



**Date:** February 1, 2022

**Source of Report:** LD 386 ([Resolve 2021, Chapter 106](#)) Resolve, Directing the Department of Education To Establish the Process for Transitioning the Provision of Early Childhood Special Education Services for Children with Disabilities from 4 Years of Age to under 6 Years of Age from the Regional Child Development Services System to School Administrative Units

**Topic:** Plan for Provision of Early Childhood Special Education, Part B, Section 619

### **Context**

LD 386 required the Maine Department of Education (Maine DOE) to establish a process, timeline and implementation plan for transitioning the provision of special education services for children with disabilities from 4 years of age to under 6 years of age from the current regional CDS system to school administrative units (SAUs), including a recommendation on the provision of services for 3 year-olds receiving special education services. This resolve also directed the Department to convene and meet with an advisory committee on matters related to the development of the plan and to provide a report to the Joint Standing Committee on Education and Cultural Affairs.

Activities required by the resolve, including development of this report were conducted by the Maine DOE Special Services team during the COVID-19 pandemic, an extraordinary time for Maine's education system requiring an unprecedented level of support, technical assistance, and emergency management in all areas of early intervention and special education services for children from birth through age 22.

It is important to note that resolves from three significant Legislative Documents developed during the first session of the 130<sup>th</sup> Maine Legislature have directed the Maine DOE to develop plans that incorporate many specific details and involve input from two separate advisory committees to address special education programming for Maine children ages birth to under 6 years of age. LD 135, LD 255, and the resolve which is the subject of this report, LD 386, address highly complex and deeply interrelated issues, with each directive impacting significant aspects of other directives within the other resolves.

For the purpose of readability and consistency in this report, children who are 3 to up to age 6 or upon entering kindergarten will be referred to as children in Section 619 or simply Section 619.

The Department of Education is making the following recommendations for LD 386, to be captured and expanded upon in Sections below:

- Free and Appropriate Public Education (FAPE) responsibility for Section 619 Services children transfers to SAUs July 1, 2023.
  - CDS maintains fiscal responsibility for the full cost of provision of preschool services, including transportation and costs of due process for two years (ending July 1, 2025).
- Revision of Maine Statute re: provision of Part B Section 619 Services.
- Transition of Part B Services for children in Section 619 to SAUs over a period of time, depending on an SAU's readiness, by July 1, 2026
- During the period of transition of Part B services, a hybrid model will be in place.

- In the hybrid model, CDS shares the provision of service with SAUs. They collaborate to deliver services based on an SAU's individual need and existing resources, including, but not limited to, special education services, related services, transportation, and administrative tasks.
- The hybrid model will be in place until July 1, 2026.
- Formalize the transition process and transition resources for SAUs, including resource mapping and readiness assessments based on [A Guide to High Quality Publicly Funded Preschools](#) or SAUs to access to prepare for the transition of children in Section 619 to SAUs.
- Implement staffing support and transition process for CDS staff, including individual transition planning (present – July, 2024)
- Fiscal considerations, including:
  - A centralized billing system
  - Administrative support for billing
  - State funding process for Part B, high-cost students
  - Fiscal formula developed, independent of EPS, to support provision of preschool services (present – July, 2023)

## **Section 1: PROCESS FOR TRANSITION OF Part B SERVICES TO SAUs**

### **Background and Existing Programming**

#### Existing Part B Section 619 Program & Structure through CDS

Child Development Services (CDS) is an Intermediate Educational Unit responsible for the provision of Early Intervention services for children ages birth to three under Part C and Free Appropriate Public Education (FAPE) for students ages three to five under Part B Section 619. Under the supervision of the Department of Education, CDS holds responsibility for these services in accordance with the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) and its implementing regulations, CFR Parts 300 and 303. CDS has an over 37-year history of providing special education services for children in Section 619 and has historically relied on private entities, community partners, public preschools and Head Start to provide preschool settings in which to deliver special education services.

Child Development Services currently administers services for children in Part C and Part B Section 619 through nine regional sites across the state as well as a state office. The Maine Department of Special Services provides general oversight, monitoring of the regional sites and private and public pre-K programs providing services for children ages 3 through 5, through the CDS State Director/619 Coordinator.

The Maine DOE's Section 619 Coordinator and the Director of Special Services routinely meet with federal Office of Special Education Programs (OSEP) staff and file a report annually on the federal requirements for Part B, including Section 619, to ensure that Maine is compliant with all federal regulations regarding Section 619, and that Maine children are served according to the intent of the Individuals with Disabilities Education Act.

## Actions

**Resolved: That the Department of Education shall establish a process, timeline and implementation plan for transitioning the provision of early childhood special education services for children with disabilities from 4 years of age to under 6 years of age from the regional Child Development Services System to school administrative units. The process, timeline and implementation plan established by the Department of Education must:**

**Sec. 1. Department of Education to establish the process for transitioning the provision of early childhood special education services for children with disabilities from 4 years of age to under 6 years of age from the regional Child Development Services System to school administrative units.**

1. Include the implementation plan components as presented in the Public Consulting Group's independent review of the State's early childhood special education services, "Maine Early Childhood Special Education Implementation Plan," dated December 1, 2020;

Public Consulting Group's implementation plan components, December 1, 2020:

The Special Services Department reviewed the implementation plan included in Public Consulting Group's (PCG) report, issued in Winter 2020. Table 1 reflects PCG's components aligned to the timeline developed by the Department of Education. The Timeline Plan in Appendix B reflects a change from the three-year plan, recommended by PCG, to a four-year plan developed by the Special Services Department in collaboration with the advisory group.

