

CHAPTER 221**SCHOOL RECORDS, AUDITS AND REPORTS****SUBCHAPTER 1****STUDENT RECORDS****§6001. Dissemination of information**

1. Federal and state law. The provisions of this section, the United States Family Educational Rights and Privacy Act of 1974, Public Law 93-380, as amended by Public Law 93-568, and the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., as amended, govern the dissemination of education records and personally identifiable information about students in public schools, private schools approved by the department pursuant to chapter 117 and private schools recognized by the department as providing equivalent instruction pursuant to section 5001-A, subsection 3, paragraph A, subparagraph (1), division (b), as well as written notices of intent to provide equivalent instruction through home instruction and all education records of students receiving equivalent instruction through home instruction.

[PL 2015, c. 97, §1 (AMD).]

2. Internet restrictions. A public school may not publish on the Internet or provide for publication on the Internet any personal information about its students without first obtaining the written approval of those students' parents. For the purpose of this section, "personal information" means information that identifies a student, including, but not limited to, the student's full name, photograph, personal biography, e-mail address, home address, date of birth, social security number and parents' names.

[PL 1999, c. 595, §2 (NEW).]

3. Dissemination of education records to criminal justice agencies. A school may disseminate education records as defined in 20 United States Code, Section 1232 g(a)(4) regarding a juvenile if:

A. The juvenile has not been adjudicated as having committed a juvenile crime; [PL 1999, c. 595, §2 (NEW).]

B. The education records are disseminated to:

(1) Criminal justice agencies; or

(2) Agencies that by court order or agreement of the juvenile are responsible for the health or welfare of the juvenile and that have provided the school with a statement describing the purpose of the dissemination; and [PL 1999, c. 595, §2 (NEW).]

C. The education records are relevant to and disseminated for the purpose of creating or maintaining an individualized plan for the juvenile's rehabilitation. [PL 1999, c. 595, §2 (NEW).]

Education records received under this subsection are confidential and may not be further disseminated, except to the court or as otherwise provided by law. The persons to whom the education records are disseminated shall certify in writing to the school that the records will not be disclosed to any other party, except the court or as otherwise provided by law, without the written consent of the juvenile or the juvenile's parent or guardian.

[PL 1999, c. 595, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1989, c. 911, §1 (AMD). PL 1999, c. 17, §1 (AMD). PL 1999, c. 595, §2 (RPR). PL 2003, c. 181, §3 (AMD). PL 2015, c. 97, §1 (AMD).

§6001-A. Parental access to information on school activities

1. Parental notification. Upon written request by a parent, a school administrative unit may provide written notification of all school activities and programs for which parental participation, involvement, notification or awareness is in the best interest of the student. A noncustodial parent may have access to information on school activities and programs upon written request and with the mutual agreement of the custodial parent and the school administrative unit.

[PL 1997, c. 415, §4 (NEW).]

2. Exemption. This section does not apply to a parent denied parental rights and responsibilities in a court order.

[PL 1997, c. 415, §4 (NEW).]

SECTION HISTORY

PL 1997, c. 415, §4 (NEW).

§6001-B. Transfer of education records

1. Education records must follow students who transfer. Education records must follow students who transfer to a school in another school administrative unit in the State. The education records of students who transfer from educational programs or schools for juveniles located in or operated by correctional facilities or out-of-state schools are also subject to this requirement. For a student who is placed in an interim program, as defined in section 5161, subsection 3-A, the responsible school pursuant to section 5163 shall send or electronically transfer pertinent records, including but not limited to academic and health information records, to the interim program no later than 5 school days after becoming aware that the student has entered the interim program.

[PL 2013, c. 439, §16 (AMD).]

2. Transfer of records. Upon application of a student to transfer to another school administrative unit in this State or to enroll at a school administrative unit in this State from an educational program or school for juveniles located in or operated by a correctional facility or a school outside of the State, and upon the written request of the superintendent of the school administrative unit into which the student seeks admission, school administrators at the school administrative unit from which the student is transferring shall provide all of the student's education records, including disciplinary records, attendance records, health records other than confidential health records for which consent for dissemination has not been obtained and special education records, to school administrators at the school administrative unit to which the student is seeking a transfer. Confidential health records may be provided under this subsection only if the school administrator at the school administrative unit from which the student is transferring receives the authorization or consent necessary for the dissemination of information contained in the following records:

A. Records concerning information on a person's HIV infection status, including the results of an HIV test, as those records are described in Title 5, section 19203-D; [PL 2003, c. 472, §1 (NEW).]

