

**Subcommittee of the
RIGHT TO KNOW ADVISORY COMMITTEE
Public Employee Disciplinary Records Subcommittee**

Wednesday, October 22, 10 am

Location: State House, Room 214 (Hybrid Meeting)
Public access also available through the Maine Legislature's livestream:
<https://legislature.maine.gov/Audio/#214>

1. Introductions
2. Review background and scope of previous topics considered by the subcommittee
3. Review of topics considered by the subcommittee in 2024
4. Discuss recommendations/requests for the subcommittee's consideration for 2025
5. Confirm future meeting dates
6. Adjourn

Table of Contents

Agenda	p. 1
Table of Contents	p. 3
Memo to Public Employee Disciplinary Records Subcommittee - 2024	p. 5
Memo to Public Employee Disciplinary Records Subcommittee - 2025	p. 9
Appendix A – 2024 Judiciary Committee Letter to the Right to Know Advisory Committee	p. 13
Appendix B – 2024 Advisory Committee Letter to State Archivist	p. 17
Appendix C – Public Employee Discipline Records Stakeholder Workshop Report and Summary Document	p. 21
Appendix D – 2024 Advisory Committee Letter to the Criminal Law Advisory Council	p. 31
Appendix E – Public Employee Disciplinary Records Statutes	p. 35
Appendix F – LD 1397 (PL 2023, c. 159)	p. 49
Appendix G – 2025 Judiciary Committee Letter to the Right to Know Advisory Committee	p. 61
Appendix H – LD 1484	p. 67
Appendix I – LD 1484 Record of Testimony Submitted	p. 73
Appendix J – 2025 Letter to the Right to Know Advisory Committee from Senator Rotundo and Cited Statues	p. 97



Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS
www.mainelegislature.gov/opla
13 State House Station, Augusta, Maine 04333-0013
(207) 287-1670

MEMORANDUM

TO: Members, Right to Know Advisory Committee Subcommittee on Public Employee Disciplinary Records

FROM: Lindsay J. Laxon, Legislative Analyst

DATE: September 23, 2024

RE: Public Employee Disciplinary Records

The Right to Know Advisory Committee (RTKAC) has considered the issue of access to disciplinary records of public employees over the course of the last two years. This memo is intended to provide a general overview for subcommittee members regarding the topic and past actions recommended by the RTKAC. For more specific information, please see the relevant statutes cited in this memo.

I. General Background

During its interim meetings in 2022, the RTKAC was advised of instances in which police disciplinary records were removed from personnel files pursuant to collective bargaining agreements (CBA) and there were concerns about the availability of these records in the event of a Freedom of Access Act (FOAA) request. The committee established a subcommittee to consider access to disciplinary records of public employees generally. As a result of the subcommittee's and RTKAC's discussions, the 17th Annual Report included four recommendations for legislation; however, only one of the recommended statutory changes was enacted (see LD 1397 in the 131st Legislature).

During its interim meetings in 2023, the RTKAC revisited the topic and requested additional comment from various entities on the proposals from LD 1397 which were not enacted. Due to the importance and complexity of the issues involved, the RTKAC's 18th Annual Report included a recommendation that the Joint Standing Committee on Judiciary report out a bill creating an interim legislative study group to develop recommendations for the next Legislature addressing the public records issues around public employee disciplinary records. The Judiciary Committee did not report out a bill related to the RTKAC's recommendation and instead provided a letter to the RTKAC discussed at the end of this memo.

II. What public employee disciplinary records are public under FOAA?

	State Records 5 MRSA §7070(2)(E)¹	County Records 30-A MRSA §503(1)(B)(5)	Municipal Records 30-A MRSA §2702(1)(B)(5)
Disciplinary Record – confidential v. public	<i>Confidential:</i> complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action.		

¹ See also 5 MRSA §7070-A related to the name of a law enforcement officer involved in cases of deadly force or physical force.

	Public: If disciplinary action is taken, the final written decision² relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action.
Differences in provisions	State records statutes include: 1. A provision that allows for union representative access to otherwise confidential personnel records to carry out collective bargaining responsibilities; however, the records remain confidential; and 2. A statute that provides, in cases of deadly or physical force involving a law enforcement officer, the officer's name is public and findings of an investigation related to the officer's conduct are public under certain circumstances.

III. For what period of time do public employee disciplinary records need to be retained?

Maine law requires that state agency and local government records be retained in accordance with records retention schedules (RRS) established by the State Archivist³, in consultation with the heads of agencies and their records officers. An RRS is a policy document that defines the minimum time a record must be retained and contains disposition instructions addressing how the record must be handled when no longer needed for agency business. The RRS must define the period of time for which each agency must retain records based on four criteria: (1) administrative use; (2) legal requirements; (3) fiscal and audit requirements; and (4) historical and research value.

The State Archivist establishes general schedules for records commonly created and maintained by state agencies as well as agency-specific schedules for records that are unique to a given agency.

The general schedules applicable to both state agencies and local government disciplinary records include an exception in the event that a collective bargaining agreement requires such records to be destroyed at an earlier time.

State agencies – General Schedule	Local government⁴
Current (2022) RRS GS4.5 provides that when an employee terminates (is no longer an employee of State government) the last employing agency will be responsible for retaining employee personnel records for 10 years (after termination). Employee disciplinary records must be retained for up to 5 years, but “[i]f a collective bargaining contract requires that disciplinary documents be destroyed earlier than described above, the contract shall be followed.”	Current (May 2024) RRS LG4.1 provides that disciplinary records must be retained for 10 years after separation “unless collective bargaining contract requires that disciplinary documents be destroyed earlier” then the contract shall be followed. <i>[Note: The retention period prior to May 2024 was 60 years after separation]</i>

IV. Issues/Questions Considered by the RTKAC Related to Disciplinary Records

² The definition of “final written decision” is the same for state, county, and municipal records. “Final written decision” means:
 (1) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or
 (2) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.
 A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days. *See e.g.*, 5 MRSA §7070(2)(E).

³ *See* 5 MRSA §§95-B(7) & 95-C(2)(A)(3).

⁴ “Local government” means a municipality, county, school district or other special-purpose district or multi-purpose district. 5 MRSA §92-A(2-A).

- A. **Location of records:** It isn't always clear where disciplinary records are stored – they may be retained in a “personnel file” or elsewhere (e.g., a compliance file). Records may also be retained by more than one agency. For example, in some cases, law enforcement conduct is subject to reporting to the Maine Criminal Justice Academy.⁵
- B. **Removal/destruction/purging of records:** The language in CBAs may not be consistent regarding what must be done with the record – it may not always be physical removal.
 - i. In a 12/4/23 memo to the RTKAC, Maine Municipal Association commented: “For contract purposes, records retention pertains to the amount of time a record can be used against an employee for the purposes of escalating disciplinary action, and do not play a role in the retention of records in many municipalities.”
 - ii. The sample of CBAs reviewed by the RTKAC subcommittee in 2022 generally required removal from the personnel file and did not specify limitation on use; however, one CBA⁶ distinguished between limitations on use and removal from the file – the latter took place only at the employee’s request.
- C. **Brady/Giglio materials:** Law enforcement disciplinary records raise different issues than other public employee records which may create a need to establish different RRS. The Supreme Court has held⁷ that records that may reflect on the credibility of a witness in a criminal case, including a law enforcement officer, must be disclosed. These are often referred to as “Giglio materials.”
 - i. The Department of Public Safety has an agency-specific schedule for State Police records that addresses Giglio-related issues and provides for permanent retention of such records.
- D. **Retention times in statute:** If the RTKAC were to recommend establishing record retention time periods in statute, the committee would need to determine what time period is appropriate for a given type of record (e.g., if mandating the retention of a record for a given period of time is based on the severity of the conduct, how should that be determined?).