**Table 1**

PCG Implementation Components	DOE Timeline Plan Inclusive of PCG Components
<ul style="list-style-type: none"> <li>• Designated State Agency</li> <li>• Administrative Office</li> <li>• 619 State Staff</li> <li>• Revise State Regulations</li> </ul>	Consideration for Department of Education and Office of Special Services
<ul style="list-style-type: none"> <li>• Designate SAUs to Provide 619 Services</li> <li>• Transition Period</li> <li>• State-Level Transition Leadership Planning</li> <li>• SAU Transition Planning</li> <li>• Fiscal Toolkit</li> </ul>	Consideration for State-Level to SAU Oversight & Responsibilities
<ul style="list-style-type: none"> <li>• Revise State Regulations</li> <li>• Transition Period</li> <li>• State-Level Transition Leadership Planning</li> <li>• SAU Transition Planning</li> </ul>	Staffing Considerations
<ul style="list-style-type: none"> <li>• Central Billing System</li> <li>• MaineCare Special Education Services Revision</li> <li>• Rate Study</li> <li>• Funding of 619 Services</li> <li>• Review of current children w/high costs</li> </ul>	Fiscal Considerations
<ul style="list-style-type: none"> <li>• Inclusion Guidance Document &amp; Training</li> <li>• Training &amp; Professional Development</li> <li>• Chapter 676 Training</li> <li>• Use of Developmental Delay Eligible Criteria</li> </ul>	Guidance & Training Considerations

2. Roles and responsibilities of DOE, regional CDS offices, local School Administrative Units (SAU), and Private Providers in situations in which a school administrative unit is unable to provide the appropriate level of service to meet the individualized education program plan of a child with a disability:

Students with IEPs are entitled to a Free and Appropriate Public Education (FAPE). Under current Maine statute, CDS is responsible for ensuring FAPE for children ages 3-5 (Section 619). This is carried out through the provision of direct services or by contracting with private and community providers. CDS also ensures FAPE for Section 619 administrative units to offer special education services that support preschool participation. Historically, CDS has not had sufficient capacity to meet the individual needs of every child requiring services in the least restrictive environment. Over the last two years, the COVID-19 pandemic has exacerbated existing challenges related to meeting the needs of our students.

Because CDS has been challenged to meet all of the service needs of children ages 3-5, the FAPE responsibility for Section 619, Part B should be transferred from the quasi-governmental agency (CDS) to local SAUs in Maine statute, starting July 1, 2023. The SAUs have been serving Maine's 5-21 year olds since 1975 and are able to extend the provision of FAPE to 3-5 year olds; they have an established infrastructure, developed capacity and can recruit and retain qualified staff because of competitive salaries and organizational stability.

This transfer is critical in supporting a full transition of these services to the SAUs by 2026.

- **New Preschool Programs**

CDS/DOE is in the process of building new, inclusive preschool programs to alleviate the loss of preschools that closed during the pandemic. At the writing of this report, eleven classrooms have been built and three additional locations with ten classrooms in York and Cumberland counties are in the process of being built. These classrooms could be transferred to local SAUs or to private industry as consideration for approved pre-school programs as the transition of Part B services from CDS to SAUs transpires. Currently, CDS plans classroom expansion activities with SAUs in anticipation of a transition of FAPE obligation.

- **Additional certification process/waivers**

The Special Services Department has worked with the DOE Certification Department to enact emergency measures that allow alternate pathways to certification in areas of great need. P.L.2021, Chapter 228 provided statutory language regarding alternate pathways. The DOE is also concerned with retaining new and existing staff. An initial survey was sent to CDS staff in fall 2021 to explore staff interest in other certification areas. CDS has recently been awarded a significant grant (\$1.5 million) to support staff development and certification of CDS staff to support their transition to public school. The Department recognizes that there will be professional development and certification needs among CDS staff as well as similar needs within SAUs or in private or community preschool programs that will require support during the transition process.

- **Recruitment and hiring of recently retired staff**

CDS continues to draw on long-standing relationships with recently retired Maine educators, therapists, and special education directors to recruit and hire work in CDS across the state. As of the writing of this report, seven retired special education directors are assisting CDS in various capacities, including direct work with children, evaluation, CDS site management, and training and professional development.

- **Additional SAU/community partnerships**

CDS is currently partnering with 36 SAUs and 14 community partners to help provide special education services for children in Part B. This is an increase of 66% over the number of partnerships CDS had last year and has assisted in increasing services and reducing waiting lists.

### 3. Address at a minimum:

The Department provided information available in the area federal requirements around the provision of services, staffing, physical space, administrative oversight, transportation, curriculum and assessments, data systems, and health and safety concerns to the advisory team. Information in each of the categories below reflects current information available, as well as input from the advisory committee. The timeline provided in the Appendix B of this report reflects additional time and work group study for more specific data in these areas, as needed.

#### A. School administrative unit capacity, staffing and physical space:

The Maine DOE is required by statute to collect basic building inventory data yearly. This data will support our understanding of capacity statewide.

An initial analysis of public preschools noted 152 SAUs currently offer at least one public Pre-K classroom in 239 Maine schools or in community partner sites. A graphic from the Maine DOE Early Childhood website maps out the locations of these classrooms across the state.

<https://www.maine.gov/doe/learning/earlychildhood/publicpreschool>

The Special Services team also met with Maine Education Policy Research Institute (MEPRI) on mapping capacity and surveying SAUs for information on unit capacity, staffing, and physical space. MEPRI has agreed to assist in developing an in-depth survey to understand preschool readiness in partnership with the development of a readiness assessment and in consideration of the SAU readiness tool presented by the Public Consulting Group.

#### B. Administrative oversight:

Administrative oversight of special education services is provided by the entity that is responsible for the provision of a Free and Appropriate Public Education (FAPE). Planning for the transition of administrative oversight is included in the timeline provided in this report and includes options to continue to support administrative tasks associated with special education by CDS utilizing the hybrid model.