B. Records concerning information on a person's substance use disorder treatment as those records are described in Title 5, section 20047; [PL 2017, c. 407, Pt. A, §58 (AMD).]

C. Records concerning information on a person's health care and treatment as those records are described in Title 22, section 1711-C; and [PL 2003, c. 472, §1 (NEW).]

D. Records concerning information on a person's mental health treatment as those records are described in Title 34-B, section 1207. [PL 2003, c. 472, §1 (NEW).]

[PL 2017, c. 407, Pt. A, §58 (AMD).]

3. Determination of disciplinary status of student applying for transfer; discretion of school to accept student. At the request of the superintendent of the school administrative unit into which a student seeks admission, the student's current or former school administrators shall provide, in a timely fashion, an oral or written report to the receiving school administrative unit indicating whether the student has been expelled or suspended or is the subject of an expulsion or suspension proceeding. In the case of a student who has been expelled or suspended or is the subject of an expulsion or suspension proceeding, the receiving school administrative unit may deny admission or participation in public school programs, facilities or activities as part of an equivalent instruction program pursuant to section 5021 until the school administrative unit is satisfied that the conditions of the expulsion or suspension have been met.

[PL 1999, c. 351, §3 (NEW).]

3-A. Determination of status of juvenile applying for admission; discretion of school to accept juvenile. If the receiving school administrative unit receives information under Title 15, section 3308-C, subsection 4, paragraph C, subparagraph (3) and Title 34-A, section 1216, subsection 1, paragraph F that a student is not in compliance with a condition of an individualized plan for the juvenile's rehabilitation and that condition is relevant to the juvenile's reintegration into the school, the receiving school administrative unit may deny admission or participation in public school programs, facilities or activities as part of an equivalent instruction program pursuant to section 5021 until the school administrative unit is satisfied that the condition has been met.

[PL 2021, c. 365, §28 (AMD); PL 2021, c. 365, §37 (AFF).]

4. Notice to parents and guardians. Prior to the start of the 2000-01 school year and each school year thereafter, a school administrative unit shall send a written notice to parents or guardians of every student enrolled in the school administrative unit that education records must be sent to a school administrative unit to which a student applies for transfer. Beginning with the 2001-2002 school year, an educational program or school for juveniles located in or operated by a correctional facility shall send a written notice to parents, guardians and custodians of every student enrolled in that educational program or school for juveniles located in or operated by the correctional facility that education records must be sent to a school administrative unit to which a student applies for transfer. The notice provided to parents, guardians and custodians must comply with the standards of the federal Family Education Rights and Privacy Act of 1974, Public Law 93-380, as amended by Public Law 93-568.

[PL 2001, c. 452, §14 (AMD).]

SECTION HISTORY

PL 1999, c. 351, §3 (NEW). PL 2001, c. 452, §14 (AMD). PL 2003, c. 205, §8 (AMD). PL 2003, c. 472, §1 (AMD). PL 2007, c. 451, §7 (AMD). PL 2013, c. 439, §16 (AMD). PL 2017, c. 407, Pt. A, §58 (AMD). PL 2021, c. 365, §28 (AMD). PL 2021, c. 365, §37 (AFF).

§6001-C. Student social security numbers; collection and deletion

1. Collection of social security number. If a school administrative unit, a public school within a school administrative unit or a private school requests a student's social security number, the unit or school shall inform the parent or legal guardian of that student or the student if the student is 18 years of age or older for what purpose the social security number will be used and provide the parent, legal guardian or student if the student is 18 years of age or older the opportunity to opt out of providing the social security number.

[PL 2017, c. 247, §1 (NEW).]

2. Deletion of social security number. A school administrative unit, a public school within a school administrative unit or a private school that collects a student's social security number shall delete the student's social security number from the student's records once the student is no longer enrolled in the school administrative unit, the public school within a school administrative unit or private school.

[PL 2017, c. 247, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 247, §1 (NEW).

§6002. Record of birth

The following provisions apply to a student's first enrollment. [PL 1981, c. 693, §§ 5, 8 (NEW).]

1. Duty of students. Students who enroll for the first time in a public school shall provide their teachers with official records of birth within 60 days of enrollment.

[PL 1981, c. 693, §§ 5, 8 (NEW).]

2. Duty of parent or guardian. The following provisions apply to the duties of a parent or guardian.

A. A parent or guardian of a student who enrolls shall provide that student with an official record of birth. [PL 1981, c. 693, §§ 5, 8 (NEW).]