V. Past Recommendations Related to Disciplinary Records of Public Employees

17th Annual Report Recommendations

1. Enact legislation to prohibit CBAs from overriding FOAA and require the revision of the record retention schedules applicable to public employee personnel records to require retention of records related to disciplinary actions for a period of at least 20 years. The recommendation specified that consideration should be given to a longer retention period for law enforcement disciplinary actions that could reflect on the credibility of the law enforcement officer (so-called “Giglio material”) and to a shorter retention period (no fewer than 5 years) for less serious conduct.

[Legislation was proposed, LD 1397 in the 131st Legislature, however provisions related to this recommendation were not enacted]

⁵ See 25 MRSA §2807

⁶ Source: County of Penobscot and Fraternal Order of Police Lodge 012 Representing the Penobscot County Sheriff’s Office Supervisory Bargaining Unit (pages 17-19).

⁷ See *United States v. Giglio*, 405 U.S. 150 (1972).

2. Enact legislation to amend state and county employee personnel records statutes to align with the municipal employee personnel record statute
[Public Law 2023, chapter 159, implements this recommendation]
3. Enact legislation to ensure that responses to FOAA requests for “personnel records” include records that have been removed from the personnel file and are otherwise retained
[Legislation was proposed, LD 1397 in the 131st Legislature, however provisions related to this recommendation were not enacted]
4. Recommend that the State Archivist, the Maine Archives Advisory Board and legislative proposals use standardized language related to record retention in schedules developed for public bodies and consider the inclusion of definitions of terms such as “remove,” “purge” and “destroy” when they are used in record retention schedules
[Legislation was proposed, LD 1397 in the 131st Legislature, however provisions related to this recommendation were not enacted. The State Archivist indicated a willingness to continue working on this issue]

18th Annual Report Recommendations

The RTKAC recommended that the Judiciary Committee report out a bill creating an interim legislative study group to develop recommendations for the next Legislature addressing the public records issues around public employee disciplinary records.

The Judiciary Committee responded to the Advisory Committee’s recommendation by letter dated May 10, 2024, requesting that the RTKAC reexamine the issues raised in its recommendations using the expertise of its members and, as necessary, gathering additional input from stakeholders with relevant expertise in law enforcement; labor law and collective bargaining agreements; progressive discipline and the impact of employee discipline on promotion and merit pay increases across different categories of public employees; and any existing constitutional and statutory requirements for retention or disclosure of specific types of employee disciplinary records to specific recipients, such as criminal defendants or professional licensing boards, in certain circumstances. The Judiciary Committee asked that, if the RTKAC is unable to develop final recommendations on these issues, the RTKAC provide guidance in its 19th Annual Report on the establishment of a commission to meet between the First and Second Regular Sessions of the 132nd Legislature—including recommendations on the desired qualifications of commission members and the best way to frame the issues that the commission should be charged with examining.



Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS
www.mainelegislature.gov/opla
13 State House Station, Augusta, Maine 04333-0013
(207) 287-1670

TO: Members, Right to Know Advisory Committee Subcommittee on Public Employee
Disciplinary Records
FROM: Kristin K. Bishop, Legislative Analyst
DATE: October 22, 2025
RE: Public Employee Disciplinary Records Subcommittee - 2025

Since 2022, the Right to Know Advisory Committee has convened a subcommittee dedicated to examining issues or topics related to access to public employee disciplinary records. This memo provides a brief overview of the issues and topics considered by the 2024 public employee disciplinary records subcommittee, the formal recommendations related to the topic of access to public employee disciplinary records issued by the 2024 Right to Know Advisory Committee in the Nineteenth Annual Report, a brief overview of recent legislative activity related to public employee disciplinary records, and a summary of new topics or requests for consideration received at the September 26, 2025 and October 15, 2025 meetings of the Right to Know Advisory Committee.

I. Issues/Topics Requested for the 2024 Subcommittee's Consideration

- The 2024 subcommittee was formed to consider issues raised in a letter from the Judiciary Committee to the Right to Know Advisory Committee dated May 10, 2024 (Appendix A). Specifically, the letter asked the Advisory Committee to consider specific requests related to:
 - the appropriate period of time for the retention of state and local government personnel records and how to determine that period of time, including records that could be used to impeach a witness in a criminal case (so-called *Brady/Giglio* materials);
 - the effect of collective bargaining agreements on record retention schedules; and
 - whether legislative action is necessary to ensure that disciplinary actions stored outside of a personnel file are released pursuant to a FOIA request

II. 2024 Subcommittee Discussion

- The subcommittee supported the development of a tiered system of retention for public employee disciplinary records based on the “seriousness” of the misconduct and believed that the determination of which tier a particular disciplinary action falls into should either be tied to the punishment that the employee receives or be left to each agency to determine. The full committee issued a recommendation on this matter in the Nineteenth Annual Report.
- The subcommittee recommended that clarification be added to records retention schedules relating to records that may be considered *Brady/Giglio* material and that those records are retained in some manner to preserve their availability in criminal cases in accordance with constitutional requirements. The subcommittee recommended that any additional efforts to clarify or standardize the handling of *Brady/Giglio* materials involve input from the Maine Prosecutors’ Association. The full committee issued a recommendation on this matter in the Nineteenth Annual Report.

- The subcommittee recommended clarifying that collective bargaining agreements should be prohibited from conflicting with FOAA in a manner that would restrict or limit disclosure of personnel records that would otherwise be available to the public. When this recommendation was raised in discussions with the full Advisory Committee, the members concluded that the other recommendations made by the subcommittee and supported by the Advisory Committee may address this issue and the Advisory Committee declined to recommend any legislative action related to this issue at this time.
- The subcommittee discussed whether legislative action was necessary to ensure that, in response to a public record request for a final written disciplinary decision in a personnel file, the responding public body must provide the responsive records retained in its possession or custody regardless of whether the final written decision is located in the employee's personnel file or is stored in another location. The subcommittee felt that this was no longer an issue based on the responses received from public employers regarding their handling of FOAA requests as well as case law and decided that no further action was necessary.

III. Nineteenth Annual Report Recommendations *Specific to Public Employee Disciplinary Records*

Recommendation:

Request that the State Archivist convene a working group with stakeholders to make recommendations regarding a tiered system of retention for public employee disciplinary records.

The Advisory Committee recommends sending a letter to the State Archivist asking the Archivist to convene a working group to develop recommendations for a tiered system of retention of public employee disciplinary records based on the "seriousness" of the misconduct involved in the action. The Public Employee Disciplinary Records Subcommittee supported the creation of a tiered system of retention of public employee disciplinary records based on the "seriousness" of the misconduct, but felt that the development of the system was outside the scope of the Subcommittee process and would require the involvement of additional stakeholders. The Advisory Committee concluded that a working group would be an appropriate mechanism for considering this approach more thoroughly. In making this recommendation, the Advisory Committee asks that the working group convened by the State Archivist consider whether the availability of public employee disciplinary records is appropriately governed by the record retention schedule or whether it would be appropriate to limit the amount of time that such records are public pursuant to FOAA. The Advisory Committee directed that the letter request a report on the working group's activities, including any recommendations that are developed by meeting participants, when the Advisory Committee reconvenes in 2025.

Status: Letter sent to the State Archivist on 2/7/25 ([Appendix B](#)). Working group convened 6/12/2025. Report from the working group and summary document distributed at 9/26/2025 Advisory Committee meeting ([Appendix C](#)).

Recommendation:

Request that the Criminal Law Advisory Commission provide guidance related to records that could be used to impeach a witness in a criminal case (so-called Brady/Giglio materials).

The Advisory Committee recommends sending a letter to the Criminal Law Advisory Commission (CLAC) asking the Commission to develop guidance regarding the types of public employee disciplinary records that could be used to impeach a witness in a criminal case (so-called *Brady/Giglio* materials), including examples if possible, and to make recommendations for the appropriate retention time for such materials. The Advisory Committee directed that the letter include background information regarding the subcommittee discussions that lead to this recommendation and ask the Commission to share any guidance and recommendations it develops with the Judiciary Committee and the Advisory Committee.