#### C. Transportation:

The plan for transportation is embedded in the capacity study currently underway but will continue through the readiness assessments created by the DOE team and will be included in the detailed survey conducted by MEPRI. Transportation is a significant consideration for several reasons: additional costs affecting local SAU budgets, vehicle allocations including bus requirements for young children, staffing for transportation, and considerations for transporting children to services outside their enrolled district. The Special Services Department is including a plan for direct communication to SAU Transportation Directors and Superintendents regarding requirements for transportation of 3 and 4-year-old children, and information provided yearly on students in Part B requiring transportation services within districts to assist in readiness assessments and district planning. The department has also noted a concern to be addressed for children who currently receive special education services

outside their district residence, and will need information from SAUs, parents, and other stakeholders as the transition is being planned. Several members of the advisory group noted this concern as well.

The Department recognizes Maine's high cost per student for transportation compared with national averages as well as higher costs for transportation in some rural districts. The Special Services transition team will be working with Superintendents and transportation directors to include transportation information on the SAU readiness assessment and in the fiscal toolkit and will be consulting with the Transportation and Facilities Departments to develop long-term planning for the transition process.

In addition, Scott Brown's School Facilities and Major Capital School Construction Program, Facilities and Improvement Team is currently exploring a statewide software solution for transportation to help school units with bus routing and management. This would support additional understanding of transportation needs and capacity for serving children in Section 619.

#### D. Curriculum and assessments;

Maine's Section 619 curriculum is aligned with the Maine Early Learning Development Standards (MELDS). Individualized Education Plans (IEPs) and instruction through special education are based on MELDS standards.

There are no required state assessments for children in Section 619. Children in Section 619 receiving services through special education receive regular reports of progress on IEP goals as required by law, as well as a system of regular assessment and evaluation.

The Department of Education does not recommend changes to the current system of curriculum and assessments. If the State of Maine adopts universal preschool a system of universal screening will likely be considered and proposed to the Legislature, including any screening process considerations for students already identified under IDEA. Universal preschool is public preschool provided at no cost to all children in the preschool age range in a catchment area.

#### E. Data systems

In the fall of 2021, the Special Services Department began meeting with the Maine Office of Information Technology (OIT) to discuss data system needs. A set of criteria required for consideration was established and an initial review of current data systems being used in the state for special education was completed. The Department is in the process of developing an RFP to consider proposals for a state-wide data system that would include data systems for all Part B special education, including service provision and billing systems. The RFP process is included in the timeline with a planned completion date by end of December 2022. This will support initiatives proposed in both LD 135 and LD 1775 to increase school based MaineCare billing.

DOE will have to determine whether to continue to utilize the current CDS Child Information Network Connection (CINC) data system which includes functionality for measuring federal performance measures, Child Find, early childhood outcomes, transition, as well as service-delivery data for tracking student progress, and a mechanism for billing for allowable services. Alternatives include accessing an alternate design to support the proposed transition process or provision of a new data system through another vendor. In Maine, the CINC system is used exclusively by CDS for Part C and Part B Section 619; Maine SAUs have contracted with a number of different vendors for Part B K – 12.

Maine DOE recommends retaining the current CINC data system for Part C and Section 619 with a timeline to meet within a year to determine next steps for a data system, depending on the outcome of the exploration of a state-wide system for Part B.

F. Health and safety-related considerations:

The Special Services Department works with many state agencies, public health, and licensing agencies regarding health and safety-related issues involved in the provision of special education services for children in both Part C and Part B. Health and safety considerations of note as SAUs assume responsibilities for providing services for Section 619 children include (but are not limited to):

- building capacity and safety,
- parking and safe vehicle movement,
- appropriately-sized playgrounds, classroom, and bathroom equipment and facilities,
- access to rest time and rest area, and
- overall processes and procedures that involve providing a safe educational environment for early childhood learners with disabilities in public preschool school settings, community preschools, and private preschool and daycare settings.

The Office of Child and Family Services (OCFS, a division of DHHS) oversees the licensing of all private childcare programs, whether that is family or center based. Licensing through OCFS is focused on the overall safety and healthy atmosphere of a location providing care for children and is incredibly comprehensive. The Special Services Department and CDS require all private programs to be licensed through OCFS.

SAUs currently participate in a school approval process that occurs annually. SAUs work with a series of guidelines specific for children 4-5 (preschool and kindergarten). They do not have to get approval from OCFS unless they operate a childcare on site.

Our Early Learning Team at DOE provides approval and oversight for public Pre-K programs. Public Pre-K programs are required to provide space and programming for children with and without disabilities.

CDS and the Early Learning Team approve and monitor CDS programs and locations. Special education program approval is required in Chapter 101 (MUSER) Section XII 1 A-E. It assures that the Least Restrictive Environment approved by the IEP team is in compliance with MUSER *and* childcare licensing and is an appropriate setting for IEP services. The state Director of Special Services is charged with approval of programs providing special education services or service environments. If programs are denied approval, technical assistance is provided and the opportunity to reapply is granted.

The CDS Memorandum of Understanding process for private-licensed facilities to provide settings for special education services requires the DOE to confirm approved licensure before a CDS contract is put in place with the location.

MaineCare also requires evidence of CDS approval of private programs and will not reimburse for services if CDS approval is not confirmed.

CDS approval process also covers the process of Early Childhood Education Tuition Agreements (ECETA), contracts with private locations (including home and center based on an as-needed basis), as well as full program contracts for state-approved Special Purpose Preschool Programs. All tuition agreements ensure licensing as required and health and safety provisions for the safety of children receiving services through these agreements.

4. Provide specificity regarding funding through the State and the MaineCare Program that does not flow through the essential programs and services funding Formula pursuant to the Maine Revised Statutes, Title 20-A, chapter 606-B.

Initial meetings with the Finance team have been held and discussions are underway regarding the development of a fiscal formula separate from EPS to support SAUs in the provision of preschool education. The information used by Public Consulting Group to develop their proposed “non-EPS” funding formula is now 2 years old and must be reexamined to determine that the proposed funding formula is applicable.

