

**CHAPTER 223**

**HEALTH, NUTRITION AND SAFETY**

**SUBCHAPTER 1**

**STUDENT HEALTH**

**§6301. Student health**

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

**1. Duty of teacher.** A teacher who has reason to believe that a student is a public health threat as a result of having a communicable disease of the skin, mouth or eyes shall inform the superintendent. [PL 2017, c. 381, §5 (AMD).]

**2. Duty of superintendent.** A superintendent informed by a teacher under subsection 1 may:

A. Inform the student's parent:

(1) To cleanse the clothing and body of the student; and

(2) To furnish the student with the required home or medical treatment for the relief of the student's trouble so defined in subsection 1; [RR 2017, c. 2, §3 (COR).]

B. Exclude the student from the public schools until the student is no longer a public health threat; [PL 2017, c. 381, §6 (AMD).]

C. Exclude the student from public school as soon as safe and proper transportation home is available; and [PL 2017, c. 381, §6 (AMD).]

D. Consult with the school nurse. [PL 2017, c. 381, §6 (NEW).]  
[RR 2017, c. 2, §3 (COR).]

**3. Duty of parent.** A parent informed by a superintendent under subsection 2 shall promptly do what is reasonably necessary to ensure that the student is not a public health threat. [PL 2017, c. 381, §7 (AMD).]

**4. Penalty.** Any parent who fails to comply with subsection 3 shall be fined not more than \$5 for the first offense or \$10 for subsequent offenses. [PL 1981, c. 693, §§5, 8 (NEW).]

**5. Exclusion.**

[PL 1983, c. 661, §5 (RP).]

**5-A. Notification.** The superintendent shall cause notice of the communicable disease to be given to the Department of Health and Human Services, in accordance with the requirements of Title 22, chapters 250 and 251, and rules issued under those chapters. [PL 2007, c. 598, §1 (AMD).]

**6. Authority and duties of the Department of Health and Human Services.** The Department of Health and Human Services has the authority and duties prescribed in Title 22, chapters 250 and 251 with respect to the control of notifiable diseases and conditions and communicable diseases. [PL 2007, c. 598, §2 (AMD).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 661, §§3-6 (AMD). PL 1989, c. 414, §§9,10 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 598, §§1, 2 (AMD). RR 2017, c. 2, §3 (COR). PL 2017, c. 381, §§5-7 (AMD).

### **§6302. School building ventilation**

**1. Applicability.** This section applies to school buildings subject to basic school approval under section 4502 in which the heating, ventilation and air-conditioning system is mechanically driven. [PL 1991, c. 181, §2 (NEW).]

**2. Operation.** Each school administrative unit shall ensure that the heating, ventilation and air-conditioning system is:

A. Maintained and operated to provide at least the quantity of outdoor air required by the state building standards code in effect at the time the building permit was issued or the heating, ventilation and air-conditioning system was installed, whichever is later; and [PL 1991, c. 181, §2 (NEW).]

B. Operated continuously during school activity hours except:

(1) During scheduled maintenance and emergency repairs; and

(2) During periods for which school officials can demonstrate to the commissioner's satisfaction that the quantity of outdoor air supplied by an air supply system that is not mechanically driven and by infiltration meets the outdoor air supply rate required by paragraph A. [PL 1991, c. 181, §2 (NEW).]

[PL 1991, c. 181, §2 (NEW).]

**3. Inspection and record.** Each school administrative unit is responsible for:

A. Inspection of the heating, ventilation and air-conditioning system at least annually and correction of any problems within a reasonable time; and [PL 1991, c. 181, §2 (NEW).]

B. Maintaining written records of heating, ventilation and air-conditioning system inspection and maintenance for at least 5 years. The superintendent shall make these records available for examination upon request. [PL 1991, c. 181, §2 (NEW).]

[PL 1991, c. 181, §2 (NEW).]

### **SECTION HISTORY**

PL 1991, c. 181, §2 (NEW).

### **§6303. Medicaid for health and human services**

A school administrative unit may receive funds from the Medicaid program pursuant to the United States Social Security Act, 42 United States Code, for the provision of preventive health, health, habilitation, rehabilitation and social services to eligible students. [PL 2005, c. 2, Pt. D, §19 (AMD); PL 2005, c. 2, Pt. D, §§72, 74 (AFF); PL 2005, c. 12, Pt. WW, §18 (AFF).]

### **SECTION HISTORY**

PL 1995, c. 427, §1 (NEW). PL 2005, c. 2, §D19 (AMD). PL 2005, c. 2, §§D72,74 (AFF). PL 2005, c. 12, §WW18 (AFF).

### **§6304. Automated external defibrillators and cardiopulmonary resuscitation**

School boards may place automated external defibrillators in occupied school buildings and at school athletic events. School personnel and members of the public may receive training on how to perform cardiopulmonary resuscitation and use automated external defibrillators in order to acquire the skills and confidence to respond to emergencies. In accordance with rules adopted by the department, public schools shall offer training to students on how to perform cardiopulmonary resuscitation and use

automated external defibrillators. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2015, c. 140, §1 (AMD).]

## SECTION HISTORY

PL 2007, c. 267, §1 (NEW). PL 2015, c. 140, §1 (AMD).

### §6305. Epinephrine autoinjectors; guidelines; emergency administration

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Collaborative practice agreement" means a written and signed agreement between a physician licensed in this State or a school health advisor under section 6402-A and a school nurse under section 6403-A that provides for the prescription of epinephrine autoinjectors by the physician or school health advisor and administration of epinephrine autoinjectors by a school nurse or designated school personnel to students during school or a school-sponsored activity under emergency circumstances involving anaphylaxis. [PL 2013, c. 526, §1 (NEW).]

B. "Designated school personnel" means those employees, agents or volunteers of a school administrative unit or an approved private school designated by a collaborative practice agreement between a physician licensed in this State or a school health advisor under section 6402-A and a school nurse under section 6403-A who have completed the training required by rule to provide or administer an epinephrine autoinjector to a student. [PL 2013, c. 526, §1 (NEW).]

C. "Epinephrine autoinjector" means a single-use device used for the automatic injection of a premeasured dose of epinephrine into a human body or another single-use epinephrine delivery system approved by the federal Food and Drug Administration for public use. [PL 2019, c. 560, §2 (AMD).]

D. "School" means a public or approved private school. [PL 2013, c. 526, §1 (NEW).]  
[PL 2019, c. 560, §2 (AMD).]

**2. Collaborative practice agreement; adoption authorized.** A school administrative unit or an approved private school may authorize adoption of a collaborative practice agreement for the purposes of stocking and administering epinephrine autoinjectors as provided under this section. The administration of an epinephrine autoinjector in accordance with this section is not the practice of medicine.

[PL 2013, c. 526, §1 (NEW).]

**3. Collaborative practice agreement; authority.** A collaborative practice agreement permits a physician licensed in this State or school health advisor under section 6402-A to prescribe an epinephrine autoinjector and direct a school nurse under section 6403-A to administer an epinephrine autoinjector in good faith to any student experiencing anaphylaxis during school or a school-sponsored activity. Pursuant to a collaborative practice agreement, a physician licensed in this State or school health advisor under section 6402-A may authorize the school nurse under section 6403-A during school or a school-sponsored activity to designate other school personnel with training required by rule to administer an epinephrine autoinjector if the school nurse is not present when a student experiences anaphylaxis.

[PL 2013, c. 526, §1 (NEW).]

**4. Collaborative practice agreement; terms and provisions.** A collaborative practice agreement must include the following information:

A. Name and physical address of the school; [PL 2013, c. 526, §1 (NEW).]

B. Identification and signatures of the physician or school health advisor under section 6402-A and school nurse under section 6403-A who are parties to the collaborative practice agreement, the

dates the agreement is signed by each party and the beginning and end dates of the period of time within which the agreement is in effect; and [PL 2013, c. 526, §1 (NEW).]

C. Any other information considered appropriate by the physician or school health advisor under section 6402-A and school nurse under section 6403-A. [PL 2013, c. 526, §1 (NEW).]  
[PL 2013, c. 526, §1 (NEW).]

**5. Use of epinephrine autoinjectors without a collaborative practice agreement.** The governing body of a school administrative unit or an approved private school may authorize a school nurse under section 6403-A and designated school personnel to administer an epinephrine autoinjector to a student in accordance with a prescription specific to the student on file with the school nurse and in accordance with section 254, subsection 5. The administration of an epinephrine autoinjector in accordance with this subsection is not the practice of medicine.  
[PL 2013, c. 526, §1 (NEW).]

**6. Manufacturer or supplier arrangement.** A school administrative unit or an approved private school may enter into an arrangement with a manufacturer of epinephrine autoinjectors or a 3rd-party supplier of epinephrine autoinjectors to obtain epinephrine autoinjectors at fair market prices or reduced prices or for free.  
[PL 2013, c. 526, §1 (NEW).]

**7. Purchase from licensed pharmacies.** A collaborative practice agreement under this section may provide that a school administrative unit or an approved private school may purchase epinephrine autoinjectors from a pharmacy licensed in this State.  
[PL 2013, c. 526, §1 (NEW).]

**8. Guidelines.** By December 1, 2015 and as needed after that date, the department in consultation with the Department of Health and Human Services shall develop and make available to all schools guidelines for the management of students with life-threatening allergies. The guidelines must include, but are not limited to:

A. Guidelines regarding education and training for school personnel on the management of students with life-threatening allergies, including training related to the administration of an epinephrine autoinjector; [PL 2013, c. 526, §1 (NEW).]

B. Procedures for responding to life-threatening allergic reactions; [PL 2013, c. 526, §1 (NEW).]

C. A process for the development of individualized health care and allergy action plans for students with known life-threatening allergies; and [PL 2013, c. 526, §1 (NEW).]

D. Protocols to prevent exposure to allergens. [PL 2013, c. 526, §1 (NEW).]  
[PL 2013, c. 526, §1 (NEW).]

**9. Plan.** By September 1, 2016 and as needed after that date, the governing body of a school administrative unit or an approved private school shall:

A. Implement a protocol based on the guidelines developed pursuant to subsection 8 for the management of students with life-threatening allergies enrolled in the schools under its jurisdiction; and [PL 2013, c. 526, §1 (NEW).]

B. Make the protocol under paragraph A available on the governing body's publicly accessible website or the publicly accessible website of each school under the governing body's jurisdiction or, if those websites do not exist, make the protocol publicly available through other means as determined by the governing body. [PL 2013, c. 526, §1 (NEW).]

The governing body of the school administrative unit or the approved private school shall annually attest to the department that the schools under its jurisdiction are implementing the protocol in accordance with the provisions of this subsection.

[PL 2013, c. 526, §1 (NEW).]

**SECTION HISTORY**

PL 2013, c. 526, §1 (NEW). PL 2019, c. 560, §2 (AMD).

**§6306. Eligibility to attend school**

A child who holds a written certification for the medical use of marijuana under Title 22, section 2423-B may not be denied eligibility to attend school solely because the child requires medical marijuana in a nonsmokeable form as a reasonable accommodation necessary for the child to attend school. [PL 2015, c. 369, §1 (NEW).]

**SECTION HISTORY**

PL 2015, c. 369, §1 (NEW).