Status: Letter sent to the Criminal Law Advisory Committee (CLAC) on 2/7/25 ([Appendix D](#)). CLAC looked at this matter briefly during the session in response to the Committee's initial letter but did not develop definitive guidance at that time, concluding that the matter is largely outside of CLAC's purview. CLAC plans to revisit this request at its upcoming November 2025 meeting.

Recommendation:

Review provisions of law relating to state, county and municipal employee personnel records and consider whether establishing consistency among provisions is appropriate.

The Advisory Committee recommends that, in 2025, the Advisory Committee review Title 5, section 7070, relating to state personnel records; Title 30-A, section 503, relating to county personnel records; and Title 30-A, section 2702, relating to municipal personnel records. This review should include a full review of the legislative histories of each statute and consideration of whether legislative action is appropriate to create consistency between the provisions.

Status: Title 30-A, section 503, relating to county personnel records and Title 30-A, section 2702, relating to municipal personnel records is scheduled for review this interim by the public records exceptions subcommittee. At the October 25, 2025 Advisory Committee meeting, the Committee noted there is overlap in membership between this subcommittee and the public records exceptions subcommittee and cited that the overlap in membership will help to facilitate a dialogue within each subcommittee about any proposed changes to these statutes that either subcommittee may wish to consider this interim ([Appendix E](#)).

IV. Recent Legislative Activities Related to Public Employee Disciplinary Records

131st Legislature

During the 131st Legislature, the Judiciary Committee considered LD 1397, *An Act to Implement the Recommendations of the Right to Know Advisory Committee Concerning Records of Disciplinary Actions Against Public Employees*. This bill proposed changes to Title 5, section 7070, relating to state personnel records and Title 30-A, section 503, relating to county personnel records to align with the language used in Title 30-A, section 2702 relating to municipal personnel records. LD 1397 (PL 2023, c. 159) was enacted and a copy of the bill, committee amendment, and public law are appended ([Appendix F](#)).

132nd Legislature

During the 132nd Legislature, the Judiciary Committee considered LD 1484, *An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees*. This bill proposed to modify provisions of law related to the confidentiality of certain employee records. Under current law, if disciplinary action is taken against a state, county or municipal employee, the final written decision associated with the disciplinary action is not confidential. Under the bill, only disciplinary actions that are of a nature that impose or result in a financial disadvantage, including, but not limited to, termination, demotion or suspension without pay, may become public. The Judiciary Committee voted that LD 1484 ought not to pass and requested that the Right to Know Advisory Committee consider the bill's proposal in its work this year (please see next section).

V. Issues/Topics Requested for Consideration for 2025

Letter to Right to Know Advisory Committee from the Joint Standing Committee on the Judiciary

On June 18, 2025, the Joint Standing Committee on the Judiciary submitted a letter to the Right to Know Advisory Committee respectfully requesting that the Committee examine issues related to FOAA that were brought to the Committee's attention through several items of proposed legislation this year.

LD 1484 *An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employee* was one of four pieces of legislation the Judiciary Committee asked the Right to Know Advisory Committee to consider during its work this year. Given the complex and competing considerations presented to the Judiciary Committee in its consideration of LD 1484, the Judiciary Committee voted that LD 1484 ought not to pass and requested that the Advisory Committee consider the bill's proposal as it continues to examine the issues surrounding public access to public employee disciplinary records this year. The letter from the Judiciary Committee (Appendix G), a copy of the bill (Appendix H) well as all testimony submitted on LD 1484 (Appendix I) are appended.

Letter to Right to Know Advisory Committee from Senator Rotundo

On September 25, 2025, Senator Rotundo submitted a letter to the Right to Know Advisory Committee requesting further consideration of how educators and schools share information about educators' investigations related to sexual misconduct, including investigations that are never completed. A copy of this letter and the statutes cited within the letter are appended (Appendix J).

Appendix

A

SENATE

ANNE M. CARNEY, DISTRICT 29, CHAIR
 DONNA BAILEY, DISTRICT 31
 ERIC BRAKEY, DISTRICT 20

JANET STOCCO, LEGISLATIVE ANALYST
 ELIAS MURPHY, LEGISLATIVE ANALYST
 SUSAN PINETTE, COMMITTEE CLERK



HOUSE

MATTHEW W. MOONEN, PORTLAND, CHAIR
 STEPHEN W. MORIARTY, CUMBERLAND
 ERIN R. SHEEHAN, BIDDEFORD
 ADAM R. LEE, AUBURN
 AMY D. KUHN, FALMOUTH
 MATTHEW S. BECK, SOUTH PORTLAND
 JENNIFER L. POIRER, SKOWHEGAN
 JOHN ANDREWS, PARIS
 DAVID G. HAGGAN, HAMPDEN
 RACHEL HENDERSON, RUMFORD
 AARON M. DANA, PASSAMAQUODDY TRIBE

STATE OF MAINE
 ONE HUNDRED AND THIRTY-FIRST LEGISLATURE
 COMMITTEE ON JUDICIARY

May 10, 2024

Representative Erin Sheehan, Chair
 Right to Know Advisory Committee

Re: Retention of and public access to public employee disciplinary records

Dear Chair Sheehan and members of the Right to Know Advisory Committee,

The Judiciary Committee deeply appreciates the Right to Know Advisory Committee's longstanding dedication to the principles of open government and its annual recommendations for improving the State's freedom of access laws.

This session, we carefully considered the recommendation from the Right to Know Advisory Committee's Eighteenth Annual Report that the Judiciary Committee report out a bill to establish a legislative study group to examine several issues related to public employee disciplinary records. As we understand it, the following issues require further consideration and exploration:

- 1) Whether the Legislature should direct the State Archivist to revise the record retention schedules applicable to state and local government personnel records—which currently direct that disciplinary records for state employees be retained for up to 5 years of active service and that disciplinary records for local government employees be retained for 60 years after separation—to provide:
 - a) A default retention period for final written decisions relating to disciplinary action taken against a public employee, regardless of the level of government service—and, if so, what length of time is appropriate;
 - b) A shorter retention period for final written decisions involving “less serious misconduct”—and, if so, whether the severity of the misconduct should be measured by focusing either (A) on the type of misconduct committed, which would require a detailed description of the types of misconduct that should be considered “less serious” and careful consideration whether an employee's job description influences this calculus; or (B) on the type of discipline imposed, with longer retention schedules applicable to more serious sanctions under a progressive discipline model; and
 - c) A longer retention period for final written decisions imposing discipline on certain types of public employees whose positions involve greater degrees of public trust and for whom restricted public access to disciplinary records raises constitutional concerns—for example, law enforcement officers

who are responsible for preserving public safety and whose disciplinary records could be used to impeach the credibility of the officer who appears as a witness in a criminal case.

- 2) Whether the Legislature should enact legislation prohibiting a collective bargaining agreement from impacting records retention schedules; and
- 3) Whether the Legislature should amend the laws governing access to state, county and municipal employee personnel records to require that, in response to a public record request for a final written disciplinary decision, the responding public body must provide all of the records retained in its possession or custody regardless of whether the final written decision is located in the employee's personnel file or (perhaps as the result of a settlement agreement in the underlying disciplinary proceeding) is stored by the public body in another location.

We understand the difficulty in answering these questions in a way that strikes the appropriate balance between ensuring transparency and accountability of governmental business and avoiding the negative impacts greater disclosure may have on attracting and retaining employees, especially given that our increasingly polarized and digital world can facilitate the weaponization of disciplinary records against government employees. We believe that the Right to Know Advisory Committee, which includes representatives of the press and broadcasting interests, representatives of school and municipal interests, members with expertise in information technology, data and personal privacy, and advocates for freedom of access, is uniquely positioned to thoroughly study and tackle these complex issues.