B. A parent who refuses or unreasonably neglects to comply with paragraph A shall be fined not more than \$5. [PL 1981, c. 693, §§ 5, 8 (NEW).]

[PL 1981, c. 693, §§ 5, 8 (NEW).]

3. Duties of teachers, superintendents and other public officials. The following are duties of teachers, superintendents and other public officials.

A. A teacher shall inform the superintendent of the school administrative unit of the name of any student who has not complied with subsection 1. [PL 1981, c. 693, §§ 5, 8 (NEW).]

B. A superintendent shall inform the State Registrar of Vital Statistics of the name of a student who has not complied with subsection 1 and the name and address of the parent of that student.

[PL 1981, c. 693, §§ 5, 8 (NEW).]

C. The State Registrar of Vital Statistics shall file a complaint with the nearest District Court whenever the registrar believes that a parent has not complied with subsection 2. [PL 1981, c. 693, §§ 5, 8 (NEW).]

D. The State Registrar of Vital Statistics shall provide file copies of any relevant records in the registrar's possession on the request of a parent of a student. [PL 1981, c. 693, §§ 5, 8 (NEW).]

[PL 1981, c. 693, §§ 5, 8 (NEW).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW).

§6003. Student attendance records

1. Duty of school board. A school board shall designate one or more persons to maintain accurate records of all students attending public schools in the unit.

[PL 1981, c. 693, §§ 5, 8 (NEW).]

2. Contents. The attendance records shall contain the following information on each student:

A. Name; [PL 1981, c. 693, §§ 5, 8 (NEW).]

B. Birth date; [PL 1981, c. 693, §§ 5, 8 (NEW).]

C. Dates of entering and leaving school in the unit; [PL 1981, c. 693, §§ 5, 8 (NEW).]

D. The number of days attended; and [PL 1981, c. 693, §§ 5, 8 (NEW).]

E. The number of times late for school. [PL 1981, c. 693, §§ 5, 8 (NEW).]

[PL 1981, c. 693, §§ 5, 8 (NEW).]

3. Access. Attendance records shall be made available to the school board at any time.

[PL 1981, c. 693, §§ 5, 8 (NEW).]

4. Duty of record keeper. The record keeper shall provide the school board with the information they request whenever they request it.
[PL 1981, c. 693, §§ 5, 8 (NEW).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW).

§6004. Student counts

The following provisions apply to the annual counting of students. [PL 1981, c. 693, §§5, 8 (NEW).]

1. Duty of superintendent. In accordance with time schedules established by the commissioner, the superintendent of each school administrative unit and the administrator of each private school shall inform the commissioner, in the format specified by and with the content required by the commissioner, of the number of students attending their schools and in the case of public schools the number of students residing in their school administrative unit. This information must be supplied on forms provided by the commissioner.
[PL 2011, c. 171, §9 (AMD).]

2. Student count. Students must be counted as follows.

A. A student residing in the school administrative unit may be considered in attendance on October 1st and April 1st if the student is attending school on that date. A student must be counted as a resident if the student meets the residence requirement of chapter 213 and must be counted for subsidy if the student meets the definition of "subsidizable pupils" under section 15672, subsection 32.

Excused absences and absences due to illness may not be considered absences under this subsection. [PL 2011, c. 171, §9 (AMD).]

B. Students who attend school under section 5205, subsections 2, 3-A, 4, 5 and 6 must be counted in the school administrative unit in which they attend school. [PL 2009, c. 508, §2 (AMD).]

C. [PL 1989, c. 534, Pt. E, §2 (NEW); PL 1989, c. 596, Pt. E, §1 (RP).]

D. Private schools may report privately funded students on October 1st. All publicly funded students must be reported on October 1st and April 1st in the specified format and with the specific content and in accordance with the time schedules established by the commissioner. [PL 2011, c. 171, §9 (NEW).]

[PL 2011, c. 171, §9 (AMD).]

3. Online learning program.

[PL 2011, c. 353, §4 (NEW); MRSA T. 20-A §6004, sub-§3 (RP).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 806, §59 (AMD). PL 1983, c. 862, §57 (AMD). PL 1989, c. 534, §E2 (AMD). PL 1989, c. 596, §E1 (AMD). PL 2009, c. 508, §2 (AMD). PL 2011, c. 171, §9 (AMD). PL 2011, c. 353, §4 (AMD).

§6005. Maine Statewide Longitudinal Data System

The department shall develop and maintain the Maine Statewide Longitudinal Data System, a continuing program of information management, the purpose of which is to compile, maintain and disseminate information concerning the educational histories, placement, employment and other measures of success of participants in state educational programs. [PL 2011, c. 223, §1 (AMD).]