**SUBCHAPTER 2****IMMUNIZATION****§6351. Immunization**

**(REPEALED)**

**SECTION HISTORY**

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 661, §7 (RP). PL 1983, c. 806, §61 (AMD). PL 1983, c. 862, §59 (AMD).

**§6352. Immunization**

To assure a safe and healthful school environment, the Legislature intends that the provisions of this subchapter on immunization shall apply in the schools of the State. [PL 1983, c. 661, §8 (NEW).]

**SECTION HISTORY**

PL 1983, c. 661, §8 (NEW).

**§6353. Definitions**

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1983, c. 661, §8 (NEW).]

**1. Certificate of immunization.** "Certificate of immunization" means a written statement from a physician, nurse or health official who has administered an immunizing agent to a child, specifying the dosage administered and the date it was administered.  
[PL 1983, c. 661, §8 (NEW).]

**2. Child.** "Child" means and includes every child entering school.  
[PL 1983, c. 661, §8 (NEW).]

**3. Disease.** "Disease" means those conditions that are preventable by immunizing agent, as specified in rules.  
[PL 2001, c. 326, §1 (AMD).]

**4. Immunizing agent.** "Immunizing agent" means a vaccine, antitoxin or other substances used to increase an individual's immunity to a disease.  
[PL 1983, c. 661, §8 (NEW).]

**5. Parent.** "Parent" means a child's parent, legal guardian or custodian. A person shall be regarded as a child's custodian if that person is an adult and has assumed legal charge and care of the child.  
[PL 1983, c. 661, §8 (NEW).]

**6. Public health official.** "Public health official" means a local health officer, the Director of the Bureau of Health, Department of Health and Human Services, or any designated employee or agent of the Department of Health and Human Services.

[PL 1983, c. 661, §8 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

**7. School.** "School" means any public or private elementary or secondary school in the State.

[PL 1983, c. 661, §8 (NEW).]

**8. Superintendent.** "Superintendent" means the superintendent of schools of a school administrative unit, or a person designated by the superintendent, and the chief administrative officer of a private school.

[PL 1983, c. 661, §8 (NEW).]

#### SECTION HISTORY

PL 1983, c. 661, §8 (NEW). PL 2001, c. 326, §1 (AMD). PL 2003, c. 689, §B6 (REV).

#### §6354. Immunization

**1. Immunization required.** Except as otherwise provided under this subchapter, every parent shall cause to be administered to that parent's child an adequate dosage of an immunizing agent against each disease.

[RR 2019, c. 2, Pt. B, §18 (COR).]

**2. Immunizing agent to meet standards.** Any such immunizing agent shall meet standards for such biological products, approved by the United States Public Health Service and the dosage requirement specified by the Department of Health and Human Services.

[PL 1983, c. 661, §8 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

#### SECTION HISTORY

PL 1983, c. 661, §8 (NEW). PL 2003, c. 689, §B6 (REV). RR 2019, c. 2, Pt. B, §18 (COR).

#### §6355. Enrollment in school

##### (CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

A superintendent may not permit any child to be enrolled in or to attend school without a certificate of immunization for each disease or other acceptable evidence of required immunization or immunity against the disease, except as follows. [PL 2001, c. 326, §2 (AMD).]

**1. Written assurance.** The parent provides a written assurance the child will be immunized within 90 days by private effort or provides, where applicable, a written consent to the child's immunization by a health officer, physician, nurse or other authorized person in public or private employ.

[PL 1983, c. 661, §8 (NEW).]

**2. Medical exemption.** The parent or the child provides a written statement from a licensed physician, nurse practitioner or physician assistant that, in the licensed physician's, nurse practitioner's or physician assistant's professional judgment, immunization against one or more of the diseases may be medically inadvisable.

[PL 2019, c. 154, §1 (AMD).]

**3. (TEXT EFFECTIVE UNTIL 9/1/21) Philosophical or religious exemption.** The parent states in writing a sincere religious belief that is contrary to the immunization requirement of this subchapter or an opposition to the immunization for philosophical reasons.

[PL 2001, c. 326, §2 (AMD).]

**3. (TEXT REPEALED 9/1/21) Philosophical or religious exemption.**

[PL 2019, c. 154, §2 (RP); PL 2019, c. 154, §12 (AFF).]

**4. Student covered by individualized education plan.** A student covered by an individualized education plan on September 1, 2021 who elected a philosophical or religious exemption from immunization requirements on or before September 1, 2021 pursuant to the law in effect prior to that date may continue to attend school under that student's existing exemption as long as:

A. The parent or guardian of the student provides a statement from a licensed physician, nurse practitioner or physician assistant that the physician, nurse practitioner or physician assistant has consulted with that parent or guardian and has made that parent or guardian aware of the risks and benefits associated with the choice to immunize; or [PL 2019, c. 154, §3 (NEW).]

B. If the student is 18 years of age or older, the student provides a statement from a licensed physician, nurse practitioner or physician assistant that the physician, nurse practitioner or physician assistant has consulted with that student and has made that student aware of the risks and benefits associated with the choice to immunize. [PL 2019, c. 154, §3 (NEW).]

[PL 2019, c. 154, §3 (NEW).]

#### SECTION HISTORY

PL 1983, c. 661, §8 (NEW). PL 2001, c. 326, §2 (AMD). PL 2019, c. 154, §§1-3 (AMD). PL 2019, c. 154, §12 (AFF).

#### §6356. Exclusion from school

**1. Public health official action.** When a public health official has reason to believe that the continued presence in a school of a child who has not been immunized against one or more diseases presents a clear danger to the health of others, the public health official shall notify the Department of Health and Human Services, Maine Center for Disease Control and Prevention and the superintendent of the school. The superintendent shall cause the child to be excluded from school during the period of danger or until the child receives the necessary immunizing agent.

Whenever, as a result of this section, a child is absent from the public school for more than 10 days, the superintendent shall make arrangements to meet the educational needs of the child.

[PL 2007, c. 598, §3 (AMD).]

**2. Superintendent's action.** Notwithstanding the provisions of this subchapter on immunization against specified diseases, a superintendent may exclude from the public schools any child who is a public health threat, in accordance with section 6301, and the superintendent shall exclude from school any child or employee who has contracted or has been exposed to a communicable disease as directed by a physician after consultation with the Bureau of Health.

[PL 1989, c. 414, §11 (AMD).]

#### SECTION HISTORY

PL 1983, c. 661, §8 (NEW). PL 1989, c. 414, §11 (AMD). PL 2007, c. 598, §3 (AMD).

#### §6357. Records; report

**1. Record keeping.** Each superintendent shall keep uniform records of the immunizations and immunization status of each child based on the certificate of immunization, other acceptable evidence and other available documents. The records shall be part of the child's permanent education records. These records shall be confidential, except that state and local health personnel shall have access to them in connection with an emergency, as provided by the United States Family Educational Rights and Privacy Act of 1974, Public Law 93-380, United States Code, Title 20, Section 1232g(b) (1) (I) and regulations adopted under that Act.

[PL 1983, c. 661, §8 (NEW).]

**2. Annual report of immunization status.** By December 15th of each year, each superintendent shall submit to the Director of the Bureau of Health, Department of Health and Human Services, and

to the commissioner a summary report of immunization status of the children entering school, as prescribed by rule.

[PL 1983, c. 661, §8 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

#### SECTION HISTORY

PL 1983, c. 661, §8 (NEW). PL 2003, c. 689, §B6 (REV).

#### §6358. Rules; requirements; reports

**1. Rules authorized.** The commissioner and the Director of the Maine Center for Disease Control and Prevention within the Department of Health and Human Services shall jointly issue rules necessary for the effective implementation of this subchapter, including, but not limited to, rules specifying those diseases for which immunization is required and establishing school record keeping and reporting requirements or guidelines and procedures for the exclusion of nonimmunized children from school. The rules may not include any provision governing medical exemptions. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A except that rules adopted pursuant to this subchapter specifying the diseases for which immunization is required are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[RR 2019, c. 1, Pt. A, §17 (COR).]

**2. Local requirements authorized.** Immunization requirements more stringent than the provisions of this subchapter may be adopted by ordinance enacted by a municipality, by regulation of a school board or by policy of a private school's governing board.

[PL 1983, c. 661, §8 (NEW).]

**3. Report.** By January 1st of each odd-numbered year, the Director of the Maine Center for Disease Control and Prevention within the Department of Health and Human Services shall submit a report to the joint standing committees of the Legislature having jurisdiction over health and human services matters and education matters concerning any new developments in the evaluation of vaccine safety and effectiveness. The joint standing committees of the Legislature having jurisdiction over health and human services matters and education matters are each authorized to submit a bill during the legislative session in which the report was submitted.

[PL 2019, c. 154, §4 (NEW).]

#### SECTION HISTORY

PL 1983, c. 661, §8 (NEW). PL 2001, c. 326, §3 (AMD). PL 2003, c. 689, §B6 (REV). PL 2019, c. 154, §4 (AMD). RR 2019, c. 1, Pt. A, §17 (COR).

#### §6359. Immunization of students

##### (CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

**1. Definitions.** As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Certificate of immunization" means a written statement from a physician, nurse or public health official who has administered an immunizing agent to a student, specifying the dosage administered and the date it was administered. [PL 1991, c. 146, §1 (AMD).]

B. "Chief administrative officer" means the person designated by the legal governing authority as president, administrator or director of a public or private post-secondary school. [PL 1985, c. 771, §§2, 7 (NEW).]

C. "Disease" means those conditions that are preventable by immunizing agent, as specified in rules. [PL 2001, c. 326, §4 (AMD).]

D. "Immunizing agent" means a vaccine, toxoid or other substance used to increase an individual's immunity to a disease. [PL 1991, c. 146, §1 (AMD).]



E. "Parent" means a student's parent, legal guardian or custodian. A person shall be regarded as a student's custodian if that person is an adult and has assumed legal charge and care of the student. [PL 1985, c. 771, §§2, 7 (NEW).]

F. "Public health official" means the Director of the Bureau of Health or any designated employee or agent of the Department of Health and Human Services. [PL 1991, c. 146, §1 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

G. "School" means any public or private, post-secondary school in the State including, but not limited to colleges, universities, community colleges and schools for the health professions. [PL 1989, c. 443, §22 (AMD); PL 2003, c. 20, Pt. OO, §2 (AMD); PL 2003, c. 20, Pt. OO, §4 (AFF).]

G-1. "School health provider" means a physician, physician's assistant, registered nurse or nurse practitioner licensed to practice by the State and appointed by the chief administrative officer to provide health care to the student population. [PL 1991, c. 146, §2 (NEW).]

H. "Student" means any person born after 1956 who attends school full time or who is a candidate for a degree, diploma or graduate certificate. [PL 1987, c. 71 (RPR).]  
[PL 2001, c. 326, §4 (AMD); PL 2003, c. 20, Pt. OO, §2 (AMD); PL 2003, c. 20, Pt. OO, §4 (AFF); PL 2003, c. 689, Pt. B, §6 (REV).]

**2. Immunization.** Except as otherwise provided under this section, every student shall have administered an adequate dosage of an immunizing agent against each disease as specified by rule.

Any such immunizing agent shall meet standards for the biological products, approved by the United States Public Health Service and the dosage requirement specified by the Department of Health and Human Services.

[PL 2001, c. 326, §5 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

**3. Enrollment of school.** No chief administrative officer may permit any student to be enrolled in or to attend school without a certificate of immunization for each disease or other acceptable evidence of required immunization or immunity against the disease, except as follows.