Accordingly, we respectfully request that the Right to Know Advisory Committee reexamine the issues outlined above, drawing on the expertise of its members and, as necessary, gathering additional input from stakeholders with relevant expertise in law enforcement; labor law and collective bargaining agreements; progressive discipline and the impact of employee discipline on promotion and merit pay increases across different categories of public employees; and any existing constitutional and statutory requirements for retention or disclosure of specific types of employee disciplinary records to specific recipients, for example criminal defendants or professional licensing boards, in certain circumstances. If the Right to Know Advisory Committee is unable to develop final recommendations on these issues, we request that the committee provide guidance in its Nineteenth Annual Report on the establishment of a commission to meet between the First and Second Regular Sessions of the 132nd Legislature—including recommendations on the desired qualifications of commission members and the best way to frame the issues that the commission should be charged with examining.

Thank you in advance for your time and attention to these matters. We look forward to reviewing your recommendations. Please do not hesitate to reach out to us if you have any questions.

Sincerely,



Sen. Anne M. Carney
Senate Chair



Rep. Matthew W. Moonen
House Chair

cc: Members, Joint Standing Committee on Judiciary
Members, Right to Know Advisory Committee

Appendix B

Representative Erin Sheehan, Chair
 Senator Anne Carney
 Amy Beveridge
 Jonathan Bolton
 Hon. Justin Chenette
 Lynda Clancy
 Linda Cohen
 Julie Finn
 Betsy Fitzgerald



Jen Lancaster
 Brian MacMaster
 Kevin Martin
 Judy Meyer
 Hon. Kimberly Monaghan
 Tim Moore
 Cheryl Saniuk-Heinig
 Eric Stout
 Connor P. Schratz

STATE OF MAINE

RIGHT TO KNOW ADVISORY COMMITTEE

February 7, 2025

Kate McBrien, Maine State Archivist
 84 State House Station
 Augusta, ME 04333-0084
 Via Email: katherine.mcbrien@maine.gov

Re: Retention of public employee disciplinary records

Dear Kate McBrien:

I am writing on behalf of the Right to Know Advisory Committee. As you know, the Advisory Committee has considered the issue of access to public employee disciplinary records over the past few years, including the interaction between collective bargaining agreements, record retention schedules applicable to those records and the Freedom of Access Act. During its work in 2024, the Advisory Committee formed the Public Employee Disciplinary Records Subcommittee to gather more information and address specific questions posed by the Judiciary Committee regarding public employee disciplinary records. The Subcommittee received comments from a number of individuals representing public employers and learned more about the challenges faced by these entities in balancing the need to attract and retain qualified employees with the importance of using discipline to identify and correct employee behavior. The Subcommittee supported the creation of a tiered system of retention of public employee disciplinary records based on the "seriousness" of the misconduct; however, the members noted that public employers expressed both a desire for uniformity and concern that the "seriousness" of misconduct may vary depending upon the type of employment. The Subcommittee suggested that the determination of which tier a particular disciplinary action falls into should either be tied to the punishment that the employee receives or be left to each agency to determine.

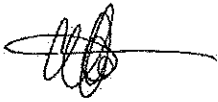
At its final meeting, the Advisory Committee considered the Subcommittee's recommendations and felt that this issue requires additional investigation. The Advisory Committee identified a number of stakeholders who they felt should be included in this discussion and unanimously voted to accept your offer to convene a working group to develop recommendations regarding the creation of a tiered system of record retention based on the "seriousness" of the misconduct. The Advisory Committee would also like the working group to consider whether the availability

of these records is appropriately governed by the record retention schedule or whether it would be appropriate to limit the amount of time that such records are public pursuant to FOAA. The Advisory Committee recommended including in the working group individuals representing the interests of law enforcement, municipalities, counties, unions, schools, teachers and public access advocates, and representatives of the State Bureau of Human Resources and the Maine Criminal Justice Academy.

We ask that you report on the activities of the working group and any recommendations that are developed by participants when the Advisory Committee reconvenes next year, which we anticipate will occur in late July or August of 2025.

Thank you for your offer of assistance and for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'ES', with a long horizontal line extending to the right.

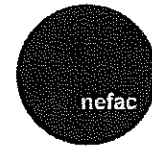
The Honorable Erin Sheehan
Chair Right to Know Advisory Committee

Appendix C

Appendix C

PUBLIC EMPLOYEE DISCIPLINE RECORDS STAKEHOLDER WORKSHOP REPORT

PREPARED BY THE MAINE STATE ARCHIVES
AND NEW ENGLAND FIRST AMENDMENT COALITION



C

TO: Maine Right to Know Advisory Committee
FROM: Maine State Archives and New England First Amendment Coalition
RE: Public Employee Discipline Records Stakeholder Workshop on June 12, 2025
DATE: August 14, 2025

Introduction and Participants

On June 12, 2025, the Maine State Archives convened a stakeholder discussion on behalf of the Right to Know Advisory Committee to discuss a potential shift to a tiered retention and disclosure system of public employee disciplinary records. Attendees represented a range of state and local agencies, including the Maine State Police, the Maine State Archives, the Maine Education Association, as well as media and freedom of information organizations, including the Maine Freedom of Information Coalition, the Sun Journal, and the New England First Amendment Coalition.

Attendees

- Steve Collins, Sun Journal
- Christian Cotz, Maine State Archivist
- Jesse Hargrove, President, Maine Education Association
- Judith Meyer, Maine Freedom of Information Coalition
- Lincoln Ryder, Interim Executive Director, Maine Criminal Justice Academy
- Lt. Col. Brian P. Scott, Maine State Police
- Justin Silverman, Executive Director, New England First Amendment Coalition
- Christie Young, Human Resources Director at City of Augusta, Maine

Absent

- Steve Bailey, Executive Director, Maine School Management Association
- Mark Brunton, President, MSEA
- Kate Cough, Editor, The Maine Monitor
- Matt Dudley, Director of Organizational Development, State of Maine
- Toni Dyer, Maine County Commissioners Association
- Tom Feeley, General Counsel at MSEA-SEIU Local 1989

MSA Staff

- Tammy Marks, Deputy Director
- Susan Verrier, Records Management Analyst II
- Tiffany Tattan-Awley, Records Management Analyst I

Summary of Discussion

The main issues for consideration at the meeting were:

- (1) The creation of a tiered system of record retention based on the “seriousness” of the misconduct.
 - a. How would such tiers be defined? (i.e., financial loss, termination, etc.)
 - b. Would definitions be universal across all agencies and employee roles?
 - c. Who would determine what tier would apply to each action recorded?
- (2) Whether the availability of these records is appropriately governed by the record retention schedule or whether it would be appropriate to limit the amount of time that such records are public pursuant to the Freedom of Access Act.

Tiered Record Retention System

On the first issue, the group discussed a variety of concerns across agencies and vacillated on the question of whether or not a tiered system would be advantageous.

Above all else, the group agreed that state agencies must clearly and consistently define key terms, including "discipline," "suspension," and "final agency action." Attendees explained how definitions vary among their respective agencies, meaning there is little consistency in what kinds of discipline are recorded, retained as records, and subject to FOAA across state agencies. This lack of consistency can result in downstream effects on behavior modification and public trust.

By way of example, one attendee explained that the Maine State Police and a local police department might define key disciplinary terms differently, meaning the same misconduct occurring at separate agencies may yield different disciplinary outcomes. Because the discipline may be defined differently between agencies, the same misconduct might become public record at one agency and not at another. Different agencies will then give different information to requesters about which records are available to the public, further complicating the process. This may give the appearance that one of the two agencies is withholding information that the other is providing. This cuts against the goal of building trust with the communities these agencies serve and with members of the media, who have an obligation to report on incidents of misconduct fairly and accurately.

While there was consensus among the workshop attendees that defining key terms is a top priority, the group spent much of the meeting discussing arguments for and against a tiered system.

Arguments Against a Tiered System

Some of the group expressed concerns that a tiered system would be unnecessarily complicated when the goal is to simplify the process and create uniformity across agencies. The idea presupposes that everyone making decisions about discipline is using the same matrix that requires public disclosure when certain circumstances exist. In reality there could be two separate cases involving nearly identical misconduct which result in different discipline because of variance in the model's application.