The finance team will consider some of the PCG recommendations and additional factors:

- Costs associated with Building the new SIEU
  - Increase of costs related to the addition of Part C children
  - Board costs
  - Executive Director salary and benefits
  - Legal costs
- Costs/staff associated with Extended Part C option
- Retention of current CDS staff responsible for case management during the transition period
- Costs associated with employment consideration for staff under social security plan or transitioning out to MSRS
- Incentives for districts building regional programs in areas where need is identified
- Central billing staff
- Materials for training
- Support staff for larger districts based on the size and needs of the district for transition planning
- Materials for training
- Other fiscal considerations for large scale work projects

5. Include a plan to protect current Child Development Services System employees from any negative or unintended consequences related to retirement and pensions and the federal windfall elimination provision and government pension offset.

- Starting October 2020, CDS, under new leadership, began an analysis of positions
- Surveyed staff to determine certification status and training needs (fall 2021)
- Initial meetings with Maine PERS in Spring of 2021 to discuss the transition
- Received a grant totaling \$1.5 million to support professional development and certification efforts
- An individual plan will be developed with each current CDS staff who will be impacted by the transition of services to SAUs, including considerations for employees currently enrolled in retirement plans and the Social Security System, and employee training and professional development will be available for employees who wish to (and are able to) transition to other positions within the Special Services Department.

6. Provide steps, benchmarks and milestones for the department, the Child Development Services System and school administrative units to meet before and during any transition period, including but not limited to the components under subsection 3, and an independent project manager not employed by the Department of Education.

This work will be planned and coordinated through a DOE transition team and an independent project manager. The process hiring a project manager is included in the timeline provided, with a plan to



procure the project manager by June 2022, provided there is legislative approval to proceed. The current timeline and work plan also include provisions to be developed through the transition team for monitoring of SAU readiness and transition periods, as well as monitoring for private and community programs over the four-year period from July 2022 through June 2026.

7. Provide a detailed plan of the evaluation and assessment tools to be developed to determine whether the department, the Child Development Services System and school administrative units are meeting steps, benchmarks and milestones, which must include that, if progress towards implementation is not being met, the transition must cease until a solution can be determined.

The Maine DOE Special Services and Early Learning Team in collaboration with CDS is developing a readiness assessment protocol. Based on [A Guide to High Quality Publicly Funded Preschools](#) and incorporating technical assistance from the OSEP funded national technical assistance center, this protocol will allow Maine DOE staff and a project manager to monitor SAUs in assessing readiness. It will also offer the opportunity for individualized technical support.

Transition planning will be coordinated through the provision of an independent project manager. The process of hiring a project manager is included in the timeline provided, with a plan to procure the project manager by June 2022.

Districts who are currently partnering with CDS for the provision of services for children in Section 619 work under a memorandum of understanding (MOU) with CDS. This is an established process in CDS. Services that are provided through SAU or community partnerships are monitored through the CINC program for accuracy and timely provision. Individualized fact finding and intervention are provided through the regional site (or through the CDS director, if necessary) if a district or community provider is not meeting the requirements of their MOU with CDS. Individual service data from CINC service logs is also used to detail progress on individual student goals and is reported to IEP teams regularly. This data is also aggregated by the department to report on overall progress for all students in Section 619. It is expected that CDS will continue to develop individual MOUs or “Hybrid Plans” with districts during the transition period until districts are prepared to fully implement FAPE for the children in their district.

8. Include a recommendation regarding whether to provide services to children with disabilities who are 3 years of age through a quasi-independent agency or through school administrative units or a hybrid system and a description of the necessary additional resources, steps and benchmarks and barriers to any transition of services.

The Advisory Committee met on 10/28/21, 11/23/21, and 1/24/22 to review potential options for the provision of special education services for three-year old children. Three options (Table 2) were reviewed. After substantial discussion, the group supported a planned transition of special education services for 3 year-olds from CDS to SAUs, including using Option 2, the hybrid model, during the transition period to support each district, according to their individual needs and progress.

**Table 2**

<b>Option 1 Quasi-State Agency</b>	<b>Option 2 Hybrid Model</b>	<b>Option 3 SAU Responsible</b>
<ul style="list-style-type: none"> <li>• FAPE obligation on QSA</li> <li>• Created within Maine DOE</li> <li>• Oversight by Special Services Department</li> </ul>	<ul style="list-style-type: none"> <li>• FAPE obligation on SAU/DOE</li> <li>• Oversight by Maine DOE</li> <li>• Individualized by SAU</li> <li>• Choice in the following:               <ul style="list-style-type: none"> <li>○ Provision of service</li> <li>○ Staffing</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• FAPE obligation on SAU</li> <li>• Maine DOE monitors SAU</li> <li>• SAU responsible for enrolled children in catchment area</li> </ul>

<ul style="list-style-type: none"> <li>Contracted agencies providing services</li> <li>Current CDS staff providing case management, IEP implementation</li> <li>Rebranded – Preschool Special Education Programming (PSEP)</li> <li>Facilitate transition from Part C to Part B</li> </ul>	<ul style="list-style-type: none"> <li>Administrative oversight</li> <li>Eligibility requirements including evaluation, child find, eligibility meeting</li> <li>Transportation</li> <li>Data system choice</li> <li>Support referrals</li> <li>Coordinate services</li> <li>Case Management</li> <li>Facilitate transition from Part C to Part B</li> </ul>	<ul style="list-style-type: none"> <li>Each SAU would determine how to provide services for 3-year-old children</li> <li>Could create regional preschools</li> <li>Continue to contract with preschool providers for services</li> <li>Provide staffing</li> <li>Provide transportation</li> <li>Facilitate transition from Part C to Part B</li> </ul>
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Based on the feedback from the Advisory Group and discussions, as well as research of other states, Maine DOE recommends transitioning 3-year-old special education services to SAUs with a strategic plan to support this transition that would occur over a period of several years. By assuming responsibility for children in Part B earlier, SAUs can ensure that children in their districts have the critical services they need prior to entering elementary school. The transition would create consistency of the delivery of services and help schools navigate community resources and needs in order to prioritize educational planning. It would also assist parents in accessing a consistent student support and communication system, which was a concern that was raised by a member of the advisory team.