A. The parent or the student provides a written statement from a licensed physician, nurse practitioner or physician assistant that, in the physician's, nurse practitioner's or physician assistant's professional judgment, immunization against one or more of the diseases may be medically inadvisable. [PL 2019, c. 154, §5 (AMD).]

B. **(TEXT EFFECTIVE UNTIL 9/1/21)** The student or the parent, if the student is a minor, states in writing a sincere religious belief, which is contrary to the immunization requirement of this subchapter or an opposition to the immunization for philosophical reasons. [PL 2001, c. 326, §6 (AMD).]

B. **(TEXT REPEALED ON 9/1/21)** [PL 2019, c. 154, §6 (RP); PL 2019, c. 154, §12 (AFF).]  
[PL 2001, c. 326, §6 (AMD); PL 2019, c. 154, §§5, 6 (AMD); PL 2019, c. 154, §12 (AFF).]

**4. Exclusion from school.** When a public health official has reason to believe that the continued presence in a school of a student who has not been immunized against one or more diseases presents a clear danger to the health of others, the public health official shall notify the chief administrative officer of the school. The chief administrative officer shall cause the student to be excluded from school during the period of danger or until the student receives the necessary immunizing agent.  
[PL 1985, c. 771, §§2, 7 (NEW).]

**5. Records; report.** Each chief administrative officer shall keep uniform records of the immunizations and immunization status of each student, based on the certificate of immunization, other acceptable evidence and other available documents. The records shall be part of the student's permanent records.

By December 15th of each year, each chief administrative officer shall submit to the Director of the Bureau of Health a summary report of immunization status of the students entering school, as prescribed by rule. A blank summary report form will be provided to each chief administrative officer by the Bureau of Health.

[PL 1985, c. 771, §§2, 7 (NEW).]

**6. Rules; requirements; reports.** The Director of the Maine Center for Disease Control and Prevention within the Department of Health and Human Services shall adopt rules necessary for the effective implementation of this subchapter, including, but not limited to, rules establishing immunization requirements for each disease, school record keeping and reporting requirements or guidelines and procedures for the exclusion of nonimmunized students from school. The rules may not include any provision governing medical exemptions. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A except that rules adopted pursuant to this subchapter specifying the diseases for which immunization is required are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Immunization requirements more stringent than the provisions of this subchapter may be adopted by a school board or by policy of a private school's governing board.

[PL 2019, c. 154, §7 (AMD).]

A student who is enrolled in a distance education program offered by a school and who does not physically attend any classes or programs at a school facility, including a campus, center or site of that school, or at a school facility, including a campus, center or site of any other school, is exempt from the provisions of this section. [PL 2001, c. 87, §1 (NEW).]

#### SECTION HISTORY

PL 1985, c. 771, §§2,7 (NEW). PL 1987, c. 71 (AMD). PL 1989, c. 443, §22 (AMD). PL 1991, c. 146, §§1-4 (AMD). PL 2001, c. 87, §1 (AMD). PL 2001, c. 326, §§4-6 (AMD). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF). PL 2003, c. 689, §B6 (REV). PL 2019, c. 154, §§5-7 (AMD). PL 2019, c. 154, §12 (AFF).

### SUBCHAPTER 3

#### SCHOOL HEALTH SERVICES

##### §6401. School Nurse Coordinator

**(REPEALED)**

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1985, c. 797, §38 (AMD). PL 1989, c. 700, §A49 (AMD). P&SL 1993, c. 67, §1 (AMD). PL 1995, c. 322, §6 (RP).

##### §6401-A. School nurse consultant position

**1. Establishment.** The position of school nurse consultant is established within the department. [PL 2017, c. 284, Pt. RRR, §1 (AMD).]

**2. Qualifications.** The school nurse consultant must be licensed as a registered professional nurse in the State and have a master's degree in nursing or a related field and experience in school health care or community nursing.

[PL 2011, c. 380, Pt. DD, §2 (NEW).]

#### SECTION HISTORY

PL 2011, c. 380, Pt. DD, §2 (NEW). PL 2017, c. 284, Pt. RRR, §1 (AMD).

**§6401-B. Duties**

The school nurse consultant under section 6401-A shall provide statewide nursing leadership, consultation and direction for coordinated school health care programs. The school nurse consultant shall: [PL 2011, c. 380, Pt. DD, §3 (NEW).]

**1. Liaison.** Serve as a liaison and resource expert in school nursing and school health care program areas for local, regional, state and national school health care provider and policy-setting groups; [PL 2011, c. 380, Pt. DD, §3 (NEW).]

**2. Information.** Monitor, interpret, synthesize and disseminate relevant information related to school health care trends, school nursing practice, health-related policy changes, legal issues in school nursing and school health care program implementation and professional development; [PL 2011, c. 380, Pt. DD, §3 (NEW).]

**3. Staff development.** Foster and promote staff development for school nurses by planning and providing orientation, educational offerings and networking with universities and other providers of continuing education to meet identified needs; and [PL 2011, c. 380, Pt. DD, §3 (NEW).]

**4. Standards.** Gather and analyze data relevant to the school health care program and monitor standards to promote school nursing excellence and optimal health of school children. [PL 2011, c. 380, Pt. DD, §3 (NEW).]

**SECTION HISTORY**

PL 2011, c. 380, Pt. DD, §3 (NEW).

**§6402. School physicians**

**(REPEALED)**

**SECTION HISTORY**

PL 1981, c. 693, §§5,8 (NEW). PL 1985, c. 258, §1 (RP).

**§6402-A. School health advisor**

Each school board shall appoint one or more physicians or family or pediatric nurse practitioners to act as school health advisor. [PL 2013, c. 78, §1 (AMD).]

**1. Duties.** The school health advisor shall advise the administrative unit on school health issues, policies and practices and may also perform any other health-related functions assigned by the board. [PL 2013, c. 78, §1 (AMD).]

**2. Other functions.** A school health advisor may perform other medical and health-related duties assigned by the school board, which may include all or some of the following:

A. Examine and diagnose students referred by teachers and other school employees to protect against the outbreak of contagious diseases in the schools; [PL 1985, c. 258, §2 (NEW).]

B. Examine students for participation in physical education and athletic activities; [PL 1985, c. 258, §2 (NEW).]

C. Advise and serve as medical consultant to the school nurse; or [PL 1985, c. 258, §2 (NEW).]

D. Examine school employees and property if the school health advisor believes it is necessary to protect the health of students. [PL 2013, c. 78, §1 (AMD).]

[PL 2013, c. 78, §1 (AMD).]

**3. Prohibition.** A school health advisor may not treat any student examined under this subchapter unless the school health advisor is also the student's personal health care provider. A school health advisor that advises a school board pursuant to subsection 1 or performs other functions under

subsection 2 may not act outside the scope of practice of the physician or nurse practitioner who functions as a school health advisor as established by law or rule of the applicable licensing board. [PL 2013, c. 78, §1 (AMD).]

**4. Appointment.** Appointment is on a yearly basis. [PL 2013, c. 78, §1 (AMD).]

#### SECTION HISTORY

PL 1985, c. 258, §2 (NEW). PL 2013, c. 78, §1 (AMD).

#### **§6403. Referral for examination (REPEALED)**

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1985, c. 258, §3 (RP).

#### **§6403-A. School nurse**

Each school board shall appoint at least one school nurse for the school administrative unit. [PL 1985, c. 258, §4 (NEW).]

**1. Duties.** The school nurse shall supervise and coordinate the health services and health-related activities required by this Title. [PL 1985, c. 258, §4 (NEW).]

**2. Other functions.** The school nurse shall also perform such other health-related activities as are assigned by the school board. [PL 1985, c. 258, §4 (NEW).]

**3. Appointment.** To fulfill the role of school nurse, the school board shall appoint a registered professional nurse who meets any additional certification requirements established by the state board. [PL 1985, c. 258, §4 (NEW).]

**4. Special contract for services.** The school board may provide school nurse services through special agreements with a public health agency or with an individual registered professional nurse. All nurses who serve as school nurses under those agreements must be registered professional nurses who meet applicable certification requirements. [PL 2019, c. 398, §23 (AMD).]

**5. Guidelines.** The commissioner shall issue guidelines on the provision of school health services and health-related activities. [PL 1985, c. 258, §4 (NEW).]

#### SECTION HISTORY

PL 1985, c. 258, §4 (NEW). PL 2019, c. 398, §23 (AMD).

### SUBCHAPTER 4

### HEALTH SCREENING

#### **§6451. Hearing and sight screening**

**1. Student right to screening for sight and hearing defects.** Each student must be screened periodically to determine whether the student has sight or hearing defects. [PL 2017, c. 381, §8 (AMD).]

**2. Commissioner's duties.** The commissioner shall:

A. After consultation with the Commissioner of Health and Human Services and in collaboration with the school nurse consultant as described in section 6401-A, adopt rules and provide school administrative units with a copy of these rules and guidance to carry out this subsection; and [PL 2017, c. 381, §8 (AMD).]

B. [PL 2017, c. 381, §8 (RP).]

C. Furnish guidance, training and sample report and referral forms that may be helpful for carrying out the purpose of this section. [PL 2017, c. 381, §8 (AMD).]  
[PL 2017, c. 381, §8 (AMD).]

**3. Exempt students.** A student whose parent objects in writing to screening may not be screened unless a sight or hearing defect is reasonably apparent.  
[PL 2017, c. 381, §8 (AMD).]

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 2003, c. 689, §B7 (REV). PL 2017, c. 381, §8 (AMD).

#### **§6452. Screening for scoliosis and related spinal abnormalities (REPEALED)**

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1989, c. 700, §A50 (AMD). PL 1989, c. 730 (AMD). PL 2003, c. 689, §§B6,7 (REV). PL 2009, c. 147, §1 (RP).

#### **§6453. Notice to parents of result of screening**

The school board shall appoint appropriate school staff to inform the parent of a student suffering from a suspected disease or defect based on the screening results. [PL 2017, c. 381, §9 (AMD).]

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 2017, c. 381, §9 (AMD).

#### **§6454. Oral health assessments**

The commissioner shall cooperate with the Commissioner of Health and Human Services in implementing a grant program developed in accordance with Title 22, section 2128 to increase the provision of oral health assessments for children entering elementary school. A child whose parent objects in writing to an oral health assessment on religious grounds may not be assessed. [PL 2005, c. 653, §1 (NEW).]

#### SECTION HISTORY

PL 2005, c. 653, §1 (NEW).

#### **§6455. Body mass index data (REPEALED)**

#### SECTION HISTORY

PL 2009, c. 407, §1 (NEW). PL 2017, c. 381, §10 (RP).

## SUBCHAPTER 5

### SANITARY FACILITIES

#### **§6501. Sanitary facilities**

Sanitary facilities shall be provided as follows. [PL 1981, c. 693, §§5, 8 (NEW).]

