the form for the required bus driver physical was removed to better adapt to federal changes, the requirement of an annual physical remains.

**Fiscal impact of rule:**

N/A

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 29-A MRS §2311; 20-A MRS §5401(17)  
**Chapter number/title:** Ch. 83, School Transportation Operations Program  
**Filing number:** 2017-141  
**Effective date:** 9/16/2017  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The existing Ch. 81 is repealed and replaced with separate, shorter, and cleaner regulations. The new regulations are written to align with MRS Title 29-A and federal regulations, and modernize the transportation rule. Technical, language, and process updates will provide a more durable rule.

**Basis statement:**

In order to provide increased clarity and durability to its regulations relating to student transportation, the Department has decided to break Ch. 81 into six shorter regulations, Ch. 81-86. The six new regulations provide a better framework, cleaner language, and documents that will be more workable to make technical updates as they occur.

This regulation contains the requirements for access to and use of the School Transportation Operations Program. While the former Ch. 81 made references to school bus maintenance, this regulation is new language around a software program that tracks maintenance and is made available by the Department at no cost to public schools, including public charter schools, and private school approved for the receipt of public funds.

**Fiscal impact of rule:**

N/A

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 29-A MRS §2311; 20-A MRS §5401(17)  
**Chapter number/title:** Ch. 84, School Bus Refurbishment Program  
**Filing number:** 2017-142  
**Effective date:** 9/16/2017  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The existing Ch. 81 is repealed and replaced with separate, shorter, and cleaner regulations. The new regulations are written to align with MRS Title 29-A and federal regulations, and modernize the transportation rule. Technical, language, and process updates will provide a more durable rule.

**Basis statement:**

In order to provide increased clarity and durability to its regulations relating to student transportation, the Department has decided to break Ch. 81 into six shorter regulations, Ch. 81-86. The six new regulations provide a better framework, cleaner language, and documents that will be more workable to make technical updates as they occur.

This regulation contains the requirements for participation in the School Bus Refurbishment Program. The regulation contains new language derived from the existing Memorandum of Understanding between the Department and the Maine Military Authority.

**Fiscal impact of rule:**

N/A

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 29-A MRS §2311; 20-A MRS §5401(17)  
**Chapter number/title:** Ch. 85, School Bus Purchase Program  
**Filing number:** 2017-143  
**Effective date:** 9/16/2017  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The existing Ch. 81 is repealed and replaced with separate, shorter, and cleaner regulations. The new regulations are written to align with MRS Title 29-A and federal regulations, and modernize the transportation rule. Technical, language, and process updates will provide a more durable rule.

**Basis statement:**

In order to provide increased clarity and durability to its regulations relating to student transportation, the Department has decided to break Ch. 81 into six shorter regulations, Ch. 81-86. The six new regulations provide a better framework, cleaner language, and documents that will be more workable to make technical updates as they occur.

This regulation contains the School Bus Purchase Program portion of the former Ch. 81. Most of the language of the former Ch. 81 remains; however, minor changes to the existing regulatory language were made in order to modernize the regulation with technical, language, and process updates to make it easier for all to understand and use.

**Fiscal impact of rule:**

N/A



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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 29-A MRS §2311; 20-A MRS §5401(17)  
**Chapter number/title:** Ch. 86, Maine Uniform School Bus Specifications  
**Filing number:** 2017-144  
**Effective date:** 9/16/2017  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The existing Ch. 81 is repealed and replaced with separate, shorter, and cleaner regulations. The new regulations are written to align with MRS Title 29-A and federal regulations, and modernize the transportation rule. Technical, language, and process updates will provide a more durable rule.

**Basis statement:**

In order to provide increased clarity and durability to its regulations relating to student transportation, the Department has decided to break Ch. 81 into six shorter regulations, Ch. 81-86. The six new regulations provide a better framework, cleaner language, and documents that will be more workable to make technical updates as they occur.

This regulation contains the uniform school bus specifications portion of the former Ch. 81. The school bus specifications have been updated to align with both state and federal standards. Groups that articulate school bus specifications are the National Highway Traffic Safety Administration (NHTSA), that issue Federal Motor Vehicle Safety Standards (FMVSS) and regulations to which manufacturers of motor vehicle and equipment items must conform and certify compliance, and the National Congress on School Transportation (NCST) that publishes the *National School Transportation Specifications and Procedures*; school transportation industry best practices.

**Fiscal impact of rule:**

N/A

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 29-A MRS §13001(1)  
**Chapter number/title:** Ch. 115, Certification, Authorization, and Approval of Educational Personnel  
**Filing number:** 2017-175  
**Effective date:** 11/20/2017  
**Type of rule:** Major Substantive  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**

This rule creates a category within Section 14 of Ch. 115, Part I for Administrative Hold. The emergency rule would require all credential holders to provide the Department with an address at which the Department may contact them with respect to their credential. An administrative hold will be used in cases where information about certified individuals comes to the attention of the Department and the Department contacts the credential holder at the address on file and receives no response. In those situations, the Department will place the credential on administrative hold until such time as the holder responds. These provisions are needed at this time due to numerous instances whereby the Certification staff have been unable to contact individuals with credentials involved in questionable circumstances.

**Basis statement:**

This rule creates a category within Section 14 of Ch. 115, Part I for Administrative Hold. The emergency rule would require all credential holders to provide the Department with an address at which the Department may contact them with respect to their credential. An administrative hold will be used in cases where information about certified individuals comes to the attention of the Department and the Department contacts the credential holder at the address on file and receives no response. In those situations, the Department will place the credential on administrative hold until such time as the holder responds. These provisions are needed at this time due to numerous instances whereby the Certification staff have been unable to contact individuals with credentials involved in questionable circumstances.

*Findings of the Emergency:*

Over the past few months, the Department has encountered several situations where it has received information about credential holders engaging in dangerous or criminal activity, including convictions related to drugs, domestic violence, and theft. The Department has attempted to contact those individuals to either propose a voluntary surrender or initiate an investigation that could lead to revocation or suspension of their credential, and either the correspondence has been returned as undeliverable at the holder's address, or the holder has not responded to the Department. The Department is concerned that these individuals may be working in schools and thus students are potentially in danger. The Department needs to have a regulatory means to put the individuals' credentials on hold until such time as the voluntary surrender letter is signed by the individual or the holder has responded to the Department so that the Department has the information necessary to proceed with an investigation if needed. The Department is not doing a hearing in order to promulgate this regulation more quickly. There are currently nine credentials pending in the investigation file that the Department is unable to act on and there will at least five each ensuing month. The Department cannot risk having these individuals in the school facilities.

**Fiscal impact of rule:**

N/A