LD 386 Advisory Group’s discussions about the options for the provision of special education services for three-year old children are captured below in Table 3.

**Table 3**

Group Feedback		
Option 1 Quasi-State Agency	Option 2 Hybrid Model	Option 3 SAU Responsible
<ul style="list-style-type: none"> <li>Still a concern for lack of service providers</li> <li>If case managers were just managing 3 year olds there would be increased capacity</li> <li>While not an additional transition, there would be an additional team transition for children going from Part C to Part B and then to 4 year-old transition with SAU</li> <li>Option 1 seems like a continuation of the current CDS model</li> <li>Noted that additional to previous concern, new preschool classrooms have provided less restrictive environments than old CDS model</li> </ul>	<ul style="list-style-type: none"> <li>This could be chaotic, with CDS managing elements with many different districts</li> <li>Like the model, recognizing that CDS cannot provide all the 3 year-old needs</li> <li>Communication with families might be compromised in the hybrid model, if SAU and CDS are responsible for different things – would need clear communication plan</li> <li>There are many districts in Maine, each would have an individual plan for their hybrid provision model, this could be hard to manage for the DOE, complexity of hybrid model is huge</li> <li>Some districts are able and willing to take on both 3 and 4 year-old services,</li> </ul>	<ul style="list-style-type: none"> <li>Children receiving services outside their district area will need to be addressed (child care location for child noted)</li> <li>There may be a need to address Superintendent agreement or a process for children in care outside their district setting</li> <li>There is an opportunity for strengthening collaboration between districts and child care programs, as well as other agencies and providers</li> </ul>

<ul style="list-style-type: none"> <li>• Too much transition for families and staff</li> <li>• Quasi-state should not be created within DOE - would like separate agency with regional groups reinstated</li> <li>• While current transitions go smoothly from C to B this might not be the case with a new agency</li> <li>• Require an additional quasi state above and apart from Part C.</li> </ul>	<p>would allow for a good transition if there is a responsible process</p> <ul style="list-style-type: none"> <li>• Some issues will get resolved when funding is addressed – this could change the thinking on options</li> <li>• Option 2 would allow a transition time until a district is prepared to serve 3 year olds</li> <li>• Using the hybrid would allow SAU's to begin to understand what is entailed in support for 3 year old children</li> <li>• Hybrid is already being piloted to support student need (district collaboration w/ CDS)</li> <li>• Would allow for more consistency between preschool and school aged services</li> <li>• Child care and service delivery outside of residence SAU could be an issue to resolve</li> </ul>	<ul style="list-style-type: none"> <li>• Certification concerns for current SAU staff (noted that certification is already being addressed for preschool special education)</li> <li>• This option is the biggest shift for districts and they have been told in the past they would be taking over the four year olds</li> <li>• Seems this option is the easiest for families to navigate as services would remain tied to their community school district</li> <li>• Could eliminate parent choice in choosing programs</li> <li>• Child care and service delivery outside of residence SAU could be an issue to resolve</li> </ul>
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Information was shared with members of the Advisory Committee on choosing both Option 2 and Option 3 to enable districts to develop individualized plans based on their needs and capacity. Through the SAU readiness assessment process and work with the transition team, districts could be fully prepared to take on the responsibility for 3-year-olds (Option 3) early in the timeline or, depending on the district, may need additional time and supports through the hybrid system (Option 2) as a bridge to getting the SAU to full implementation. The DOE recommends making this process as individualized and flexible as possible for Maine SAUs, with town hall meetings and community conversations to engage feedback from all stakeholders within each district. This is also a recommendation in the PCG report.

Feedback from group on choosing Option 2 and Option 3:

- Districts would need support to access MaineCare billing. Districts are in very different places (the Special Services Director noted that billing and finance intersect across LD 135, LD 255, and LD 386)
- SAUs have local control over billing MaineCare currently
- Forming regional preschools are both a positive and a concern – transportation could be long but sharing resources between districts could be beneficial
- Important to remember children who are in day care or preschool setting outside their SAU service area – provisions will need to be discussed for this

**The Department of Education shall consult and meet with the advisory committee established under section 2 on the process, timeline and implementation plan.**

The Department of Education met over 6 sessions to gain feedback and gather input from the designated advisory group for this Legislative Document. It was necessary to begin these sessions with information on the federal and state laws that support these services. Because of the complexity of this information, this process occurred over the 2 initial meetings. Maine DOE/CDS then gave options of different models and options and attempted to gather as much feedback as possible. Every effort was made, including using a professional facilitator, providing written feedback and data, and multiple pathways to provide feedback, to gauge where group participants required clarity and needed further information or had concerns. Additional information on the formation of the advisory committee and its work is included in Section 2.

**SECTION 2: ADVISORY COMMITTEE ESTABLISHED**

**Resolved: That the Department of Education shall establish an advisory committee to advise the department on matters related to developing the implementation plan pursuant to section 1. No later than 30 days after the effective date of this resolve, the Commissioner of Education shall invite the following members to join the advisory committee:**

**Actions**

Formation and Work of the Advisory Committee

The Department of Education was directed to consult and meet with a defined advisory committee on the process, timeline, and implementation plan for LD 386. Immediately following the conclusion of the 130<sup>th</sup> first session, the Special Services team launched a nomination process to ensure all required advisory committee membership roles were filled in a timely manner. The Maine DOE also contracted with an independent facilitator to ensure meaningful support would be provided to the advisory committee throughout the fall and winter of 2021. The Maine DOE provided an opportunity for the public to attend each of the five advisory committee meetings and posted the materials and recordings of each meeting on the CDS webpages (<https://www.maine.gov/doe/learning/cds/>).

Information related to the members of the Advisory Committee and meeting dates and materials provided are attached to this Report as Exhibit A.

Advisory Committee Input

The Special Services Department drafted the implementation plan/timeline below. General information on the plan and a proposed timeline (Table 4) was presented to the Advisory Committee on November 23, 2021, for initial feedback and planning with this group.