**1. Toilets.** A school administrative unit shall provide clean toilets in all school buildings, which shall be:

A. Of the flush water closet type and connected to a sewer, filter bed or septic tank, or of another design approved by the Department of Health and Human Services; [PL 1981, c. 693, §§5, 8 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

B. Separated according to sex and accessible only by separate entrances and exits; [PL 1981, c. 693, §§5, 8 (NEW).]

C. Installed so that privacy, cleanliness and supervision are assured; and [PL 1981, c. 693, §§5, 8 (NEW).]

D. Free from all obscene markings. [PL 1981, c. 693, §§5, 8 (NEW).]  
[PL 1981, c. 693, §§5, 8 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

**2. Maintenance.** Each school administrative unit shall provide for the cleaning and repair of its toilet facilities.

[PL 1981, c. 693, §§5, 8 (NEW).]

**3. Inspection.** The school board shall annually cause an inspection of the sanitary conditions of the school administrative unit's school buildings to insure compliance with this section.

[PL 1981, c. 693, §§5, 8 (NEW).]

**4. Rules.** The state board may adopt or amend rules to implement this section.

[PL 1981, c. 693, §§5, 8 (NEW).]

**5. Penalty.** Failure to comply with this section is subject to penalties under section 6801-A.

[PL 1991, c. 548, Pt. A, §12 (AMD).]

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1991, c. 548, §A12 (AMD). PL 2003, c. 689, §B6 (REV).

### SUBCHAPTER 6

#### SAFETY

##### §6551. Tuberculosis controls

(REPEALED)

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1985, c. 258, §§5-10 (AMD). PL 1989, c. 414, §12 (RP).

##### §6552. Firearms

**1. Prohibition.** A person may not possess a firearm on public school property or the property of an approved private school or discharge a firearm within 500 feet of public school property or the property of an approved private school.

[PL 2009, c. 614, §2 (AMD).]

**2. Exceptions.** The provisions under subsection 1 do not apply to the following.

A. The prohibition on the possession and discharge of a firearm does not apply to law enforcement officials. [PL 2009, c. 614, §3 (RPR).]

B. The prohibition on the possession of a firearm does not apply to the following persons, if the possession is authorized by a written policy adopted by the school board:

(1) A person who possesses an unloaded firearm for use in a supervised educational program approved and authorized by the school board and for which the school board has adopted appropriate safeguards to ensure student safety; and

(2) A person who possesses an unloaded firearm that is stored inside a locked vehicle in a closed container, a zipped case or a locked firearms rack while the person is attending a hunter's breakfast or similar event that:

(a) Is held during an open firearm season established under Title 12, Part 13 for any species of wild bird or wild animal;

(b) Takes place outside of regular school hours; and

(c) Is authorized by the school board. [PL 2009, c. 614, §3 (RPR).]

C. The prohibition on possession and discharge of a firearm does not apply to a person possessing a firearm at a school-operated gun range or a person discharging a firearm as part of a school-sanctioned program at a school-operated gun range if the gun range and the program are authorized by a written policy adopted by the school's governing body. [PL 2009, c. 614, §3 (NEW).]

[PL 2009, c. 614, §3 (RPR).]

**3. Penalty.** A person who violates this section is guilty of a Class E crime.

[PL 1981, c. 693, §§ 5, 8 (NEW).]

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1989, c. 414, §13 (AMD). PL 2007, c. 67, §1 (AMD). PL 2009, c. 614, §§2, 3 (AMD).

#### §6553. Prohibition of hazing

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Injurious hazing" means any action or situation, including harassing behavior, that recklessly or intentionally endangers the mental or physical health of any school personnel or a student enrolled in school or any activity expected of a student as a condition of joining or maintaining membership in a group that humiliates, degrades, abuses or endangers the student, regardless of the student's willingness to participate in the activity. [PL 2019, c. 372, §1 (AMD).]

B. "Violator" means any person or any organization which engages in injurious hazing. [PL 1989, c. 531 (NEW).]

[PL 2019, c. 372, §1 (AMD).]

**2. Adoption of policy.** The school board shall adopt a policy which establishes that "injurious hazing," either on or off school property, by any student, staff member, group or organization affiliated with the public school is prohibited.

[PL 1989, c. 531 (NEW).]

**3. Penalties.** The school board shall establish penalties for violation of the rules established in subsection 2. The penalties shall include, but not be limited to, provisions for:

A. In the case of a person not associated with the public school, the ejection of the violator from school property; [PL 1989, c. 531 (NEW).]

B. In the case of a student, administrator or staff violator, the individual's suspension, expulsion or other appropriate disciplinary action; and [PL 1989, c. 531 (NEW).]

C. In the case of an organization affiliated with the public school which authorizes hazing, rescission of permission for that organization to operate on school property or receive any other benefit of affiliation with the public school. [PL 1989, c. 531 (NEW).]

These penalties shall be in addition to any other civil or criminal penalty to which the violator or organization may be subject.

[PL 1989, c. 531 (NEW).]

**4. Administrative responsibility.** The school board shall assign responsibility for administering the policy to the superintendent of schools and establish procedures for appealing the action or lack of action of the superintendent.

[PL 1989, c. 531 (NEW).]

**5. Dissemination.** The school board shall clearly set forth the policy and penalties adopted and shall distribute copies of them to all students enrolled in the public school.

[PL 1989, c. 531 (NEW).]

## SECTION HISTORY

PL 1989, c. 531 (NEW). PL 1999, c. 351, §4 (AMD). PL 2019, c. 372, §1 (AMD).

### §6554. Prohibition on bullying in public schools

**1. Findings.** All students have the right to attend public schools that are safe, secure and peaceful environments. The Legislature finds that bullying and cyberbullying have a negative effect on the school environment and student learning and well-being. These behaviors must be addressed to ensure student safety and an inclusive learning environment. Bullying may be motivated by a student's actual or perceived race; color; religion; national origin; ancestry or ethnicity; sexual orientation; socioeconomic status; age; physical, mental, emotional or learning disability; gender; gender identity and expression; physical appearance; weight; family status; or other distinguishing personal characteristics or may be based on association with another person identified with such a characteristic. Nothing in this section may be interpreted as inconsistent with the existing protection, in accordance with the First Amendment of the United States Constitution, for the expression of religious, political and philosophical views in a school setting.

[PL 2011, c. 659, §3 (NEW).]

**2. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Alternative discipline" means disciplinary action other than suspension or expulsion from school that is designed to correct and address the root causes of a student's specific misbehavior while retaining the student in class or school, or restorative school practices to repair the harm done to relationships and persons from the student's misbehavior. "Alternative discipline" includes, but is not limited to:

- (1) Meeting with the student and the student's parents;
- (2) Reflective activities, such as requiring the student to write an essay about the student's misbehavior;
- (3) Mediation when there is mutual conflict between peers, rather than one-way negative behavior, and when both parties freely choose to meet;
- (4) Counseling;
- (5) Anger management;
- (6) Health counseling or intervention;
- (7) Mental health counseling;
- (8) Participation in skills building and resolution activities, such as social-emotional cognitive skills building, resolution circles and restorative conferencing;
- (9) Community service; and



(10) In-school detention or suspension, which may take place during lunchtime, after school or on weekends. [PL 2011, c. 659, §3 (NEW).]

B. "Bullying" includes, but is not limited to, a written, oral or electronic expression or a physical act or gesture or any combination thereof directed at a student or students that:

(1) Has, or a reasonable person would expect it to have, the effect of:

(a) Physically harming a student or damaging a student's property; or

(b) Placing a student in reasonable fear of physical harm or damage to the student's property;

(2) Interferes with the rights of a student by:

(a) Creating an intimidating or hostile educational environment for the student; or

(b) Interfering with the student's academic performance or ability to participate in or benefit from the services, activities or privileges provided by a school; or

(3) Is based on a student's actual or perceived characteristics identified in Title 5, section 4602 or 4684-A, or is based on a student's association with a person with one or more of these actual or perceived characteristics or any other distinguishing characteristics and that has the effect described in subparagraph (1) or (2).

"Bullying" includes cyberbullying. [PL 2011, c. 659, §3 (NEW).]

C. "Cyberbullying" means bullying through the use of technology or any electronic communication, including, but not limited to, a transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted by the use of any electronic device, including, but not limited to, a computer, telephone, cellular telephone, text messaging device and personal digital assistant. [PL 2011, c. 659, §3 (NEW).]

D. "Retaliation" means an act or gesture against a student for asserting or alleging an act of bullying. "Retaliation" also includes reporting that is not made in good faith on an act of bullying. [PL 2011, c. 659, §3 (NEW).]

E. "School grounds" means a school building; property on which a school building or facility is located; and property that is owned, leased or used by a school for a school-sponsored activity, function, program, instruction or training. "School grounds" also includes school-related transportation vehicles. [PL 2011, c. 659, §3 (NEW).]

[PL 2011, c. 659, §3 (NEW).]

**3. Prohibition.** A person may not engage in bullying on school grounds. This section does not modify or eliminate a school's obligation to comply with state and federal constitutional protections and civil rights laws applicable to schools.

[PL 2011, c. 659, §3 (NEW).]

**4. Scope.** This section applies to bullying that:

A. Takes place at school or on school grounds, at any school-sponsored or school-related activity or event or while students are being transported to or from school or school-sponsored activities or events; or [PL 2011, c. 659, §3 (NEW).]

B. Takes place elsewhere or through the use of technology, but only if the bullying also infringes on the rights of the student at school as set forth in subsection 2, paragraph B. [PL 2011, c. 659, §3 (NEW).]

[PL 2011, c. 659, §3 (NEW).]

**5. Adoption of policy.** When revising the policies and procedures it has established to address bullying pursuant to section 1001, subsection 15, paragraph H, a school board shall ensure that its

policies and procedures are consistent with the model policy developed or revised by the commissioner pursuant to section 254, subsection 11-A. The policies and procedures must include, but are not limited to:

- A. A provision identifying the responsibility of students and others on school grounds to comply with the policies; [PL 2011, c. 659, §3 (NEW).]
- B. A clear statement that bullying, harassment and sexual harassment and retaliation for reporting incidents of such behavior are prohibited; [PL 2011, c. 659, §3 (NEW).]
- C. A provision outlining the responsibility of a superintendent to implement and enforce the bullying policies required by this section, including:
  - (1) A requirement that the superintendent designate a school principal or other school personnel to administer the policies at the school level; and
  - (2) A procedure for publicly identifying the superintendent's designee or designees for administering the policies at the school level; [PL 2011, c. 659, §3 (NEW).]
- D. A requirement that school staff members, coaches and advisors for extracurricular and cocurricular activities report incidents of bullying to the school principal or other school personnel designated by the superintendent pursuant to paragraph C; [PL 2011, c. 659, §3 (NEW).]
- E. Procedures for students, school staff members, parents and others to report incidents of bullying. The procedures must permit reports of bullying to be made anonymously; [PL 2011, c. 659, §3 (NEW).]
- F. A procedure for promptly investigating and responding to incidents of bullying, including written documentation of reported incidents and the outcome of the investigations; [PL 2011, c. 659, §3 (NEW).]
- G. A clear statement that any person who engages in bullying, who is determined to have knowingly and falsely accused another of bullying or who engages in acts of retaliation against a person who reports a suspected incident of bullying is subject to disciplinary actions, which actions may include but are not limited to imposing a series of graduated consequences that include alternative discipline; [PL 2011, c. 659, §3 (NEW).]
- H. A procedure for a person to appeal a decision of a school principal or a superintendent's designee related to taking or not taking disciplinary action in accordance with the policies adopted pursuant to this subsection. The appeals procedure must be consistent with other appeals procedures established by the school board and may include an appeal to the superintendent; [PL 2011, c. 659, §3 (NEW).]
- I. A procedure to remediate any substantiated incident of bullying to counter the negative impact of the bullying and reduce the risk of future bullying incidents, which may include referring the victim, perpetrator or other involved persons to counseling or other appropriate services; [PL 2011, c. 659, §3 (NEW).]
- J. A process for the school to communicate to the parent of a student who has been bullied the measures being taken to ensure the safety of the student who has been bullied and to prevent further acts of bullying; and [PL 2011, c. 659, §3 (NEW).]
- K. A procedure for communicating with a local or state law enforcement agency if the school principal or the superintendent's designee believes that the pursuit of criminal charges or a civil action under the Maine Civil Rights Act is appropriate. [PL 2011, c. 659, §3 (NEW).]

