

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND EIGHTEEN

—
H.P. 1289 - L.D. 1852

Resolve, Regarding Legislative Review of Portions of Chapter 115: the Credentialing of Educational Personnel, a Late-filed Major Substantive Rule of the Department of Education

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature outside the legislative rule acceptance period; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 115: The Credentialing of Educational Personnel, a provisionally adopted major substantive rule of the Department of Education that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A outside the legislative rule acceptance period, is authorized only if the following changes are made:

1. The rule must be amended in Part I to require that school administrative units establish and maintain local credentialing committees substantially as proposed in the Department of Education's proposals submitted to the Joint Standing Committee on Education and Cultural Affairs on March 19, 2018 attached to the documents entitled "Quick View: Rule Chapter 115, Part I" and "Work Session for LD 1852: Committee Requests and DOE Responses";

2. The rule must be amended in Part I, Section 6 to restore the provisions in the current rule Chapter 115, Section 10.1 governing the qualifications and supervision of educational technicians I and II and to restore the requirement that educational technicians be credentialed with certificates by the Department of Education;

3. The rule must be amended in Part I, Section 6(9)(D) to clarify that the standards determined by the school administrative unit for substitute personnel to serve for less than 6 weeks would require that substitute personnel have the minimum of a high school diploma;

4. The rule must be amended in Part I, Section 3 to revise the definition of "certificate" to make the correct reference to the Maine Revised Statutes, Title 20-A, section 13001-A, subsection 2;

5. The rule must be amended in Part I, Section 6(2)(B)(2)(B) to clarify that in the 5 years prior to applying for a Maine certification, the applicant must have 3 years of successful teaching experience under an appropriate comparable certificate in the same certification subject area and grade level in any state;

6. The rule must be amended in Part I, Section 4(2)(A)(3) to maintain the general credential requirements for the 6-month certification review in the electronic data system and to remove the reference to the Exhibit 1 NEO position codes that correspond with the certifications or endorsements in Part II of the rule;

7. The rule must be amended in Part I to ensure that all equivalencies between 6 semester hours and 90 hours of in-service training for renewal are consistent throughout Part I;

8. The rule must be amended in Part I to correct all cross-references to conform with other changes required pursuant to this resolve; and

9. The rule must be amended in Part II to remove all provisionally adopted changes to Part II. Final adoption of the provisionally adopted changes to Part II of the rule is not authorized.

The Department of Education is not required to hold hearings or undertake further proceedings prior to final adoption of the rule in accordance with this section; and be it further

Sec. 2. Department of Education; major substantive rulemaking.

Resolved: That, by January 11, 2019, the Department of Education shall provisionally adopt and submit to the Legislature for review any amendments to its Chapter 115 rules relating to the requirements for specific certificates and endorsements in the credentialing of education personnel that the department finds are necessary to align its Chapter 115 rules with applicable laws, other rules and any applicable department practices and policies.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.