The group was also concerned that a tiered system could result in more employee grievances, as employees might be inclined to involve their unions and argue that a mandatory higher level of discipline, which would be subject to FOAA, is disproportionate to the offense. In such a case, the agency would be incentivized to mitigate the discipline to a lower level to avoid public disclosure.

One attendee pointed out that this system is particularly vulnerable to problems of favoritism, wherein the supervisor is responsible for disciplining an employee with whom he or she is close and treats serious misconduct as a lesser offense to circumvent disclosure requirements. In a similar vein, another attendee noted that a tiered system can be counterproductive to the goal of progressive discipline and modifying inappropriate behavior among employees. Efforts to reform these employees may be stymied in a system that disincentivizes certain discipline for fear of public disclosure.

The group also discussed the difficulties of determining the criteria for the tiers. In particular, there was resistance to making the disclosure metric the financial impact to the employee. That is, if an employee were to receive paid suspension, it would not be public record, while unpaid suspension or termination would be public. At many agencies, this would favor high-level supervisors who are more likely to receive paid suspension than lower-level employees.

Attendees also considered whether to treat differently the records of employees whose roles require certification or licensure. This would include the police and other law enforcement officers, as well as other public employees, such as bus drivers, who are required to have a special license.

The group concluded that a bright line rule regarding certifications would be overinclusive, as it would put people with vastly different levels of responsibility to the public in the same category for disciplinary

C

purposes. Alternatively, an effective tiered system might consider, but not center around, whether an employee holds a position of trust, such as a schoolteacher or police officer, as opposed to a public works employee.

Arguments For a Tiered System

Throughout the discussion, the group also considered the merits of a tiered system. To start, the group generally agreed that different levels of misconduct warrant different treatment, as not all offenses require disclosure. A system more attuned to these nuances would mean minor infractions—some of which may be part of the learning process and professional growth in a particular job—would not follow someone for the rest of their career as a public employee.

A tiered system might also better reflect the progressive discipline model employed by many state agencies. That is, only certain levels of disciplinary action would become public record, and public employees would only receive such discipline after repeated incidents of misconduct. This gives offending employees the opportunity to correct their behavior and continue their professional development before their misconduct becomes public record.

A tiered system also balances important considerations of recruitment, retention, and employee privacy. One attendee noted that he was not particularly concerned about a chilling effect on recruitment because few people enter their roles as public employees expecting to engage in malfeasance. It may, however, cause issues with retention once misconduct has occurred and employees are worried about their missteps being made public. A tiered system would help protect against that.

Other Considerations

The State Police and Maine Education Association (MEA) were particularly concerned about issues of due process and privacy. Lt. Col. Brian P. Scott of the Maine State Police said that under the Fourteenth Amendment, public employees have a constitutionally protected liberty interest in maintaining one's reputation. In light of due process concerns, he recommended a uniform tiered system where the tiers are based on sustained findings, not subjective misconduct labels.

Jesse Hargrove of the MEA was particularly worried that a threshold based on sustained findings would negatively affect public education employees. Lower-level discipline of teachers and school administrators, such as brief suspensions, he explained, may be misinterpreted by the public. Highlighting how agencies treat — and define — discipline differently, Hargrove explained that a suspension in the context of public education might be a final agency action regardless of whether the decision is made at the school level or the school board level, and regardless of whether it is appealable. Hargrove noted that teachers and administrators may err in relatively minor ways as they learn how to do their jobs, which nonetheless results in an unpaid suspension—discipline which may not be of much relevance to the public.

In response, other attendees pointed out that parents should have the right to know when and why their child's teacher has been suspended, even if it is for a minor administrative infraction. Moreover, they argued, because suspension is not the first line of action in a progressive discipline model, suspension would only come after adequate due process. If a teacher is suspended after being made aware of an issue, and having an opportunity to correct course, the relevant disciplinary records should be public.

Public Accessibility vs. Retention Schedule

Finally, the group briefly discussed whether the amount of time a record is available to the public should mirror the retention schedule. One attendee noted that Brady-Giglio protocols require law enforcement to retain certain materials forever for prosecutorial purposes, though such records may not be available to the public for as long.

C

The group concluded that there is no strong argument in favor of retaining non-Brady-Giglio records that are no longer available to the public. Moreover, retaining non-Brady-Giglio records longer than they are subject to FOIA seems to conflict with the general record retention schedule.

Recommendations

Further Consideration of Tiered System

While the workgroup did not explicitly endorse a two-tiered retention metric, consensus began to form around a system similar to the following:

- Tier 1: When there are sustained findings relating to higher levels of discipline, including but not limited to suspension, demotion and termination, records will be considered public in perpetuity.
- Tier 2: When there are sustained findings relating to any form of discipline outside the scope of Tier 1, records will be considered public for five years.
- Prior to a sustained finding for Tier 1 and Tier 2 offenses, records will not be public pursuant to FOIA.

It should be noted that one significant concern regarding this model is the inability of the public to access documents related to reports of employee of misconduct that do not result in a sustained finding. Attendees recognized the possibility of abuse but disagreed on the likelihood of such abuse occurring and to what extent. At least one attendee also emphasized the difficulty in monitoring favoritism and bias within public agencies without information on even minor infractions.

Development of Consistent Guidelines

As previously discussed, it is of critical importance to clearly and consistently define key terms, such as “discipline,” “suspension,” and “final agency action.”

Better Guidance on CBA Implications

It is also important to note that a tiered retention system may conflict with collective bargaining agreements (CBAs), as some negotiated retention schedules are shorter than either of the proposed tiers. In theory, any law the RTKAC proposes will preempt a CBA, but attendees noted that agencies may flout new rules. Accordingly, the proposed system must be explicit in addressing possible conflicts with CBAs.

SUMMARY OF REPORT

PUBLIC EMPLOYEE DISCIPLINE RECORDS STAKEHOLDER WORKSHOP REPORT

Prepared by the Maine State Archives and New England First Amendment Coalition

On June 12, 2025, the Maine State Archives convened a stakeholder discussion on behalf of the Right to Know Advisory Committee to discuss a potential shift to a tiered retention and disclosure system of public employee disciplinary records. Attendees represented a range of state and local agencies, including the Maine State Police, the Maine State Archives, the Maine Education Association, as well as media and freedom of information organizations, including the Maine Freedom of Information Coalition, the Sun Journal, and the New England First Amendment Coalition.

ISSUES CONSIDERED

The main issues for consideration at the meeting were:

- (1) The creation of a tiered system of record retention based on the “seriousness” of the misconduct.
 - a. How would such tiers be defined? (i.e., financial loss, termination, etc.)
 - b. Would definitions be universal across all agencies and employee roles?
 - c. Who would determine what tier would apply to each action recorded?
- (2) Whether the availability of these records is appropriately governed by the record retention schedule or whether it would be appropriate to limit the amount of time that such records are public pursuant to the Freedom of Access Act.

DISCUSSION

The group discussed a variety of concerns across agencies and vacillated on the question of whether or not a tiered system would be advantageous. Above all else, the group agreed that state agencies must clearly and consistently define key terms, including “discipline,” “suspension,” and “final agency action.” Because the discipline may be defined differently between agencies, the same misconduct might become public record at one agency and not at another.

While there was consensus among the workshop attendees that defining key terms is a top priority, the group spent much of the meeting discussing arguments for and against a tiered system.

Arguments Against a Tiered System

- Concerns that a tiered system would be unnecessarily complicated when the goal is to simplify the process and create uniformity across agencies.
- Concerns that a tiered system could result in more employee grievances, as employees might be inclined to involve their unions and argue that a mandatory higher level of discipline, which would be subject to FOAA, is disproportionate to the offense.
- Concern that this system is particularly vulnerable to problems of favoritism, wherein the supervisor is responsible for disciplining an employee with whom he or she is close and treats serious misconduct as a lesser offense to circumvent disclosure requirements.
- Concern around the difficulties of determining the criteria for the tiers. In particular, there was resistance to making the disclosure metric the financial impact to the employee.
- Concerns regarding whether to treat differently the records of employees whose roles require certification or licensure. This would include the police and other law enforcement officers, as well as other public employees, such as bus drivers, who are required to have a special license.
 - The group concluded that a bright line rule regarding certifications would be overinclusive, as it would put people with vastly different levels of responsibility to the public in the same category for disciplinary purposes. Alternatively, an effective tiered system might consider, but not center around, whether an employee holds a position of trust, such as a schoolteacher or police officer, as opposed to a public works employee.