School boards may combine the policies and procedures required by this subsection with nondiscrimination, harassment and sexual harassment policies and grievance procedures. [PL 2011, c. 659, §3 (NEW).]

**6. Dissemination of policy.** Each school board shall annually provide the written policies and procedures adopted pursuant to subsection 5 to students, parents, volunteers, administrators, teachers and school staff. The policies and procedures must be posted on the school administrative unit's publicly accessible website. Each school board shall include in its student handbook a section that addresses in detail the policies and procedures adopted pursuant to subsection 5.

[PL 2011, c. 659, §3 (NEW).]

**7. Application.** A superintendent or the superintendent's designee shall ensure that every substantiated incident of bullying is addressed.

A. The prohibition on bullying and retaliation and the attendant consequences apply to any student, school employee, contractor, visitor or volunteer who engages in conduct that constitutes bullying or retaliation. [PL 2011, c. 659, §3 (NEW).]

B. Any contractor, visitor or volunteer who engages in bullying must be barred from school grounds until the superintendent is assured that the person will comply with this section and the policies of the school board. [PL 2011, c. 659, §3 (NEW).]

C. Any organization affiliated with the school that authorizes or engages in bullying or retaliation forfeits permission for that organization to operate on school grounds or receive any other benefit of affiliation with the school. [PL 2011, c. 659, §3 (NEW).]

[PL 2011, c. 659, §3 (NEW).]

**8. Transparency and monitoring.** Each school administrative unit shall file its policies to address bullying and cyberbullying with the department.

[PL 2011, c. 659, §3 (NEW).]

**9. Staff training.** A school administrative unit shall provide professional development and staff training in the best approaches to implementing this section.

[PL 2011, c. 659, §3 (NEW).]

## SECTION HISTORY

PL 2011, c. 659, §3 (NEW).

### §6555. Dangerous behavior prevention and intervention

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Administrator" has the same meaning as in section 13001-A, subsection 1. [PL 2019, c. 458, §1 (NEW).]

B. "Assigned public school employee" means a public school employee chosen by the local president of the applicable bargaining unit to review a reported incident of dangerous behavior. [PL 2019, c. 458, §1 (NEW).]

C. "Dangerous behavior" means behavior of a student that presents a risk of injury or harm to a student or others. [PL 2019, c. 458, §1 (NEW).]

[PL 2019, c. 458, §1 (NEW).]

**2. Report of incident of dangerous behavior.** Upon receipt of a report of an incident of dangerous behavior made by a teacher or school staff person, a school administrative unit shall review the reported incident and develop an individualized response plan in accordance with this subsection. The review of the reported incident must be conducted by an administrator and an assigned public school employee. If the report of the incident of dangerous behavior is substantiated, the school administrative unit shall, in consultation with the public school employee who was subjected to the dangerous behavior, if any, develop an individualized response plan to avoid future dangerous behavior, which may include but is not limited to:

- A. Minimizing suspension and expulsion of the student; [PL 2019, c. 458, §1 (NEW).]
- B. Prioritizing counseling and guidance services for the student and educators; [PL 2019, c. 458, §1 (NEW).]
- C. Providing positive behavioral interventions and supports and supports designed to address the consequences of trauma in the individual and training for the student and educators; [PL 2019, c. 458, §1 (NEW).]
- D. Restorative practices; [PL 2019, c. 458, §1 (NEW).]
- E. Training for public school employees who interact with the student; and [PL 2019, c. 458, §1 (NEW).]
- F. Provision of adequate staffing and professional development necessary to implement the plan. [PL 2019, c. 458, §1 (NEW).]

Nothing in this subsection may be construed as limiting any federally protected right of a student, including, but not limited to, federally protected rights of students with disabilities.

Notwithstanding any provision of this subsection to the contrary, in the case of a student eligible for services under the federal Individuals with Disabilities Education Act or protected from discrimination under Section 504 of the federal Rehabilitation Act of 1973, any discussions or actions related to the identification, evaluation or educational placement of the student or provision of a free, appropriate public education to the student must take place through the processes established under federal law. [PL 2019, c. 458, §1 (NEW).]

#### SECTION HISTORY

PL 2019, c. 458, §1 (NEW).

### SUBCHAPTER 7

#### SCHOOL LUNCH AND MILK PROGRAM

##### **§6601. Acceptance of federal law**

The State shall comply with the following laws in consideration of the receipt of benefits under them: [PL 1981, c. 693, §§ 5, 8 (NEW).]

**1. The National School Lunch Program Act.** The National School Lunch Program Act, enacted June 4, 1946, and applicable amendments; [PL 2011, c. 379, §1 (AMD).]

**2. The Child Nutrition Act.** The Child Nutrition Act, enacted October 11, 1966, and applicable amendments; and [PL 2011, c. 379, §2 (AMD).]

**3. Summer food service program for children.** The federal summer food service program for children, as established by 42 United States Code, Section 1761. [PL 2011, c. 379, §3 (NEW).]

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 2011, c. 379, §§1-3 (AMD).

##### **§6601-A. Free or reduced-price school meals; Internet-based school meal applications**

The department shall contract for the development and implementation of an Internet-based application for free or reduced-price meals under the National School Lunch Program under 7 Code of

Federal Regulations, Part 210 and the School Breakfast Program under 7 Code of Federal Regulations, Part 220. The department shall make available to public schools the Internet-based application for free or reduced-price meals developed under this section. A public school may make the Internet-based application available for school meal applications. If a public school implements the Internet-based application process under this section, the public school shall continue to distribute paper applications for school meals to all students. A public school implementing the Internet-based application is solely responsible for processing that school's online applications. [PL 2019, c. 480, §1 (AMD).]

## SECTION HISTORY

PL 2017, c. 238, §1 (NEW). PL 2019, c. 480, §1 (AMD).

### §6602. School food service programs

Public schools shall provide nonprofit school food service programs as follows. [PL 1981, c. 693, §§5, 8 (NEW).]

**1. Participation.** A public school shall participate in food service programs.

A. A public school shall participate in the National School Lunch Program in accordance with 7 Code of Federal Regulations, Part 210 (2007) and provide Type A meals as determined by the United States Department of Agriculture. [PL 2007, c. 539, Pt. IIII, §1 (NEW).]

B. A public school that serves breakfast shall provide all students who are eligible for free and reduced-price meals under paragraph A a meal that meets the requirements of the federal School Breakfast Program set forth in 7 Code of Federal Regulations, Part 220 (2007) at no cost to the student. The State shall provide funding equal to the difference between the federal reimbursement for a free breakfast and the federal reimbursement for a reduced-price breakfast for each student eligible for a reduced-price breakfast and receiving breakfast. [PL 2007, c. 539, Pt. IIII, §1 (NEW).]

C. A school administrative unit shall participate in the federal summer food service program for children established in 42 United States Code, Section 1761 as required under this paragraph. The commissioner shall assist school administrative units subject to the requirements of this paragraph in developing a plan to participate in the federal summer food service program for children and in obtaining federal, state and private funds to pay for this program. Beginning with the 2013-2014 school year, a school administrative unit with at least one public school in which at least 50% of students qualified for a free or reduced-price lunch during the preceding school year shall participate in the federal summer food service program for children in accordance with 42 United States Code, Section 1761 during the following summer vacation, subject to the provisions of this paragraph.

A school administrative unit with a public school in which at least 50% of students qualified for a free or reduced-price lunch during the preceding school year shall operate a federal summer food service program in the area served by that public school during the following summer vacation if that public school operates a summer educational or recreational program. The school administrative unit is required to operate the federal summer food service program only on days that the public school operates the summer educational or recreational program. The school administrative unit may collaborate with a service institution to operate the federal summer food service program.

A school administrative unit with a public school in which at least 50% of students qualified for a free or reduced-price lunch during the preceding school year that does not operate a summer educational or recreational program shall collaborate with a service institution to operate a federal summer food service program if there is a service institution that provides food service to children in the summer in the area served by the public school.

Notwithstanding this paragraph, a school administrative unit that is required to operate a federal summer food service program may choose not to operate such a program if it determines by a vote of the governing body of the school administrative unit after notice and a public hearing that operating such a program would be financially or logistically impracticable.

For purposes of this paragraph, "service institution" means a public or private nonprofit school, a municipal or county government, a public or private nonprofit higher education institution or a private nonprofit summer camp. [PL 2013, c. 445, §1 (AMD).]

D. A public school that serves lunch shall provide all students who are eligible for free and reduced-price meals under paragraph A a meal that meets the requirements of the federal National School Lunch Program set forth in 7 Code of Federal Regulations, Part 210 (2019) at no cost to the student. The State shall provide funding equal to the difference between the federal reimbursement for a free lunch and the federal reimbursement for a reduced-price lunch for each student eligible for a reduced-price lunch and receiving lunch. [PL 2019, c. 343, Pt. NNNN, §1 (NEW).]

**REVISOR'S NOTE:** (Paragraph D as enacted by PL 2019, c. 428, §1 is REALLOCATED TO TITLE 20-A, SECTION 6602, SUBSECTION 1, PARAGRAPH E)

E. **(REALLOCATED FROM T. 20-A, §6602, sub-§1, ¶D)** A school administrative unit shall participate in the federal child and adult care food program established in 42 United States Code, Section 1766 as required under this paragraph. The commissioner shall assist school administrative units subject to the requirements of this paragraph in developing a plan to participate in the federal child and adult care food program to serve at-risk students who attend after-school programming and in obtaining federal, state and private funds to pay for this program. Beginning with the 2019-2020 school year, a school administrative unit with at least one public school in which at least 50% of students qualified for a free or reduced-price lunch during the preceding school year shall participate in the federal child and adult care food program in accordance with 42 United States Code, Section 1766 during the school year, subject to the provisions of this paragraph.

Notwithstanding other provisions of this paragraph, a school administrative unit that is required to operate a federal child and adult care food program may choose not to operate such a program if it determines by a vote of the governing body of the school administrative unit after notice and a public hearing that operating such a program would be financially or logistically impracticable. [PL 2019, c. 428, §1 (NEW); RR 2019, c. 1, Pt. A, §18 (RAL).]

F. Except as provided under paragraph G, a school administrative unit with a public school in which at least 50% of students qualified for a free or reduced-price lunch during the preceding school year shall operate an alternative breakfast delivery service that provides breakfast after the start of the school day and before any lunch period in the school begins for students at that public school. A school administrative unit with a public school in which at least 70% of students who are eligible for free and reduced-price meals under paragraph A participate in the breakfast program under paragraph B is exempt from the requirements of this paragraph.