1. Placement information. A project conducted by the department that requires placement information must use information provided through the Maine Statewide Longitudinal Data System. The department shall implement an automated system that matches former participants in state educational and training programs with information in the files of state and federal agencies that maintain educational, employment and United States armed services records and shall implement procedures to identify the occupations of those former participants.

[PL 2011, c. 223, §1 (AMD).]

2. Dissemination of education records. The Maine Statewide Longitudinal Data System may not make public any information that could identify an individual or the individual's employer. The department must ensure that the purpose of obtaining placement information is to evaluate and improve education programs or to conduct research for the purpose of improving education services. Education records must be managed in compliance with the federal Family Educational Rights and Privacy Act of 1974, 20 United States Code, Section 1232g, referred to in this section as "FERPA." Personally identifiable information in an education record that is not directory information may be released to other agencies within State Government, including postsecondary institutions, only under a signed memorandum of understanding requiring compliance with FERPA.

[PL 2009, c. 448, §1 (NEW).]

3. Notification and consent.

[PL 2011, c. 223, §1 (RP).]

SECTION HISTORY

PL 2009, c. 448, §1 (NEW). PL 2011, c. 223, §1 (AMD).

SUBCHAPTER 2

AUDITS

§6051. School administrative units

1. Audit. A school board shall provide for an annual audit of the school administrative unit. The audit shall include the following:

A. Accountability of all revenues and expenditures; [PL 1985, c. 797, §36 (NEW).]

B. A determination of whether or not proper budgetary controls are in place; [PL 1985, c. 797, §36 (NEW).]

C. A determination of whether or not the annual financial data submitted to the department is correct; [PL 2007, c. 668, §31 (AMD).]

D. An audit of all federal programs in accordance with applicable federal law including a written determination that the audit has been conducted in accordance with applicable federal laws relating to financial and compliance audits as indicated in federal Office of Management and Budget circulars; [PL 2011, c. 678, Pt. A, §1 (AMD).]

E. A determination as to whether the school administrative unit has complied with applicable provisions of the Essential Programs and Services Funding Act; [PL 2009, c. 571, Pt. E, §9 (AMD).]

F. Any other information that the commissioner may require; [PL 2009, c. 571, Pt. E, §10 (AMD).]

G. A determination of whether the school administrative unit has complied with transfer limitations between budget cost centers pursuant to section 1485, subsection 4; [PL 2009, c. 571, Pt. E, §11 (NEW).]

H. A determination of whether the school administrative unit has complied with budget content requirements pursuant to section 15693, subsection 1 and cost center summary budget format requirements pursuant to sections 1305-C, 1485, 1701-C and 2307; [PL 2011, c. 678, Pt. A, §2 (AMD).]

I. A determination of whether the school administrative unit has exceeded its authority to expend funds, as provided by the total budget summary article; [PL 2013, c. 167, Pt. A, §3 (AMD).]

J. A determination of whether the school administrative unit has complied with the applicable provisions of the unexpended balances requirements established under section 15004; [PL 2017, c. 284, Pt. C, §9 (AMD); PL 2017, c. 284, Pt. JJJJJJJ, §1 (AMD).]

K. A schedule of expenditures of federal awards; [PL 2017, c. 475, Pt. A, §24 (AMD).]

L. Beginning July 1, 2017, a determination of whether the school administrative unit has complied with section 15675, subsection 2; and [PL 2017, c. 475, Pt. A, §25 (RPR).]

M. A determination of whether the school administrative unit has complied with applicable provisions of section 15690-A. [PL 2017, c. 475, Pt. A, §26 (NEW).]
[PL 2017, c. 475, Pt. A, §§24-26 (AMD).]

2. Fiscal year. The fiscal year of an audit shall be from July 1st to June 30th, except that audits of federal programs shall conform to federal requirements.
[PL 1985, c. 797, §36 (RPR).]

3. Auditors. Audits must be conducted by qualified certified public accountants or public accountants registered by the Board of Accountancy. The auditor shall review the audit with the school board.
[PL 2011, c. 678, Pt. A, §5 (AMD).]

4. Initial report to commissioner. On or before November 1st, the school board shall provide the commissioner with:

A. [PL 2001, c. 344, §8 (RP).]

B. [PL 2001, c. 344, §8 (RP).]

C. Written determination of whether or not proper budgetary controls are in place; [PL 2001, c. 344, §8 (NEW).]

D. A written determination of whether or not the annual financial data submitted to the department is correct, including submission of an audited reconciliation of the annual financial data prepared and certified by the auditor; and [PL 2007, c. 668, §32 (AMD).]