Arguments For a Tiered System

- Throughout the discussion, the group also considered the merits of a tiered system. The group generally agreed that different levels of misconduct warrant different treatment, as not all offenses require disclosure. A system more attuned to these nuances would mean minor infractions—some of which may be part of the learning process and professional growth in a particular job—would not follow someone for the rest of their career as a public employee.
- A tiered system might also better reflect the progressive discipline model employed by many state agencies. That is, only certain levels of disciplinary action would become public record, and public employees would only receive such discipline after repeated incidents of misconduct.
- A tiered system also balances important considerations of recruitment, retention, and employee privacy. It may, however, cause issues with retention once misconduct has occurred and employees are worried about their missteps being made public. A tiered system would help protect against that.

Other Considerations

- The State Police and Maine Education Association (MEA) were particularly concerned about issues of due process and privacy.
- The group briefly discussed whether the amount of time a record is available to the public should mirror the retention schedule. One attendee noted that Brady-Giglio protocols require law enforcement to retain certain materials forever for prosecutorial purposes, though such records may not be available to the public for as long.
- The group concluded that there is no strong argument in favor of retaining non-Brady-Giglio records that are no longer available to the public. Moreover, retaining non-Brady-Giglio records longer than they are subject to FOA seems to conflict with the general record retention schedule.

RECOMMENDATIONS

Further Consideration of Tiered System

While the workgroup did not explicitly endorse a two-tiered retention metric, consensus began to form around a system similar to the following:

- Tier 1: When there are sustained findings relating to higher levels of discipline, including but not limited to suspension, demotion and termination, records will be considered public in perpetuity.
 - Tier 2: When there are sustained findings relating to any form of discipline outside the scope of Tier 1, records will be considered public for five years.
 - Prior to a sustained finding for Tier 1 and Tier 2 offenses, records will not be public pursuant to FOAA.
- One significant concern regarding this model is the inability of the public to access documents related to reports of employee of misconduct that do not result in a sustained finding.

Development of Consistent Guidelines

- It is of critical importance to clearly and consistently define key terms, such as “discipline,” “suspension,” and “final agency action.”

Better Guidance on CBA Implications

- It is also important to note that a tiered retention system may conflict with collective bargaining agreements (CBAs), as some negotiated retention schedules are shorter than either of the proposed tiers. Accordingly, the proposed system must be explicit in addressing possible conflicts with CBAs.

Appendix D

Representative Erin Sheehan, Chair
Senator Anne Carney
Amy Beveridge
Jonathan Bolton
Hon. Justin Chenette
Lynda Clancy
Linda Cohen
Julie Finn
Betsy Fitzgerald



Jen Lancaster
Brian MacMaster
Kevin Martin
Judy Meyer
Hon. Kimberly Monaghan
Tim Moore
Cheryl Saniuk-Heinig
Eric Stout
Connor P. Schratz

STATE OF MAINE

RIGHT TO KNOW ADVISORY COMMITTEE

February 7, 2025

Criminal Law Advisory Commission
Via Email: Laura.Yustak@maine.gov

Re: Public employee disciplinary records

Dear Laura Yustak,

I am writing on behalf of the Right to Know Advisory Committee. To conduct its work this year, the Right to Know Advisory Committee formed several subcommittees, including the Public Employee Disciplinary Records Subcommittee. One of the issues this subcommittee considered was the retention of records that may be used to impeach a witness in a criminal case, so-called *Brady/Giglio* materials. The Subcommittee received comment from several representatives of law enforcement who explained that it can be challenging to identify what records represent *Brady/Giglio* materials, and they expressed a desire for further guidance on this issue. The Subcommittee was also advised that consistency in the handling of these materials is a goal of the Maine Chiefs of Police Association.

At its final meeting, the Right to Know Advisory Committee recommended asking the Criminal Law Advisory Commission to consider this issue to provide guidance regarding the types of public employee disciplinary records that would be considered *Brady/Giglio* materials, including examples if possible, and to make recommendations regarding how these materials should be retained by public employers. We request that the Commission share any guidance and recommendations it develops with the Judiciary Committee and the Right to Know Advisory Committee in 2025.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to be 'ES' with a long horizontal stroke extending to the right.

The Honorable Erin Sheehan, Chair
Right to Know Advisory Committee

Appendix E

§7070. Personnel records

Every appointment, transfer, promotion, demotion, dismissal, vacancy, change of salary rate, leave of absence, absence from duty and other temporary or permanent change in status of employees in both the classified service and the unclassified service of the Executive and Legislative Departments must be reported to the officer at such time, in such form and together with such supportive or pertinent information as the officer by rule prescribes. [RR 2023, c. 1, Pt. B, §42 (COR); RR 2023, c. 1, Pt. B, §50 (AFF).]

The officer shall maintain a perpetual roster of all officers and employees in the classified and unclassified services, showing for each person such data that the officer considers pertinent. [RR 2023, c. 1, Pt. B, §43 (COR); RR 2023, c. 1, Pt. B, §50 (AFF).]

Records of the Bureau of Human Resources are public records and open to inspection of the public during regular office hours at reasonable times and in accordance with the procedure as the officer may provide. [RR 2023, c. 1, Pt. B, §44 (COR); RR 2023, c. 1, Pt. B, §50 (AFF).]

The following records shall be confidential and not open to public inspection, and shall not be "public records," as defined in Title 1, section 402, subsection 3: [PL 1985, c. 785, Pt. B, §38 (NEW).]

1. Papers relating to applications, examinations or evaluations of applicants. Except as provided in this subsection, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the State for use in the examination or evaluation of applicants for positions as state employees.

A. Notwithstanding any confidentiality provision other than this subsection, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired, except that personal contact information is not a public record as provided in Title 1, section 402, subsection 3, paragraph O. [PL 2007, c. 597, §5 (AMD).]

B. Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference. [PL 1989, c. 402, §1 (NEW).]

C. This subsection does not preclude union representatives from access to personnel records, consistent with subsection 4, which may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives which are otherwise covered by this subsection shall remain confidential and are not open to public inspection; [PL 1989, c. 402, §1 (NEW).]

[PL 2007, c. 597, §5 (AMD).]

2. Personal information. Records containing the following, except they may be examined by the employee to whom they relate when the examination is permitted or required by law:

A. Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders; [PL 1985, c. 785, Pt. B, §38 (NEW).]

B. Performance evaluations and personal references submitted in confidence; [PL 1985, c. 785, Pt. B, §38 (NEW).]

C. Information pertaining to the credit worthiness of a named employee; [PL 1985, c. 785, Pt. B, §38 (NEW).]

D. Information pertaining to the personal history, general character or conduct of members of the employee's immediate family; [PL 1997, c. 124, §2 (AMD).]

D-1. Personal information, including that which pertains to the employee's:

- (1) Age;
- (2) Ancestry, ethnicity, genetic information, national origin, race or skin color;
- (3) Marital status;
- (4) Mental or physical disabilities;
- (5) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;
- (6) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;
- (7) Religion;
- (8) Sex, gender identity or sexual orientation as defined in section 4553, subsection 9-C; or
- (9) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee.

When there is a work requirement for public access to personal information under this paragraph that is not otherwise protected by law, that information may be made public. The State Human Resources Officer, upon the request of the employing agency, shall make the determination that the release of certain personal information not otherwise protected by law is allowed; [PL 2023, c. 615, §1 (AMD).]