The department shall publish annually, by July 1, 2020 and every July 1st thereafter, on its publicly accessible website, information regarding schools required to comply with and schools exempt from this paragraph in the preceding school year, including, but not limited to, the name of the school, any alternative breakfast delivery service operated, free and reduced-price breakfast participation rate and the financial impact of the program on the school nutrition budget. [PL 2019, c. 556, §1 (NEW).]

G. A school administrative unit subject to paragraph F may opt out of the alternative breakfast delivery service required under paragraph F if the following conditions are met:

- (1) The governing body of the school administrative unit holds a public hearing regarding the service. The governing body of the school administrative unit shall post public notice in each

municipality in the unit of the time and location of the hearing at least 10 days before the hearing. The chair of the governing body of the school administrative unit shall conduct the hearing;

(2) The school administrative unit submits to the governing body a detailed cost-benefit analysis and any other material that demonstrates that implementing the alternative breakfast delivery service would cause undue financial or logistical hardship;

(3) The public and the governing body of the school administrative unit evaluate the cost-benefit analysis and any written material submitted for purposes of this paragraph;

(4) Within 30 days of the public hearing under subparagraph (1), the governing body of the school administrative unit, by majority vote, determines that an alternative breakfast delivery service is not financially or logistically viable and that the school administrative unit will opt out; and

(5) The governing body of the school administrative unit notifies the department of the vote to opt out under subparagraph (4).

Opting out under this paragraph must be renewed every 2 years. A school administrative unit with a public school shall notify the department of the intent to renew its decision to opt out under this paragraph before the end of the 2nd school year after the previous vote.

The department shall adopt rules to implement this paragraph including rules governing the application process and standards to address evaluation criteria based on need for the funding of alternative breakfast delivery services in school administrative units. The rules must include procedures to track health and academic outcomes through data collection and evaluation of students and schools that participate in alternative breakfast delivery services. Procedures to track health and academic outcomes must include tracking and ensuring that all public schools required to implement the alternative breakfast delivery service are demonstrating at least an annual 10 percentage point increase in their school breakfast participation rate. If the department determines that a participating public school has not increased its breakfast participation rate by at least 10 percentage points, the department shall provide written notification including improvement strategies to the public school. Upon receipt of written notification by the department, a public school that has not increased its breakfast participation rate by at least 10 percentage points shall submit a final plan within 30 days after the start of the next school year documenting new strategies to increase its breakfast participation rate. A public school that demonstrates a successful breakfast program, which means that at least 70% of the students who are eligible for free and reduced-price meals under paragraph A are participating in the breakfast program under paragraph B, is not required to meet the annual 10 percentage point breakfast participation rate increase as long as that public school maintains at least a 70% breakfast participation rate. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2019, c. 556, §2 (NEW).]

[PL 2019, c. 556, §§1, 2 (AMD).]

**2. Exceptions.** The following are exempt from subsection 1, paragraphs A, B and F:

A. All secondary schools limited to students in grades 9, 10, 11 and 12; and [PL 1981, c. 693, §§5, 8 (NEW).]

B. A school administrative unit authorized by the commissioner under subsection 9 to postpone the establishment of the program. [PL 1981, c. 693, §§5, 8 (NEW).]

[PL 2019, c. 556, §3 (AMD).]

**3. Administration.** The school board shall administer and operate the food service programs. The school board:

A. Shall make all contracts to provide material, personnel and equipment necessary to carry out section 6601; and [PL 1981, c. 693, §§5, 8 (NEW).]

B. Shall hire the necessary employees to manage and operate their school food service programs. [PL 1981, c. 693, §§5, 8 (NEW).]  
[PL 1981, c. 693, §§5, 8 (NEW).]

**4. Funds.** The following shall be used to pay for the administration and operation of food service programs:

A. State funds, gifts and appropriations for school food service programs, including state funds specifically for school administrative units with a public school in which at least 50% of students qualified for a free or reduced-price lunch during the preceding school year that operate an alternative breakfast delivery service that provides breakfast after the start of the school day pursuant to subsection 1, paragraph F; and [PL 2019, c. 556, §4 (AMD).]

B. Receipts from the sale of meals under food service programs. [PL 1981, c. 693, §§5, 8 (NEW).]  
[PL 2019, c. 556, §4 (AMD).]

**5. Rules.** The commissioner shall adopt or amend, with the state board's approval, rules under this subchapter, including rules about the qualifications of food service programs' personnel and rules to implement the federal summer food service program for children under subsection 1, paragraph C. [PL 2011, c. 379, §6 (AMD).]

**6. Nutrition report.** The commissioner may assess the nutritional benefits of school lunch programs and school breakfast programs and report to the state board. [PL 2007, c. 539, Pt. IIII, §2 (AMD).]

**7. Technical assistance.** The commissioner may give technical assistance to a school board concerning a food service program and may assist in training food service program personnel. [PL 1981, c. 693, §§5, 8 (NEW).]

**8. Application for postponement.** An administrative unit, which had been authorized by the commissioner to postpone the establishment of a National School Lunch Program, may apply to the commissioner for a renewal of the postponement. The commissioner may grant the requested postponement provided that:

A. The school board has held a public hearing on its proposed application; and [PL 1981, c. 693, §§5, 8 (NEW).]

B. One of the following conditions is met:

(1) It has been documented to the commissioner's satisfaction that the administrative unit lacks space for the program and there is no appropriate alternative source of meals for the students;

(2) It is impossible for the administrative unit to contract for or to otherwise procure Type A meals for its students; or

(3) The lack of need for the program, as determined by the school board is documented to the commissioner's satisfaction and was evident at the public hearing. [PL 1983, c. 422, §18 (AMD).]

If the postponement is granted for the conditions in paragraph B, subparagraphs (1) and (2), it shall be for 3 years. If the postponement is granted for the condition in paragraph B, subparagraph (3), it shall be for 4 years.

[PL 1987, c. 395, Pt. A, §68 (AMD).]

**8-A. State board review of commissioner's decisions.** A school administrative unit or interested parties may request that the state board reconsider decisions made by the commissioner in subsection



8. The state board shall have the authority to overturn decisions made by the commissioner. In exercising this power, the state board is limited by this section.

[PL 1987, c. 395, Pt. A, §69 (NEW).]

**9. Annual review of postponement.** The commissioner shall annually review the conditions in the school administrative units which have been granted a postponement. On finding that the conditions in a unit have changed so that a postponement is no longer warranted, the commissioner may require that the unit establish a National School Lunch Program at the start of the next school year.

[PL 1981, c. 693, §§5, 8 (NEW).]

**10. Petition by 1% of residential unit.** Whenever petitioned by 1% of the residents of a unit, the commissioner shall call a public hearing on the postponement prior to the next annual review.

[PL 1981, c. 693, §§5, 8 (NEW).]

**11. The state may administer.** The state may administer the programs under the United States Child Nutrition Act, Public Law 89-642 in nonprofit, private schools, provided that the State shall not be required to appropriate or distribute state funds for meals served in private schools to those private schools.

[PL 1983, c. 276 (NEW).]

**12. Local Produce Fund.** The Local Produce Fund is established within the department. The fund is authorized to receive revenue from public and private sources. The fund must be held separate and apart from all other money, funds and accounts. Any balance remaining in the fund at the end of the fiscal year must be carried forward to the next fiscal year. The fund must be used to match \$1 for every \$3 a school administrative unit pays for produce or minimally processed foods purchased directly from a farmer, farmers' cooperative or local food hub in the State, to a maximum state contribution of \$1,000 per school administrative unit in fiscal year 2019-20 and \$1,500 per school administrative unit in fiscal year 2020-21 and subsequent years or \$2,000 per school administrative unit if funding is received and the school administrative unit sends a food service employee to local foods training administered by the department under subsection 13. At the end of the fiscal year, the school administrative unit may provide the department with receipts documenting purchases pursuant to this subsection during that year. For purposes of this subsection, "minimally processed" means only the washing, cleaning, trimming, drying, sorting and packaging of food items or a combination of those activities. Reimbursement or partial reimbursement to school administrative units may only be made up to the amount available in the fund. Failure to reimburse does not constitute an obligation on behalf of the State to a school administrative unit. The department shall apply for federal grant funding to provide state contributions in excess of \$1,000 per school administrative unit in fiscal year 2019-20 and \$1,500 per school administrative unit in fiscal year 2020-21 and subsequent years pursuant to this subsection if applicable grant funding is available. The department may accept grant funding from hospitals and other sources to provide state contributions in excess of \$1,000 per school administrative unit in fiscal year 2019-20 and \$1,500 per school administrative unit in fiscal year 2020-21 and subsequent years pursuant to this subsection.

[PL 2019, c. 511, §1 (AMD); PL 2019, c. 511, §2 (AFF).]

**13. Local foods training.** The department shall administer a program to encourage and expand the use of local foods in school food service programs. As used in this subsection, unless the context otherwise indicates, "local food" means food produced or harvested by a Maine food producer as defined by Title 7, section 212, subsection 2, and "food hub" means any business or organization that locates and obtains food from local growers and fisheries and is able to handle the logistics of supplying and delivering local foods to schools. The program must:

A. Provide competitive grants for a training program to be conducted in up to 6 regions to provide training throughout the State without cost for local school food service programs to encourage and expand the use of local foods in school food service programs. The training program must

emphasize practical training for food preparers, including creative and effective cooking skills using local fresh foods and local food procurement skills. The training program must also inform participants about practical supply chain solutions, including local food hubs and cooperatives within and across each region of the State; [PL 2015, c. 267, Pt. OOO, §2 (NEW).]

B. Foster collaboration between school food service programs throughout the State; [PL 2015, c. 267, Pt. OOO, §2 (NEW).]

C. Facilitate and encourage the use of local food hubs; and [PL 2015, c. 267, Pt. OOO, §2 (NEW).]

D. Provide guidance to schools in the use of local food products and the nutritional attributes of local foods and provide strategies for encouraging maximum knowledge and acceptance of the nutritional value of locally produced food by students and communities. [PL 2015, c. 267, Pt. OOO, §2 (NEW).]

The department shall apply for federal grant funding to implement this subsection. The department may implement this subsection only if the department receives funding covering the costs of the program under this subsection.

[PL 2015, c. 267, Pt. OOO, §2 (NEW).]

**14. Food service program personnel; position description.** The department shall develop and post a model position description for school food service program personnel on its publicly accessible website. The position description must meet the federal guidelines established under the Nutrition Education and Training Program and Team Nutrition initiative of the National School Lunch Program under 7 Code of Federal Regulations, Part 210.

[PL 2015, c. 267, Pt. OOO, §2 (NEW).]

**15. Food service recognition.** The department shall provide for the development of an annual competitive skill-oriented school food service recognition based on criteria developed by the department emphasizing creative and effective use of local food products to attract students to eat healthier meals and snacks and promoting community interest in good nutrition and other factors determined by the department.

[PL 2015, c. 267, Pt. OOO, §2 (NEW).]