E. A written determination as to whether the school administrative unit has complied with applicable provisions of the Essential Programs and Services Funding Act. [PL 2005, c. 683, Pt. A, §25 (AMD).]
[PL 2007, c. 668, §32 (AMD).]

5. Records. Financial records and accounts shall be kept for 7 years after the end of the fiscal year and shall be available to the auditors and any other upon request.
[PL 1985, c. 797, §36 (RPR).]

6. Report to commissioner. Within 6 months after the end of the audit period, the school board shall provide the commissioner with:

A. A copy of the audit report; [PL 2001, c. 344, §9 (NEW).]

B. Accountability of all revenues and expenditures; [PL 2001, c. 344, §9 (NEW).]

C. Written assurance that the audit has been conducted in accordance with applicable state and federal laws relating to financial and compliance audits; and [PL 2001, c. 344, §9 (NEW).]

D. Any other information that the commissioner may require. [PL 2001, c. 344, §9 (NEW).]
[PL 2007, c. 668, §33 (AMD).]

7. Exception. If a municipal school administrative unit meets all of the following eligibility criteria, then the municipal school administrative unit may file the annual municipal audit or audits in lieu of the annual audit required by this section:

A. The municipal school administrative unit does not operate a school or schools; [PL 2009, c. 571, Pt. E, §14 (NEW).]

B. A school administrative unit audit is not necessary to meet federal audit requirements; and [PL 2011, c. 678, Pt. A, §6 (AMD).]

C. The municipal school administrative unit files the municipal audit or audits that include the fiscal year specified in subsection 2. [PL 2011, c. 678, Pt. A, §6 (AMD).]

D. [PL 2011, c. 678, Pt. A, §7 (RP).]
[PL 2011, c. 678, Pt. A, §§6, 7 (AMD).]

8. Corrective action plan. The commissioner shall review the audits of the school administrative unit and determine if the school administrative unit should develop a corrective action plan for any audit issues specified in the annual audit. The corrective action plan must address those audit findings and management comments and recommendations that have been identified by the commissioner, and the plan must be filed within the timelines established by the commissioner. The school administrative unit shall provide assurances to the commissioner that the school administrative unit has implemented its corrective action plan within the timelines established by the commissioner. If the school administrative unit has not met the conditions for submitting a corrective action plan or providing assurances that the school administrative unit has implemented the plan, the commissioner may withhold monthly subsidy payments from the school administrative unit in accordance with section 6801-A.

[PL 2009, c. 571, Pt. E, §15 (NEW).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1985, c. 797, §36 (RPR). RR 1993, c. 1, §45 (COR). PL 2001, c. 344, §§7-9 (AMD). PL 2005, c. 683, §§A24,25 (AMD). PL 2007, c. 668, §§31-33 (AMD). PL 2009, c. 571, Pt. E, §§9-15 (AMD). PL 2011, c. 678, Pt. A, §§1-7 (AMD). PL 2013, c. 167, Pt. A, §§3-5 (AMD). PL 2017, c. 284, Pt. C, §§9-11 (AMD). PL 2017, c. 284, Pt. JJJJJJ, §§1-3 (AMD). PL 2017, c. 475, Pt. A, §§24-26 (AMD).

§6052. Federal audits

The following provisions apply to federal audits. [PL 1981, c. 693, §§ 5, 8 (NEW).]

1. A school board of a school administrative unit which accepts federal funds shall hire auditors and pay out of available school funds or from federally allocated sums for any audit of federal programs. [PL 1981, c. 693, §§ 5, 8 (NEW).]

2. Report to commissioner. The auditor shall provide the commissioner with a copy of the audit. [PL 1981, c. 693, §§ 5, 8 (NEW).]

3. Use of audit. The commissioner may use these audits to provide the Federal Government with any information it requires.

[PL 1981, c. 693, §§ 5, 8 (NEW).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW).

SUBCHAPTER 3

EMPLOYEE AND APPLICANT RECORDS

§6101. Record of directory information

The following provisions apply to employee records. [PL 1981, c. 693, §§5, 8 (NEW).]