E. Except as provided in paragraph F and section 7070-A, complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this paragraph, "final written decision" means:

- (1) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or
- (2) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and [PL 2023, c. 615, §2 (AMD).]

F. In the case of an allegation of sexual misconduct or sexual harassment within a correctional facility, a determination that the allegation was substantiated, unsubstantiated or unfounded, except that the determination may be disclosed to the alleged victim. Unless the allegation is determined to be unfounded, the following information may also be shared with the alleged victim:

- (1) Whether the individual alleged to have engaged in the sexual misconduct or sexual harassment is still assigned to the same work location where the sexual misconduct or sexual harassment allegedly occurred;
- (2) Whether the individual under subparagraph (1) is still employed at the correctional facility;
- (3) Whether the individual under subparagraph (1) has been criminally charged or convicted of a crime arising out of the allegation of sexual misconduct or sexual harassment; and
- (4) Whether the prosecuting agency declined to seek an indictment or the grand jury declined to indict the individual under subparagraph (1) based on the allegation of sexual misconduct or sexual harassment. [PL 2023, c. 646, Pt. B, §1 (AMD).]

This subsection does not preclude union representatives from having access to personnel records, consistent with subsection 4, that may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this subsection remain confidential and are not open for public inspection; [PL 2023, c. 646, Pt. B, §1 (AMD).]

3. Other information. Other information to which access by the general public is prohibited by law.

[PL 1985, c. 785, Pt. B, §38 (NEW).]

4. Disclosure of certain information for grievance and other proceedings. The State Human Resources Officer may release specific information designated confidential by this section to be used in negotiations, mediation, fact-finding, arbitration, grievance proceedings and other proceedings in which the State is a party. For the purpose of this subsection, "other proceedings" means unemployment compensation proceedings, workers' compensation proceedings, human rights proceedings and labor relations proceedings.

Confidential information provided under this subsection shall be governed by the following.

A. The information to be released shall be information only as necessary and directly related to the proceeding as determined by the State Human Resources Officer. [PL 1987, c. 673, §1 (NEW); PL 2023, c. 412, Pt. D, §3 (REV).]

B. [PL 2007, c. 240, Pt. HH, §12 (RP).]

C. The proceeding for which the confidential information is provided shall be private and not open to the public; or, if the proceeding is open to the public, the confidential information shall not be disclosed except exclusively in the presence of the fact finder, the parties and counsel of record, and the employee who is the subject of the proceeding and provisions are made to ensure that there is no public access to the confidential information. [PL 1987, c. 673, §1 (NEW).]

The State may use this confidential information in proceedings and provide copies to the employee organization that is a party to the proceedings, provided the information is directly related to those proceedings as defined by the applicable collective bargaining agreement. Confidential personnel records in the possession of the Bureau of Human Resources may not be open to public inspection and may not be "public records," as defined in Title 1, section 402, subsection 3.

[PL 2007, c. 240, Pt. HH, §12 (AMD); PL 2023, c. 412, Pt. D, §3 (REV).]

5. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this

subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.
[PL 2013, c. 201, §1 (NEW).]

SECTION HISTORY

PL 1985, c. 785, §B38 (NEW). PL 1987, c. 673, §1 (AMD). PL 1989, c. 402, §1 (AMD). PL 1991, c. 229, §1 (AMD). PL 1991, c. 729, §1 (AMD). PL 1997, c. 124, §2 (AMD). PL 1997, c. 770, §1 (AMD). PL 2007, c. 240, Pt. HH, §12 (AMD). PL 2007, c. 466, Pt. A, §21 (AMD). PL 2007, c. 597, §§5, 6 (AMD). PL 2013, c. 201, §1 (AMD). PL 2019, c. 451, §1 (AMD). PL 2023, c. 159, §1 (AMD). PL 2023, c. 412, Pt. D, §3 (REV). RR 2023, c. 1, Pt. B, §§42-44 (COR). RR 2023, c. 1, Pt. B, §50 (AFF). PL 2023, c. 615, §§1-3 (AMD). PL 2023, c. 646, Pt. B, §1 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 131st Maine Legislature and is current through January 1, 2025. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

§503. Personnel records

1. Confidential records. The following records are confidential and not open to public inspection. They are not "public records" as defined in Title 1, section 402, subsection 3. These records include:

A. Except as provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the county for use in the examination or evaluation of applicants for positions as county employees.

(1) Notwithstanding any confidentiality provision other than this paragraph, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired.

(2) Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference.

(3) This paragraph does not preclude union representatives from access to personnel records which may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives which are otherwise covered by this subsection shall remain confidential and are not open to public inspection; [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 402, §2 (RPR).]

B. County records containing the following:

(1) Medical information of any kind, including information pertaining to the diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family;

* (5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

(a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or

(b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written

decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

(6) Personal information, including that which pertains to the employee's:

- (a) Age;
- (b) Ancestry, ethnicity, genetic information, national origin, race or skin color;
- (c) Marital status;
- (d) Mental or physical disabilities;
- (e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;
- (f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;
- (g) Religion;
- (h) Sex, gender identity or sexual orientation as defined in Title 5, section 4553, subsection 9-C; or
- (i) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee; and [PL 2023, c. 159, §2 (AMD).]

C. Other information to which access by the general public is prohibited by law. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 2023, c. 159, §2 (AMD).]

1-A. Investigations of deadly force or physical force by law enforcement officer. The name of a law enforcement officer is not confidential under subsection 1, paragraph B, subparagraph (5) in cases involving:

- A. The use of deadly force by a law enforcement officer; or [PL 1991, c. 729, §6 (NEW).]
- B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury. [PL 1991, c. 729, §6 (NEW).]

In cases specified in paragraphs A and B, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case.

[PL 1991, c. 729, §6 (NEW).]

1-B. Investigation of allegation of sexual misconduct or sexual harassment by county jail employee. Notwithstanding subsection 1, paragraph B, subparagraph (5), in the case of an allegation of sexual misconduct or sexual harassment within a county jail or detention facility, a determination that the allegation was substantiated, unsubstantiated or unfounded may be disclosed to the alleged victim. Unless the allegation is determined to be unfounded, the following information may also be shared with the alleged victim:

- A. Whether the individual alleged to have engaged in the sexual misconduct or sexual harassment is still assigned to the same work location where the sexual misconduct or sexual harassment allegedly occurred; [PL 2023, c. 615, §4 (NEW).]

B. Whether the individual under paragraph A is still employed at the county jail or detention facility; [PL 2023, c. 615, §4 (NEW).]

C. Whether the individual under paragraph A has been criminally charged or convicted of a crime arising out of the allegation of sexual misconduct or sexual harassment; and [PL 2023, c. 615, §4 (NEW).]

D. Whether the prosecuting agency declined to seek an indictment or the grand jury declined to indict the individual under paragraph A based on the allegation of sexual misconduct or sexual harassment. [PL 2023, c. 646, Pt. B, §2 (AMD).]

[PL 2023, c. 646, Pt. B, §2 (AMD).]

2. Employee right to review. On written request from an employee or former employee, a county official with custody of the records shall provide that employee, former employee or the employee's authorized representative with an opportunity to review the employee's personnel file, if the county official has a personnel file for that employee. These reviews shall take place during normal office hours at the location where the personnel files are maintained.

A. For the purposes of this subsection, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits of which the county official has possession. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The records described in subsection 1, paragraph B, may also be examined by the employee to whom they relate, as provided in this subsection. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

[PL 2013, c. 201, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 402, §2 (AMD). PL 1991, c. 229, §2 (AMD). PL 1991, c. 729, §6 (AMD). PL 1997, c. 770, §2 (AMD). PL 2013, c. 201, §2 (AMD). PL 2019, c. 451, §2 (AMD). PL 2023, c. 159, §2 (AMD). PL 2023, c. 615, §4 (AMD). PL 2023, c. 646, Pt. B, §2 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 131st Maine Legislature and is current through January 1, 2025. The

text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

§2702. Personnel records

1. Confidential records. The following records are confidential and not open to public inspection. They are not "public records" as defined in Title 1, section 402, subsection 3. These records include:

A. Except as provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the municipality for use in the examination or evaluation of applicants for positions as municipal employees.