**Table 4**

<u>2022-2023</u>	<u>2023-2024</u>	<u>2024-2025</u>	<u>2025-2026</u>
<ul style="list-style-type: none"> <li>• <u>Capacity</u></li> <li>• <u>Fiscal</u></li> <li>• <u>Staff Analysis</u></li> <li>• <u>Project Manager</u></li> <li>• <u>Hybrid pilot sites</u></li> <li>• <u>4+</u></li> <li>• <u>Budget</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Hybrid model –SAU</u></li> <li>• <u>Pilots 4+</u></li> <li>• <u>Staff transition</u></li> <li>• <u>plans to SAUs</u></li> <li>• <u>Fiscal</u></li> <li>• <u>Staff Analysis</u></li> <li>• <u>Budget</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Hybrid model –SAU</u></li> <li>• <u>Pilots 3-year-old</u></li> <li>• <u>Some SAUs fully transitioned</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>3 +</u></li> <li>• <u>Fully Transitioned</u></li> </ul>

The Department of Education is making the following recommendations for LD 386:

- Free and Appropriate Public Education (FAPE) responsibility for Section 619 Services children transfers to SAUs July 1, 2023.
  - CDS maintains fiscal responsibility for the full cost of provision of preschool services, including transportation and costs of due process for two years (ending July 1, 2025).
- Revision of Maine Statute re: provision of Part B Section 619 Services.
- Transition of Part B Services for children in Section 619 to SAUs over a period of time, depending on an SAU’s readiness, by July 1, 2026
- During the period of transition of Part B services, a hybrid model will be in place.
  - In the hybrid model, CDS shares the provision of service with SAUs. They collaborate to deliver services based on an SAU’s individual need and existing resources, including, but not limited to, special education services, related services, transportation, and administrative tasks.
  - The hybrid model will be in place until July 1, 2026.
- Formalize the transition process and transition resources for SAUs, including resource mapping and readiness assessments based on [A Guide to High Quality Publicly Funded Preschools](#) or SAUs to access to prepare for the transition of children in Section 619 to SAUs.
- Implement staffing support and transition process for CDS staff, including individual transition planning (present – July, 2024)
- Fiscal considerations, including:
  - A centralized billing system
  - Administrative support for billing
  - State funding process for Part B, high-cost students
  - Fiscal formula developed, independent of EPS, to support provision of preschool services (present – July, 2023)

## APPENDIX A

### Advisory Committee and Committee Meeting Summaries

<b>Advisory Committee Responsible with Advising the Department of Education on Matters Related to                      Developing the Implementation Plan for the Establishment of a Process for Transitioning the Provision of Early Childhood Special Education Service for Children with Disabilities from 4 years of Age to under 6 years of Age from the Regional Child Development Services System to School Administrative Units -                      LD 386</b>	
Name	Designation
Carol Martin	Independent Facilitator
Tiffany Haskell, Co Chair	Contracted service provider recommended by the <a href="#">Maine Association for Community Service Providers</a>
Nancy Cronin, Co Chair	Representative from the Maine Developmental Disabilities Council
Jamie McLeod Taren Macdonald Carrie Woodcock	Parents of children with disabilities between 3 years of age and 5 years of age recommended by the Maine Parent Federation
	Representative from the Maine Speech Language and Hearing Association
Heather Marden	Representative from the Maine Association for the Education of Young Children
Jillian O'Brien	Representative from the Maine Occupational Therapy Association
Michael Zboray	Principal of a public elementary school of an urban school administrative unit that has implemented an early childhood education program for children 4 years of age that includes coordination of programs and services for eligible children recommended by the Maine Principals Association
Howard Tuttle	Superintendent of a rural school administrative unit that has implemented an early childhood education program for children 4 years of age recommended by the Maine School Superintendents Association
Susan Manchester	Teacher in an early childhood education program for children 4 years of age that includes coordination of programs and services for eligible children within a public elementary school from a large school administrative unit
Sandy Flacke	Special education director from a small school administrative unit recommended by the Maine Administrators of Services for Children with Disabilities recommended by MADSEC
Sarah Squirrel	Designee, Maine Department of Health and Human Services

Megan Barnes	Representative from the Maine Head Start Directors
Rita Furlow	Representative from the Maine Children's Alliance
Priscilla Congdon	Representative from a childcare program recommended by the Maine Association for the Education of Young Children
<b>Technical Assistance and Support</b>	
Erin Frazier	State Director of Special Services Birth to 22
Roberta Lucas	State Director of CDS
Jamie Michaud	State Part C Coordinator
Lori Whittemore	CDS Director of Preschool Programming
Leeann Larsen	State Coordinator of Early Learning
Heather Henderson	CDS Program Manager/Curriculum Coordinator for Preschools
Nena Cunningham	State Head Start Director
Nicole Madore	State Early Childhood Specialist
Denise Howell	CDS Regional Site Director
Sarah D'Amico	CDS Regional Site Director
Pamela Scribner	CDS Regional Site Director
Greg Armandi	CDS Regional Site Director
Becky Gilman	CDS Regional Site Director
Amy Bragg	CDS Regional Site Director
Gail Page	CDS Regional Site Director
Deborah Mullis	Special Education Consultant

### **Timeline and Steps for Advisory Committee Formation and Meeting Summaries**

#### **July 2021**

Maine Department of Education (DOE) initiated internal planning for advisory committee

#### **August 2021**

DOE requested nominations to advisory groups and sent a save the date.  
DOE continued internal planning on LDs  
DOE contracted with external facilitator to support stakeholder group

### **October 28, 2021**

First Advisory Committee meeting

- Current service provision (federal to SAU)
- Proposed Provision of Services for Part B 619
- Options for 3-year-olds