1. Contents. A school administrative unit shall maintain a record of directory information on each employee as follows:

- A. Name; [PL 1981, c. 693, §§5, 8 (NEW).]
- B. Dates of employment; [PL 1981, c. 693, §§5, 8 (NEW).]
- C. Regular and extracurricular duties, including all courses taught in that school administrative unit; [PL 1981, c. 693, §§5, 8 (NEW).]
- D. Post-secondary educational institutions attended; [PL 1981, c. 693, §§5, 8 (NEW).]
- E. Major and minor fields of study recognized by the post-secondary institutions attended; and [PL 1997, c. 452, §1 (AMD).]
- F. Degrees received and dates awarded. [PL 1997, c. 452, §1 (AMD).]
- G. [PL 1997, c. 452, §2 (RP).]
[PL 1997, c. 452, §§1, 2 (AMD).]

2. Access. The following provisions apply to access of employee records.

A. The record of directory information shall be available for inspection and copying by any person. [PL 1981, c. 693, §§5, 8 (NEW).]

B. Except as provided in paragraph A, information in any form relating to an employee or applicant for employment, or to the employee's immediate family, must be kept confidential if it relates to the following:

- (1) All information, working papers and examinations used in the examination or evaluation of all applicants for employment;
- (2) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;
- (3) Performance evaluations, personal references and other reports and evaluations reflecting on the quality or adequacy of the employee's work or general character compiled and maintained for employment purposes;
- (4) Credit information;
- (5) Except as provided by subsection 1, the personal history, general character or conduct of the employee or any member of the employee's immediate family;
- (6) Complaints, charges of misconduct, replies to complaints and charges of misconduct and memoranda and other materials pertaining to disciplinary action;
- (7) Social security number;
- (8) The teacher action plan and support system documents and reports maintained for certification purposes; and

(9) Criminal history record information obtained pursuant to section 6103. [PL 1995, c. 547, §4 (AMD).]

C. Any written record of a decision involving disciplinary action taken with respect to an employee by the governing body of the school administrative unit shall not be included within any category of confidential information set forth in paragraph B. [PL 1981, c. 693, §§5, 8 (NEW).]
[PL 1995, c. 547, §4 (AMD).]

3. Commissioner's review. The commissioner shall have access to any of the records or documents designated as confidential in this section for carrying out the commissioner's duties pursuant to section 13020. Copies of any such records or documents shall simultaneously be provided to the employee.

The commissioner shall also have access to support system documents for carrying out the commissioner's certification and support system approval duties pursuant to chapter 502 and to other confidential employee records for carrying out the commissioner's school approval duties pursuant to chapter 206.

[PL 1987, c. 620, §2 (AMD).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 470, §5 (AMD). PL 1983, c. 806, §60 (AMD). PL 1983, c. 862, §58 (AMD). PL 1985, c. 506, §A37 (AMD). PL 1987, c. 620, §§1,2 (AMD). PL 1995, c. 547, §§2-4 (AMD). PL 1997, c. 452, §§1,2 (AMD).

§6102. Employee review

The following provisions apply to employee review of records. [PL 1981, c. 693, §§ 5, 8 (NEW).]

1. Right to review. An employee or former employee of a school administrative unit, or the employee's representative, is entitled to review the following documents and reports:

A. The employee's teacher action plan and other support system documents and reports maintained for certification purposes upon written request to the custodian designated to maintain those records; [PL 1987, c. 620, §3 (NEW).]

B. The employee's personnel file on written request to the superintendent if the superintendent of schools has a personnel file for the employee; and [PL 1987, c. 620, §3 (NEW).]

C. Any confidential records or documents provided to the commissioner pursuant to section 6101, subsection 3, if the records or documents were not simultaneously provided to the employee. [PL 1987, c. 620, §3 (NEW).]

[PL 1987, c. 620, §3 (AMD).]

2. Time and place. Review of support system documents or a personnel file shall take place where the file is kept during normal school hours.

[PL 1987, c. 620, §3 (AMD).]

3. Contents. For purposes of this section, a "personnel file" includes, but is not limited to:

A. Formal or informal employee work evaluation compiled and maintained for employment purposes; and [PL 1987, c. 620, §3 (AMD).]

B. Reports relating to the employee's character, credit, work habits, compensation and benefits. [PL 1981, c. 693, §§ 5, 8 (NEW).]

[PL 1987, c. 620, §3 (AMD).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1987, c. 620, §3 (AMD).

§6103. Criminal history record information conviction data

Beginning July 1, 2000, a credential and renewal under chapters 501 and 502 are subject to the provisions of this section. A person who has complied with the requirements of this section is not required to submit to a subsequent national criminal history record check unless that person has not been continuously employed in a position requiring a credential under chapters 501 and 502. A person who has not been continuously employed in such a position is subject to a subsequent national criminal history record check upon renewal. School vacations are not a break in employment. [PL 2017, c. 235, §1 (AMD); PL 2017, c. 235, §41 (AFF).]