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 276 (AMD). PL 1983, c. 422, §18 (AMD). PL 1985, c. 263 (AMD). PL 1987, c. 395, §§A68,A69 (AMD). PL 1989, c. 875, §G1 (AMD). PL 1991, c. 9, §II3 (AMD). PL 2001, c. 447, §1 (AMD). PL 2007, c. 539, Pt. IIII, §§1, 2 (AMD). PL 2011, c. 379, §§4-6 (AMD). PL 2013, c. 445, §1 (AMD). PL 2015, c. 267, Pt. OOO, §§1, 2 (AMD). PL 2019, c. 343, Pt. NNNN, §1 (AMD). PL 2019, c. 428, §1 (AMD). PL 2019, c. 511, §1 (AMD). PL 2019, c. 511, §2 (AFF). RR 2019, c. 1, Pt. A, §18 (COR). PL 2019, c. 556, §§1-4 (AMD).

#### §6603. Federal funds

The Treasurer of State shall receive and disburse all federal funds received under this subchapter. [PL 1981, c. 693, §§ 5, 8 (NEW).]

#### SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW).

### SUBCHAPTER 7-A

#### SCHOOL SUBSTANCE USE DISORDER SERVICES

**§6604. Substance use disorder programs**

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

A. "Chemical health coordinator" means a person who serves as the coordinator of a local school administrative unit's chemical primary and secondary prevention and education program. [PL 1987, c. 395, Pt. A, §70 (NEW).]  
[PL 1987, c. 395, Pt. A, §70 (NEW).]

**2. Local programs.** School units may institute special programs to address health and related problems.

[PL 1987, c. 395, Pt. A, §70 (NEW).]

To further these objectives, school units may employ specialized personnel such as chemical health coordinators and others knowledgeable about substance use and may cooperate with public and private agencies in substance use disorder education, prevention, early intervention, rehabilitation referral and related programs. [PL 2017, c. 407, Pt. A, §59 (AMD).]

**SECTION HISTORY**

PL 1987, c. 395, §A70 (NEW). PL 2017, c. 407, Pt. A, §59 (AMD).

**§6605. Department role**

**1. Personnel.** The commissioner shall appoint, subject to the Civil Service Law, supervisors and consultants knowledgeable about substance use.

[PL 2017, c. 407, Pt. A, §60 (AMD).]

**2. Technical assistance.** The department, through its supervisors and consultants, shall offer technical assistance to public and approved private schools and cooperating community-based organizations to aid in the establishment and implementation of school-based substance use disorder programs and health education curricula.

[PL 2017, c. 407, Pt. A, §60 (AMD).]

**3. Cooperation; coordination.** The department shall carry out its planning activities related to alcohol and drug education and prevention.

[PL 2017, c. 407, Pt. A, §60 (AMD).]

**4. Information collection and sharing.** The Department of Education is authorized to gather information about substance use disorder prevention and intervention programs initiated by state or federal agencies whose efforts are directed toward private and public schools of the State, for the purpose of sharing that information with school administrative units.

[PL 2017, c. 407, Pt. A, §60 (AMD).]

**SECTION HISTORY**

PL 1987, c. 395, §A70 (NEW). PL 1989, c. 700, §A51 (AMD). PL 2017, c. 407, Pt. A, §60 (AMD).

**§6606. Participation in substance use disorder services**

In compliance with written school policy adopted by a school board, the school board may require that a student who has been determined to be in violation of school rules governing substance use or alcohol or drug possession participate in a substance use assessment, education or support group service offered by the school. The school board shall provide for notice to the parents or legal guardian of a student required to participate in such services. If the school board elects to do so, it may request a parent or legal guardian to participate in the services. [PL 2017, c. 407, Pt. A, §61 (AMD).]

**SECTION HISTORY**

PL 1989, c. 708, §3 (NEW). PL 2017, c. 407, Pt. A, §61 (AMD).

## SUBCHAPTER 7-B

### PERFORMANCE-ENHANCING SUBSTANCES

#### §6621. Performance-enhancing substances

**1. List of banned substances.** The Commissioner of Health and Human Services shall develop a list of banned performance-enhancing substances. The list must include, but is not limited to, the following:

- A. Ephedrine; [PL 2005, c. 674, §3 (NEW).]
- B. Synephrine, also known as bitter orange; [PL 2005, c. 674, §3 (NEW).]
- C. Dehydroepiandrosterone; [PL 2005, c. 674, §3 (NEW).]
- D. All dietary supplements as defined by 21 United States Code, Section 321, Subsection (ff) that are on a banned substance list maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations; and [PL 2005, c. 674, §3 (NEW).]
- E. All other substances that are on a banned substance list maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations except for:
  - (1) A substance that is otherwise illegal in this State; or
  - (2) A substance the use of which by minors is illegal in this State. [PL 2005, c. 674, §3 (NEW).]

[PL 2011, c. 657, Pt. AA, §57 (AMD).]

**2. Amendments to list.** The Commissioner of Health and Human Services shall amend the banned substances list each time a dietary supplement or other substance referenced in subsection 1, paragraph D or E is added to the list of banned substances maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations. For a substance to be prohibited under section 6624 in a particular school year, the substance must be added to the banned substances list maintained under this section no later than July 1st preceding that school year.

[PL 2011, c. 657, Pt. AA, §57 (AMD).]

**3. Notification.** The Commissioner of Health and Human Services shall notify the department, the Maine School Management Association and the Maine Principals' Association or their successor organizations when the initial list of banned substances is complete and of any subsequent changes to the list. The department shall notify all school administrative units that have students who participate in sports of the availability of the list. The Commissioner of Health and Human Services shall post the list on the publicly accessible website of the Department of Health and Human Services.

[PL 2011, c. 657, Pt. AA, §57 (AMD).]

#### SECTION HISTORY

PL 2005, c. 674, §3 (NEW). PL 2011, c. 657, Pt. AA, §57 (AMD).

#### §6622. Awareness

The department shall request assistance from a statewide organization of principals in distributing information regarding the dangers associated with performance-enhancing substances. Each school administrative unit shall review its drug and alcohol policies and update such policies to address the use of performance-enhancing substances. [PL 2005, c. 674, §3 (NEW).]

#### SECTION HISTORY

PL 2005, c. 674, §3 (NEW).

**§6623. Marketing**

A teacher, athletic director, sports coach or other school official or employee may not sell, distribute or promote a performance-enhancing substance on the list of banned substances developed and maintained under section 6621. A school may not accept a sponsorship from a manufacturer of a performance-enhancing substance on the list of banned substances. A person who violates this section is subject to sanctions as determined by the governing body with statutory powers and duties for the school administrative unit in which that person is employed or serving in a coaching or other official capacity. [PL 2005, c. 674, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 674, §3 (NEW).

**§6624. Prohibition on use**

A student participating in interscholastic sports may not use a performance-enhancing substance on the list of banned substances developed and maintained under section 6621. A student who violates this section is subject to sanctions as determined by the governing body with statutory powers and duties for the school administrative unit in which that student is enrolled. [PL 2005, c. 674, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 674, §3 (NEW).

**SUBCHAPTER 7-C**

**ELEMENTARY SCHOOL PHYSICAL EDUCATION**

**§6631. Obesity and Chronic Disease Fund**

**1. Fund established.** The Obesity and Chronic Disease Fund, referred to in this section as "the fund," is established as an interest-bearing account administered by the department and the Department of Health and Human Services.

[PL 2011, c. 108, §1 (AMD).]

**2. Revenue.** Any private or public funds appropriated, allocated or dedicated to the fund must be deposited into the fund as well as income from any other source directed to the fund. All interest earned by the fund becomes part of the fund. Any balance remaining in the fund at the end of the fiscal year does not lapse but is carried forward into subsequent fiscal years.

[PL 2009, c. 264, §1 (NEW).]

**3. Use of fund; health and physical fitness.** Balances in the fund may be used for the necessary expenses of the department and the Department of Health and Human Services in the administration of the fund. Balances in the fund may be used to pay for new equipment, new staff training, new personnel, new administrative costs and other expenses not related to an existing physical education program and for the implementation of a new physical education program for elementary schools.

[PL 2011, c. 108, §2 (AMD).]

SECTION HISTORY

PL 2009, c. 264, §1 (NEW). PL 2011, c. 108, §§1, 2 (AMD).

**SUBCHAPTER 8**

## CHILD CARE SERVICES AND PARENTING EDUCATION

### §6651. Child care services

School administrative units may develop school-based child care services. [PL 1987, c. 767, §1 (NEW).]

Private secondary schools, approved by the department in section 2951 for tuition, and whose school enrollments include at least 60% publicly funded students as determined by the previous school year's October and April average enrollment as reflected in records on file in the department, may also develop school-based child care services. The sending school administrative unit shall not be liable for any costs except those costs that have been approved by the school board of the sending school administrative unit. [PL 1989, c. 414, §14 (NEW).]

**1. Purpose.** The purpose of the school-based child care services is to:

A. Make it possible for student parents to continue attending or return to school; [PL 1987, c. 767, §1 (NEW).]

B. Provide parenting education and training in child development for teenage parents; and [PL 1987, c. 767, §1 (NEW).]

C. Aid teacher recruitment. [PL 1987, c. 767, §1 (NEW).]  
[PL 1987, c. 767, §1 (NEW).]

**2. Program.** School-based child care services shall:

A. Be developmentally based; [PL 1987, c. 767, §1 (NEW).]

B. Be available on a priority basis first to children of students in the school administrative unit or private school and 2nd to children of teachers or other employees in the unit or private school; and [PL 1989, c. 414, §15 (AMD).]

C. Include training in parenting and child development for the student parents of the children in the program. [PL 1987, c. 767, §1 (NEW).]  
[PL 1989, c. 414, §15 (AMD).]

**3. Subsidizable costs for school administrative units under the School Finance Act of 1985.**

[PL 2005, c. 2, Pt. D, §20 (RP); PL 2005, c. 2, Pt. D, §§72, 74 (AFF); PL 2005, c. 12, Pt. WW, §18 (AFF).]

**4. Cost to teachers and other employees.** A school administrative unit or private school may offer school-based child care services to teachers and other employees of the unit or private school in accordance with a policy established by the local school board that establishes the basis for participation. The school administrative unit or private school shall charge a fee for provision of such services.

[PL 2005, c. 683, Pt. B, §10 (AMD).]

**5. Costs to students.** There shall be no cost to the student for enrolling a child in a child care service offered by a school administrative unit or private school if the student has an educational plan, approved by the school unit or private school, leading to academic progress and the attainment of reasonable educational goals.

[PL 1989, c. 414, §16 (AMD).]

**6. Subsidizable cost of operating programs in private secondary schools.**

[PL 2009, c. 571, Pt. V, §1 (RP).]

SECTION HISTORY

PL 1987, c. 767, §1 (NEW). PL 1989, c. 414, §§14-17 (AMD). PL 2005, c. 2, §D20 (AMD). PL 2005, c. 2, §§D72,74 (AFF). PL 2005, c. 12, §WW18 (AFF). PL 2005, c. 683, §§A26,B10 (AMD). PL 2009, c. 571, Pt. V, §1 (AMD).

**§6652. Parenting and training in child development**

A school administrative unit or private secondary school which provides child care services under section 6651 shall offer a one-semester course in parenting and child development to secondary school students. [PL 1989, c. 414, §18 (AMD).]

SECTION HISTORY

PL 1987, c. 767, §1 (NEW). PL 1989, c. 414, §18 (AMD).

**§6653. Rules**

The department may adopt rules governing this subchapter pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1987, c. 767, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 767, §1 (NEW).