### **November 23, 2021**

Second Advisory Committee meeting

- Review of options and feedback for 3-year-olds
- Elimination of Option 1 based on feedback
- Hybrid transitioning to full implementation presented for feedback
- Timeline for transition of services for 4 years and older to SAUs
- Capacity Task force timeline Jan 2022 – Jan 2023
- Fiscal task force timeline Jan 2022 – Jan 2023
- Info for curriculum/assessments, data systems, health and safety, MaineCare funding opportunities
- Current CDS staffing, protections for retirement and windfall offset (items in process and proposed timeline)
- Project Manager (July 2022)
- Proposed Timeline draft

### **December 2021**

DOE completed initial report for LD 386

Third Advisory Committee meeting scheduled for 12/20/21 – canceled on 12/17/21 and rescheduled for January

### **January 6, 2021**

LD 386 Advisory Committee Chairs made data request to DOE and drafted a primer worksheet for advisory committee members to review/consider for additional questions

### **January 10, 2022**

Third Advisory Committee meeting

- Chairs shared primer questions doc with members and elicited questions for additional information or clarification needed from DOE

### **January 21, 2022**

Response to Advisory Committee questions

Note: Since there was considerable overlap in membership between the advisory committees for LD 386 this response document was sent to all but two members of the LD 255 advisory committee. Information was relevant to both legislative documents and responded to questions from both advisory groups.

### **January 24, 2022**

Fourth Advisory Committee meeting

- Additional questions/clarifications from data info request response
- 3-year-old options (hybrid and SAU responsible) discussion



- Timeline components reviewed for feedback
- Monitoring system
- MaineCare Reimbursement – feedback
- Funding model for 619 presented (recommendation for annual payment per child, work group to support detailed fiscal planning)
- LRE reviewed for feedback
- Transportation – feedback
- Staffing – feedback
- Proposed timeline and budget process implications for SAUs - feedback

### **February 14, 2022**

Fifth Advisory Committee meeting – no slide deck

- Integration of LD 135, 255, and 386 and legislative considerations
- Chairs elicited comments/concerns from advisory committee members
  - Need for language re: community partners currently in place
  - Use of current MOUs to guide SAU readiness work
  - Need for enhancements in hybrid option
  - MUSER revision concern (legislative process for MUSER revision reviewed, including intention to separate Part C from Part B in state regulations)
  - Concern for timing of ED 279 and funding/budget for districts, requires legislative change
  - Discussion of regional programs
  - Discussion of private programs, private providers (including training for privates)
  - Possibility of Universal pre-K in Maine and possible impact on LD 386
  - Verbal feedback from advisory group to Chairs on their scope of work
  - Some Advisory Committee members requested the report prior to presentation

### **February 28, 2022**

Joint meeting with LD 255 and LD 386 Advisory Committees to review summary of upcoming report components and recommendations to be presented to the Joint Committee on Education and Cultural Affairs.

## **APPENDIX B**

### **Unified Timeline**

Timelines for 135, 255, 386 - Version 2 - Mar1

<https://www.maine.gov/doe/sites/maine.gov.doe/files/inline-files/Unified%20Timeline%20135%2C%20255%2C%20386%20-%20Mar1.pdf>

**APPENDIX C**  
**RESPONSES TO ADVISORY GROUP QUESTIONS**

January 21, 2022

Advisory Committee Members,

Provided below you'll find the information and data that was requested during the January advisory committee meeting. Thank you for reviewing this information prior to the upcoming committee meeting on January 24, 2021. Please review the information with two goals in mind: 1) serving three-year old children and 2) an appropriate timeline and process for the transition of four-year old children.

As a reminder, all advisory committee resources (recorded meetings, slide decks, and materials) are available on the CDS webpage.

Best,  
Erin

***Number of Children Served***

As of January 17, 2022, there were 2,848 Maine children with IEPs under Section 619 (3-5 YOs) across Maine's nine regional CDS sites.

Age of Children	Number of Children
3	874
4	1,356
5	618
All	2,848

***Placements***

Maine CDS Regions

AR - Aroostook  
DE - Down East  
FS - First Step  
MC - Mid Coast  
OPS - Opportunity  
PEDS - Penobscot  
RE - REACH  
TR - Two Rivers  
YO - York

CDS student placements are broken out by regions below.

Child is enrolled in a regular Early Childhood Education (ECE) Program at least 10 hours per week and receives the majority of their SPED and Related Services in the ECE Classroom.

AR	DE	FS	MC	OPS	PEDS	RE	TR	YO	Total
71	21	36	98	12	24	354	28	190	834

Child is enrolled in a regular ECE Program at least 10 hours per week and receives the majority of their SPED and Related Services in some other location.

AR	DE	FS	MC	OPS	PEDS	RE	TR	YO	Total
26	58	105	40	54	77	42	106	54	562

Child is enrolled in a regular ECE Program less than 10 hours per week and receives the majority of their SPED and Related Services in the ECE Classroom.

AR	DE	FS	MC	OPS	PEDS	RE	TR	YO	Total
0	1	3	17	0	5	56	4	31	117

Child is enrolled in a regular ECE Program less than 10 hours per week and receives the majority of their SPED and Related Services in some other location.

AR	DE	FS	MC	OPS	PEDS	RE	TR	YO	Total
0	3	5	8	2	8	8	7	16	57

Child is NOT enrolled in a regular ECE Program and receives their SPED and Related Services in a Separate Class.

AR	DE	FS	MC	OPS	PEDS	RE	TR	YO	Total
0	3	85	11	3	16	140	6	75	339

Child is NOT enrolled in a regular ECE Program and receives their SPED and Related Services in a Separate School.

AR	DE	FS	MC	OPS	PEDS	RE	TR	YO	Total
0	34	27	31	3	41	3	110	108	357

Child is NOT enrolled in a regular ECE Program and receives the majority of their SPED and Related Services at home.

AR	DE	FS	MC	OPS	PEDS	RE	TR	YO	Total
1	2	0	0	1	0	3	0	1	8

Child is NOT enrolled in a regular ECE Program and receives the majority of their SPED and Related Services in some other location.