1. Criminal history record information obtained; reliance. The commissioner shall obtain criminal history record information containing a record of public criminal history record information as defined in Title 16, section 703, subsection 8 from the Maine Criminal Justice Information System for any person applying for a credential or renewal. The commissioner may rely on information provided by the Maine Criminal Justice Information System within 24 months prior to the issuance of a credential or renewal.

[PL 2017, c. 235, §1 (AMD); PL 2017, c. 235, §41 (AFF).]

2. Issuance restriction. Issuance of a credential or renewal to any person whose criminal history record information includes a criminal conviction is subject to the provisions of Title 5, chapter 341 and section 13020.

[PL 2017, c. 235, §1 (AMD); PL 2017, c. 235, §41 (AFF).]

3. Confidentiality. Any information obtained pursuant to this section is confidential. The results of criminal history record checks received by the commissioner are for official use only and may not be disseminated outside the department, except that the commissioner may outsource administrative functions of software document management according to federal outsourcing standards as described in 28 Code of Federal Regulations, Section 906.2 (2011) and allow access to these results for that purpose.

[PL 2011, c. 521, §1 (AMD).]

3-A. Fees. The Commissioner of Public Safety shall assess a fee set annually by the Commissioner of Education for each initial criminal history record check and a fee set annually by the Commissioner of Education for each renewal criminal history record check required by this section.

[PL 2015, c. 395, §3 (AMD).]

3-B. Reimbursement of fee.

[PL 2013, c. 506, §13 (RP).]

4. Expenses.

[PL 2005, c. 457, Pt. CC, §2 (RP).]

4-A. Phase-in plan. The fingerprinting and approval process established by this section for certain classes of individuals must be phased in as follows:

A. The fingerprinting and approval process must be phased in for all persons regularly employed in a school during the 1999-2000 school year who require department approval to continue in their positions and who have not been fingerprinted pursuant to this section prior to enactment of this subsection. The department shall issue each person a temporary approval card valid through a specified year from 2001 to 2004. Prior to July 1st of the year specified on the temporary approval card, the person must meet the requirements of this section. Once a person has met the requirements of this section, an approval card must be issued; [PL 1999, c. 791, §4 (NEW).]

B. A person placed under contract by a school and subject to the requirements of this section, who has not been fingerprinted prior to the effective date of this subsection, must meet these requirements by July 1, 2002; [PL 1999, c. 791, §4 (NEW).]

C. A person employed as a substitute who has not been fingerprinted prior to the effective date of this subsection must meet the requirements by July 1, 2002. Beginning with the 2003-2004 school year, a person employed as a substitute who needs fingerprinting and a criminal history record check pursuant to section 13011, subsection 8 must meet the requirements of this section within 8 weeks of employment by a school administrative unit. A person employed as a substitute who needs fingerprinting and a criminal history record check must be issued a temporary approval card by the department. The temporary approval card is valid for the first 8 weeks of employment, except that, for a person who has been fingerprinted pursuant to this section prior to the 20th day of employment and who has not received the results of the criminal history record check prior to the 9th week of employment, the temporary approval card remains valid until the commissioner determines whether approval is granted or denied based on the criminal history record information obtained from the State Bureau of Identification; and [PL 2003, c. 184, §1 (AMD).]

D. A regular employee subject to the requirements of this section who begins work in a school after the effective date of this subsection must meet these requirements prior to the 20th day of employment. Beginning with the 2003-2004 school year, a regular employee who needs fingerprinting and a criminal history record check pursuant to section 13011, subsection 8 must meet the requirements of this section within 8 weeks of employment by a school administrative unit. A regular employee who needs fingerprinting and a criminal history record check must be issued a temporary approval card by the department. The temporary approval card is valid for the first 8 weeks of employment, except that, for a person who has been fingerprinted pursuant to this section prior to the 20th day of employment and who has not received the results of the criminal history record check prior to the 9th week of employment, the temporary approval card remains valid until the commissioner determines whether approval is granted or denied based on the criminal history record information obtained from the State Bureau of Identification. [PL 2003, c. 184, §1 (AMD).]

[PL 2003, c. 184, §1 (AMD).]

5. Criminal record information obtained from the Federal Bureau of Investigation. The commissioner shall obtain other state and national criminal history record information from the Federal Bureau of Investigation for any person applying for a credential or renewal. The commissioner may rely on information provided by the Federal Bureau of Investigation within 24 months prior to the issuance of a credential or renewal.