**§6654. School-based child care grants**

The department and the Department of Health and Human Services are authorized to provide assistance to school administrative units to assist the units in establishing school-based child care services. [PL 2005, c. 2, Pt. D, §21 (AMD); PL 2005, c. 2, Pt. D, §§72, 74 (AFF); PL 2005, c. 12, Pt. WW, §18 (AFF).]

SECTION HISTORY

PL 1989, c. 551, §1 (NEW). PL 1991, c. 550 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 2, §D21 (AMD). PL 2005, c. 2, §§D72,74 (AFF). PL 2005, c. 12, §WW18 (AFF).

## SUBCHAPTER 9

### NUTRITION EDUCATION

**§6661. Nutrition education**

The department shall work with public schools to encourage nutrition education for students and for teachers and staff as part of coordinated school health programs and school food service programs and in accordance with chapter 222. The department shall work with public schools to encourage an outreach component for students' parents and guardians as part of a coordinated school health program. The department may adopt rules to implement the purposes of this section. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2005, c. 435, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 435, §1 (NEW).

**§6662. Foods outside school meal program**

**1. Nutritional information.** After August 31, 2008, food service programs must post caloric information for prepackaged a la carte menu items at the point-of-decision. [PL 2005, c. 435, §1 (NEW).]

**2. Food and beverages outside school lunch programs.** The department shall adopt rules to establish standards for food and beverages sold or distributed on school grounds but outside of school

meal programs. These standards must include maximum portion sizes, except for portion sizes for milk, that are consistent with federal school nutrition standards. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Rules adopted pursuant to this subsection do not apply to food and beverages sold or offered at community events or fund-raisers held outside the hours of the normal school day and to products prepared in culinary arts programs provided by career and technical schools and programs.

[PL 2011, c. 224, §1 (AMD).]

**3. Food and beverage advertising.** Brand-specific advertising of food or beverages is prohibited in school buildings or on school grounds except for food and beverages meeting standards for sale or distribution on school grounds in accordance with rules adopted under subsection 2.

For the purposes of this subsection, "advertising" does not include advertising on broadcast media or in print media such as newspapers and magazines, clothing with brand images worn on school grounds or advertising on product packaging.

[PL 2007, c. 156, §1 (NEW).]

#### SECTION HISTORY

PL 2005, c. 435, §1 (NEW). PL 2007, c. 156, §1 (AMD). PL 2011, c. 224, §1 (AMD).

#### §6663. Commission To End Student Hunger

The Commission To End Student Hunger, as established in Title 5, section 12004-I, subsection 12-B and referred to in this section as "the commission," is established within the department as set forth in this section. [PL 2015, c. 267, Pt. CCC, §2 (NEW).]

**1. Commission membership.** The commission consists of 11 members as follows:

A. One member of the Senate appointed by the President of the Senate, from the party holding the largest number of seats in the Legislature; [PL 2015, c. 267, Pt. CCC, §2 (NEW).]

B. One member of the House of Representatives appointed by the Speaker of the House, from a party other than the party holding the largest number of seats in the Legislature; [PL 2015, c. 267, Pt. CCC, §2 (NEW).]

C. Three public members appointed by the President of the Senate, chosen from 3 of the following options:

(1) One member from a statewide organization dedicated to food security;

(2) One member from a statewide or regional organization dedicated to alleviating child hunger;

(3) One member from a statewide or regional organization that runs a food pantry; and

(4) One member who is a food service director in a municipality or school administrative unit that uses the United States Department of Agriculture community eligibility provision, as provided in 42 United States Code, Section 1759a(a)(1)(F); [PL 2015, c. 267, Pt. CCC, §2 (NEW).]

D. Three public members appointed by the Speaker of the House, chosen from 3 of the following options:

(1) One member from a statewide or regional farm organization;

(2) One member from a statewide or regional organization that runs a school food program for students in at-risk areas;

(3) One member who is a superintendent of a school administrative unit; and



- (4) One member who is an elected official in a municipality that participates in the United States Department of Agriculture community eligibility provision, as provided in 42 United States Code, Section 1759a(a)(1)(F); [PL 2015, c. 267, Pt. CCC, §2 (NEW).]
- E. One public member appointed by the Governor who is a parent of a child who has used or is using free or reduced-price student meal programs; [PL 2015, c. 267, Pt. CCC, §2 (NEW).]
- F. The commissioner or the commissioner's designee; and [PL 2015, c. 267, Pt. CCC, §2 (NEW).]
- G. The Commissioner of Health and Human Services or the commissioner's designee. [PL 2015, c. 267, Pt. CCC, §2 (NEW).]  
[PL 2015, c. 267, Pt. CCC, §2 (NEW).]

**2. Chairs.** For the first 2 years of the commission, the Senate member is the Senate chair and the House of Representatives member is the House chair. In subsequent years, the chair of the commission must be elected by the members of the commission at the first meeting of each year.  
[PL 2015, c. 267, Pt. CCC, §2 (NEW).]

**3. Appointments; vacancies; quorum.** A nonlegislative member of the commission must be appointed for a 2-year term. A member may continue to serve until the member's replacement is appointed. When a vacancy exists, the appointing authority shall appoint a new member from the same category as the member vacating the commission. A quorum consists of 6 members.  
[PL 2015, c. 267, Pt. CCC, §2 (NEW).]

**4. Duties; funding.** The commission shall meet at least 2 and no more than 4 times per year. The commission shall work to implement the 5-year plan to end student hunger developed by the Task Force To End Student Hunger in Maine pursuant to Resolve 2013, chapter 107, shall monitor the plan and shall update it if necessary. In addition, the commission may conduct public meetings throughout the State to highlight the issue of student hunger. Every one or 2 years the commission may conduct a statewide summit of state leaders regarding ending student hunger. The commission shall provide advice regarding the responsibilities of and supervision of the hunger coordinators in their working across the State and performing the following functions within school administrative units and communities:

- A. Compile and analyze data to identify opportunities to increase food security and the progress made in decreasing student hunger; [PL 2015, c. 267, Pt. CCC, §2 (NEW).]
- B. Raise awareness of food insecurity and of opportunities and best practices to decrease food insecurity; [PL 2015, c. 267, Pt. CCC, §2 (NEW).]
- C. Assist school board and school food service directors and community leaders in understanding, applying for and complying with the requirements of the child nutrition programs offered by the United States Department of Agriculture and understanding the effect of the programs on students, schools and communities; and [PL 2015, c. 267, Pt. CCC, §2 (NEW).]
- D. Report by November 15th each year to the commission on food insecurity in communities and school administrative units and the progress made in decreasing student hunger. [PL 2015, c. 267, Pt. CCC, §2 (NEW).]  
[PL 2015, c. 267, Pt. CCC, §2 (NEW).]

**5. Staff assistance.** The department shall provide necessary staffing services to the commission.  
[PL 2015, c. 267, Pt. CCC, §2 (NEW).]

**6. Report; legislation.** By January 10th each year, the commission shall submit to the joint standing committee of the Legislature having jurisdiction over education matters a report that includes findings and recommendations for action to eliminate student hunger. The commission is authorized to submit to the Legislature legislation as the commission may determine to be appropriate.

[PL 2015, c. 267, Pt. CCC, §2 (NEW).]

#### SECTION HISTORY

PL 2015, c. 267, Pt. CCC, §2 (NEW).

### SUBCHAPTER 10

#### YOUTH MENTAL HEALTH FIRST AID TRAINING

##### §6671. Youth mental health first aid training

A school administrative unit shall establish a youth mental health first aid training program for health educators in secondary schools in the unit pursuant to this section. [PL 2017, c. 269, §1 (NEW).]

**1. Recipients of training.** A school administrative unit shall schedule training for and ensure training is provided to health educators in secondary schools in the unit responsible for implementing health education pursuant to section 4723.

[PL 2017, c. 269, §1 (NEW).]

**2. Providers of training.** A school administrative unit shall ensure training is delivered by trainers who are properly certified by a national organization for behavioral health to provide training pursuant to subsection 3.

[PL 2017, c. 269, §1 (NEW).]

**3. Content of training.** The training provided pursuant to this section must be in compliance with a course of instruction in youth mental health first aid operated by the national organization for behavioral health under subsection 2 and include training on the skills, resources and knowledge necessary to assist students in crisis to connect with appropriate local mental health care services, training on mental health resources, including the location of local community mental health centers, and training on action plans and protocols for referral to such resources. Recipients of the training must also receive training to:

A. Safely de-escalate crisis situations; [PL 2017, c. 269, §1 (NEW).]

B. Recognize the signs and symptoms of mental illness, including such psychiatric conditions as schizophrenia, bipolar disorder, major clinical depression and anxiety disorders; and [PL 2017, c. 269, §1 (NEW).]

C. Timely refer students to mental health services in the early stages of their development of mental disorders to avoid subsequent behavioral health care and to enhance the effectiveness of mental health services. [PL 2017, c. 269, §1 (NEW).]

[PL 2017, c. 269, §1 (NEW).]

**4. Available funding.** A school administrative unit is required to meet the requirements of this section only if it has received funding specifically for this purpose from federal funding, private funding or other funding sources.

[PL 2017, c. 269, §1 (NEW).]

#### SECTION HISTORY

PL 2017, c. 269, §1 (NEW).

### SUBCHAPTER 11

#### FOOD RIGHTS

**§6681. Access to food and use of food discipline**

This section governs student access to and school use of food, including as a disciplinary tool, in public schools. [PL 2019, c. 54, §1 (NEW).]

**1. Servicing of reimbursable meals.** A public school that provides free and reduced-price meals or other meals to students pursuant to subchapter 7 or otherwise provides to students meals eligible for reimbursement under a program administered by the United States Department of Agriculture shall provide such a meal to a student who requests the meal and is otherwise eligible for the meal regardless of the student's inability to pay for the school meal or failure in the past to pay for school meals. [PL 2019, c. 54, §1 (NEW).]

**2. Punishment related to meals.** A public school may not:

A. Because of a student's inability to pay for a meal or because of any payments due for meals served previously to the student, require the student:

- (1) To throw away a meal after it has been served to the student; or
- (2) To undertake chores or work as a means of paying for one or more meals or as punishment for not paying for one or more meals; or [PL 2019, c. 54, §1 (NEW).]

B. Refuse a meal to a student as a form of or as part of a disciplinary action. [PL 2019, c. 54, §1 (NEW).]  
[PL 2019, c. 54, §1 (NEW).]

**3. Stigmatization.** A public school may not openly identify or otherwise stigmatize a student who cannot pay for a meal or who has payments due for previous meals. [PL 2019, c. 54, §1 (NEW).]

**4. Required communications.** A public school's communications about a student's meal debts must be made to the parent or guardian of the student rather than to the student directly except that, if a student inquires about that student's meal debt, the school may answer the student's inquiry. A public school may ask a student to carry to the student's parent or guardian a letter regarding the student's meal debt. [PL 2019, c. 54, §1 (NEW).]

**5. Debt collection; best practices.** The department shall develop guidance for school administrative units relating to the collection of student meal debt, including, but not limited to, best practices and information on how to create an online system for the payment of student meal debt. The department shall post the information under this subsection on its publicly accessible website. [PL 2019, c. 54, §1 (NEW).]

**SECTION HISTORY**

PL 2019, c. 54, §1 (NEW).

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