AR	DE	FS	MC	OPS	PEDS	RE	TR	YO	Total
2	24	45	19	89	60	168	29	96	532

Children are served in public and private preschool programs, Head Start, childcare/daycare settings, contracted provider/therapist settings, and other settings as outlined in MUSER.

***Head Start Student Placements***

	Early Head Start		Head Start		State Totals	
	#	%	#	%	#	%
<b>Total Cumulative Enrollment</b>	1034	123.68	1730	80.5	2764	92.6
<b>Referrals Made to CDS</b>	97	9.38	229	13.24	326	11.79
<b># of IFSP's</b>	36	51.43			176	6.37
<b># of IEP's</b>			140	8.09		
<b>Parent refusal of eval after referral</b>	4	.39	23	1.33	27	.98
<b>Pending Evaluation</b>	15	1.45	21	1.23	36	1.3

***Curriculum and Assessment***

The Department’s Early Learning Team utilizes the following resources to approve, fund, and support public preschool programs statewide in collaboration with CDS. This is expected to remain in place as 4-year olds transition to SAUs.

[Rule Chapter 124](#)

[Maine’s Early Learning Development Standards \(MELDS\)](#)

[Resources for curriculum and instruction](#)

***School Administrative Unit (SAU) Data***

There are 271 SAUs in Maine. Currently there are 152 SAUs that offer at least one public Pre-K classroom in 239 schools.

The location of these classrooms can be found in the map below:

<https://www.maine.gov/doe/learning/earlychildhood/publicpreschool>

Few SAUs in Maine currently have universal Pre-K (estimated less than 30% per Maine Early Childhood Education Center). “Universal Pre-K,” also known as “preschool for all,” is a policy framework that gives all families with preschool aged children the opportunity to voluntarily enroll their child in a publicly-funded Pre-K care and education program. ([earlysuccess.org](http://earlysuccess.org))

According to the October 2021 child count, there are 5,448 children attending Public Pre-K, with 12.5% of these children identified as children with disabilities and receiving services through CDS.

In Maine, the special education identification rate is higher than 12.5% in most SAUs, and further analysis will determine if there are more special education seats available for children with disabilities. It is typical for the identification rate for 4 year old children to increase throughout theyear as referrals to special education are made for children who are new to preschool programs.

CDS currently partners with programs through contracts to provide direct services for children with individual education programs (IEPs). There are currently 50 contracts with programs providing direct services; 36 with SAUs and 14 are agreements with regional or community programs (non SAUs). The SAU or program connects to partners in the provision of services and negotiates the creation of a contract through a contract specialist. Each partnership requires a Memorandum of Understanding (MOU) and a contract that outlines the provision of service and the reimbursement that CDS will pay for the contracted services with the SAU.

The chart below shows the various services currently being provided at SAUs in Maine.

	SDI Itinerant	Classroom SDI	SP & L	SW	OT	PT	Psych	Trans- portation	BCBA	ECETA	Ed Tech Support	Nurse	Audio
SAUs (36)	1	11	24	6	15	8	3	5	3	0	18	1	1

**Implementation Plan**

The draft plan to aggregate SAU readiness to take over administrative oversight and provision of services for 4 year old children is aligned to Public Consulting Group’s (PCG) recommendation in the [Maine Early Childhood Special Education Implementation Plan Report from 2020](#). The Department work plan for LD 386 includes developing a work group to develop both a final tool and the process for SAU self-assessment. These include anticipated staffing and capacity, training, transportation, and inclusion. The draft plan includes procuring an independent program manager to provide oversight of the implementation plan. **Plan to describe and educate SAUs on differences in duties regarding Child Find**

Currently, the only Child Find difference between these two groups in Maine Special Education Regulations Chapter 101 (MUSER) is the timeline for initial evaluation and eligibility. MUSER is currently being revised and when the revisions are completed, consideration could be given to have the same eligibility timelines across Part B.

**Monitoring**

SAUs are monitored on a four-year rotation. Monitoring is based on federal requirements for all indicators for ages 5-22 to ensure that FAPE is provided across the state equitably. If 4-year old children transition to SAUs, they will be monitored by the Federal Monitoring Team on the preassigned rotation for the SAU.

**Monitoring and Evaluating SAU Progress**

The Department is currently collaborating with 36 SAUs in Maine to serve CDS-eligible children. There are plans to increase the number of SAUs participating in preschool partnerships. There is [PreK Development Guide](#) that will support a guide to support SAUs in developing their own programs.

There is not an established plan yet for evaluating SAU progress as they take over services for 4 year-olds, but the draft plan is to evaluate SAU progress annually as they transition to providing these services and access federal funds for the provision of services. This will be further developed and supported by the program manager once this individual is hired.

### ***Child Data System***

The existing data system for 3-5 year old children is [Maine Child Information Network Connection\(CINC\)](#). Since 2017, CINC stores special education, service delivery, billing, and state/federal reporting information for children served by CDS.

### ***Maine Care Billing***

Currently, CDS bills MaineCare for all medically necessary school-based services if the child is a member of MaineCare, and their parent consents to CDS billing MaineCare. Case management is not a billable service through MaineCare/Medicaid for children in Part B. The list below captures the specific eligible services billed through MaineCare:

- Speech and Hearing Service
- Occupational Therapy Service
- Physical Therapy Service
- Nursing Service
- Social Work Service
- Day Treatment (Section 65 Behavioral Health Services)
- RCS - (Section 28, Restorative and Community Support Services for children with cognitive impairments and/or functional limitations)
- Other medically necessary services
- Non-emergency transportation
- Audiology
- Assistive Technologies
- 1:1 Support through a BHP (Behavior Health Professional)

### ***Funding Model for Section 619***

The Department is following the guidance provided by Public Consulting Group (PCG) regarding funding of special education under Section 619. In their recommendation 2.4, PCG recommended an annual payment per child through the state for special education purposes. PCG provided a draft template for consideration and a draft plan for decision-making on this process. The Department's Special Services and CDS team are collaborating with Finance staff to develop a funding mechanism.