[PL 2017, c. 235, §1 (AMD); PL 2017, c. 235, §41 (AFF).]

6. Fingerprinting. The applicant shall submit to having fingerprints taken. The Maine State Police, upon payment by the applicant or any other entity required by law of the expenses specified in subsection 3-A, shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the Maine State Police for purposes of this section must be paid over to the Treasurer of State for deposit in the State Police program, Other Special Revenue Funds account in the Department of Public Safety for the purpose of funding the costs of the Department of Public Safety to administer the criminal history record checks under this section.

[PL 2015, c. 267, Pt. SSS, §2 (AMD).]

7. Use of criminal history record. State and federal criminal history record information may be used for the purpose of screening educational personnel applicants by the commissioner in order to determine whether issuance of a credential or a renewal to educational personnel is granted or maintained.

[PL 2017, c. 235, §1 (AMD); PL 2017, c. 235, §41 (AFF).]

8. Applicant's access to criminal history record check. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of a criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal record check may inspect and review criminal record information pursuant to Title 16, section 709.

[PL 2013, c. 267, Pt. B, §15 (AMD).]

9. Right of applicant and commissioner to remove fingerprints from fingerprint file. Teachers or educational personnel whose credential has expired and who have not applied for renewal of a credential may request in writing that the State Bureau of Identification remove their fingerprints from the bureau's fingerprint file. In response to a written request, the bureau shall remove the requester's fingerprints from the fingerprint file and provide written confirmation of that removal to the requester.

The commissioner may, without notice to an applicant, remove fingerprints from the fingerprint file maintained by the State Bureau of Identification when an applicant has had no active credential for 7 years. An applicant may renew a credential after that applicant's fingerprints have been removed from the fingerprint file upon submitting again to fingerprinting.

[PL 2017, c. 235, §1 (AMD); PL 2017, c. 235, §41 (AFF).]

10. Criminal History Record Check Fund. The Criminal History Record Check Fund is created as a dedicated fund within the Department of Education for the transfer of funds from the Department of Public Safety to cover a portion of the cost of a position that issues credentials. The fund may not lapse, but must be carried forward to carry out the purposes of this chapter.

[PL 2017, c. 235, §1 (AMD); PL 2017, c. 235, §41 (AFF).]

11. Exemptions. An active duty law enforcement officer from a local law enforcement agency with jurisdiction over a school's premises who assists with school security, safety, emergency preparedness or emergency response or has been assigned other responsibilities concerning the school by the school or the local law enforcement agency is exempt from the provisions of this section.

[PL 2017, c. 155, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 547, §5 (NEW). PL 1997, c. 452, §3 (AMD). PL 1999, c. 35, §§1,2 (AMD). PL 1999, c. 110, §§1,2 (AMD). PL 1999, c. 791, §§1-4 (AMD). PL 2003, c. 184, §1 (AMD). PL 2005, c. 457, §§CC1-4 (AMD). PL 2005, c. 519, §§1,2 (AMD). PL 2011, c. 521, §§1, 2 (AMD). PL 2013, c. 267, Pt. B, §§14, 15 (AMD). PL 2013, c. 506, §13 (AMD). PL 2013, c. 507, §10 (AMD). PL 2015, c. 267, Pt. SSS, §§1-3 (AMD). PL 2015, c. 395, §§1-3 (AMD). PL 2017, c. 155, §1 (AMD). PL 2017, c. 235, §1 (AMD). PL 2017, c. 235, §41 (AFF).

SUBCHAPTER 4

MISCELLANEOUS

§6151. Annual report

The following provisions apply to annual reports. [PL 1981, c. 693, §§ 5, 8 (NEW).]

1. Duty of superintendent. The superintendent under oath shall, on or before the date established by the commissioner, make an annual report to the commissioner. The report shall contain a full and complete return of all educational statistics required to be reported for the year ending June 30th.

[PL 1983, c. 859, Pt. A, §§ 21, 25 (AMD).]

2. Penalty. A school administrative unit whose superintendent fails to make the report shall be subject to the penalties of section 6801-A.

[PL 1989, c. 414, §7 (AMD).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 859, §§A21,A25 (AMD). PL 1989, c. 414, §7 (AMD).

§6152. Rules

The commissioner shall adopt rules, consistent with federal and state laws, to carry out this subchapter which are consistent with federal and state requirements. [PL 1989, c. 414, §8 (AMD).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 859, §§A22,A25 (AMD). PL 1989, c. 414, §8 (AMD).

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