(1) Notwithstanding any confidentiality provision other than this paragraph, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired.

(2) Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference.

(3) This paragraph does not preclude union representatives from access to personnel records that may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this subsection must remain confidential and are not open to public inspection; [PL 2019, c. 451, §3 (AMD).]

B. Municipal records pertaining to an identifiable employee and containing the following:

(1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family;

* (5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

(a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or

(b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written

decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

(6) Personal information, including that which pertains to the employee's:

- (a) Age;
- (b) Ancestry, ethnicity, genetic information, national origin, race or skin color;
- (c) Marital status;
- (d) Mental or physical disabilities;
- (e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;
- (f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;
- (g) Religion;
- (h) Sex, gender identity or sexual orientation as defined in Title 5, section 4553, subsection 9-C; or
- (i) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee; and [PL 2019, c. 451, §3 (AMD).]

C. Other information to which access by the general public is prohibited by law. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 2019, c. 451, §3 (AMD).]

1-A. Investigations of deadly force or physical force by law enforcement officer. The name of a law enforcement officer is not confidential under subsection 1, paragraph B, subparagraph (5) in cases involving:

- A. The use of deadly force by a law enforcement officer; or [PL 1991, c. 729, §7 (NEW).]
- B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury. [PL 1991, c. 729, §7 (NEW).]

In cases specified in paragraphs A and B, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case.

[PL 1991, c. 729, §7 (NEW).]

2. Employee right to review. On written request from an employee or former employee, the municipal official with custody of the records shall provide the employee, former employee or the employee's authorized representative with an opportunity to review the employee's personnel file, if the municipal official has a personnel file for that employee. These reviews shall take place during normal office hours at the location where the personnel files are maintained. For the purposes of this subsection, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits which the municipal official may possess. The records described in subsection 1, paragraph B, may also be examined by the employee to whom they relate, as provided in this subsection.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

[PL 2013, c. 201, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 402, §3 (AMD). PL 1991, c. 229, §3 (AMD). PL 1991, c. 729, §7 (AMD). PL 1997, c. 770, §3 (AMD). PL 2013, c. 201, §3 (AMD). PL 2019, c. 451, §3 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 131st Maine Legislature and is current through January 1, 2025. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

Appendix F



131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 1397

H.P. 892

House of Representatives, March 28, 2023

**An Act to Implement the Recommendations of the Right To Know
Advisory Committee Concerning Records of Disciplinary Actions
Against Public Employees**

Reported by Representative MOONEN of Portland for the Joint Standing Committee on
Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph
G.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint
Rule 218.

A handwritten signature in cursive script that reads "R(t) B. Hunt".

ROBERT B. HUNT
Clerk

F

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §95-B, sub-§7**, as amended by PL 2019, c. 50, §10, is further
3 amended to read:

4 **7. Disposition of records.** Records Notwithstanding any collective bargaining
5 agreement or other employment contract entered into on or after January 1, 2024 that
6 provides for the removal, destruction or purging of records, records may not be destroyed
7 or otherwise disposed of by any local government official, except as provided by the
8 records retention schedule established by the State Archivist pursuant to section 95-C,
9 subsection 2, paragraph A, subparagraph (3). Records that have been determined to possess
10 archival value must be preserved by the municipality.

11 **Sec. 2. 5 MRSA §7070, sub-§2, ¶E**, as amended by PL 1997, c. 770, §1, is further
12 amended to read:

13 E. Except as provided in section 7070-A, complaints, charges or accusations of
14 misconduct, replies to those complaints, charges or accusations and any other
15 information or materials that may result in disciplinary action. If disciplinary action is
16 taken, the final written decision relating to that action is no longer confidential after
17 the decision is completed if it imposes or upholds discipline. The decision must state
18 the conduct or other facts on the basis of which disciplinary action is being imposed
19 and the conclusions of the acting authority as to the reasons for that action. If an
20 arbitrator completely overturns or removes disciplinary action from an employee
21 personnel file, the final written decision is public except that the employee's name must
22 be deleted from the final written decision and kept confidential. If the employee whose
23 name was deleted from the final written decision discloses that the employee is the
24 person who is the subject of the final written decision, the entire final written report,
25 with regard to that employee, is public. In response to a request to inspect or copy the
26 final written decision in accordance with Title 1, section 408-A, the Bureau of Human
27 Resources shall produce the final written decision in its possession or custody whether
28 located in a personnel file or in another location.

29 For purposes of this paragraph, "final written decision" means:

- 30 (1) The final written administrative decision that is not appealed pursuant to a
31 grievance arbitration procedure; or
32 (2) If the final written administrative decision is appealed to arbitration, the final
33 written decision of a neutral arbitrator.

34 A final written administrative decision that is appealed to arbitration is no longer
35 confidential 120 days after a written request for the decision is made to the employer
36 if the final written decision of the neutral arbitrator is not issued and released before
37 the expiration of the 120 days;

38 **Sec. 3. 30-A MRSA §503, sub-§1, ¶B**, as amended by PL 2019, c. 451, §2, is
39 further amended by amending subparagraph (5) to read:

- 40 (5) Complaints, charges or accusations of misconduct, replies to those complaints,
41 charges or accusations and any other information or materials that may result in
42 disciplinary action. If disciplinary action is taken, the final written decision
43 relating to that action is no longer confidential after the decision is completed if it

F

1 imposes or upholds discipline. The decision must state the conduct or other facts
2 on the basis of which disciplinary action is being imposed and the conclusions of
3 the acting authority as to the reasons for that action. If an arbitrator completely
4 overturns or removes disciplinary action from an employee personnel file, the final
5 written decision is public except that the employee's name must be deleted from
6 the final written decision and kept confidential. If the employee whose name was
7 deleted from the final written decision discloses that the employee is the person
8 who is the subject of the final written decision, the entire final written report, with
9 regard to that employee, is public. In response to a request to inspect or copy the
10 final written decision in accordance with Title 1, section 408-A, the county shall
11 produce the final written decision in its possession or custody whether located in a
12 personnel file or in another location.

13 For purposes of this subparagraph, "final written decision" means:

14 (a) The final written administrative decision that is not appealed pursuant to a
15 grievance arbitration procedure; or

16 (b) If the final written administrative decision is appealed to arbitration, the
17 final written decision of a neutral arbitrator.

18 A final written administrative decision that is appealed to arbitration is no longer
19 confidential 120 days after a written request for the decision is made to the
20 employer if the final written decision of the neutral arbitrator is not issued and
21 released before the expiration of the 120 days; and

22 **Sec. 4. 30-A MRS §2702, sub-§1, ¶B,** as amended by PL 2019, c. 451, §3, is
23 further amended by amending subparagraph (5) to read:

24 (5) Complaints, charges or accusations of misconduct, replies to those complaints,
25 charges or accusations and any other information or materials that may result in
26 disciplinary action. If disciplinary action is taken, the final written decision
27 relating to that action is no longer confidential after the decision is completed if it
28 imposes or upholds discipline. The decision must state the conduct or other facts
29 on the basis of which disciplinary action is being imposed and the conclusions of
30 the acting authority as to the reasons for that action. If an arbitrator completely
31 overturns or removes disciplinary action from an employee personnel file, the final
32 written decision is public except that the employee's name must be deleted from
33 the final written decision and kept confidential. If the employee whose name was
34 deleted from the final written decision discloses that the employee is the person
35 who is the subject of the final written decision, the entire final written report, with
36 regard to that employee, is public. In response to a request to inspect or copy the
37 final written decision in accordance with Title 1, section 408-A, the municipality
38 shall produce the final written decision in its possession or custody whether located
39 in a personnel file or in another location.

40 For purposes of this subparagraph, "final written decision" means:

41 (a) The final written administrative decision that is not appealed pursuant to a
42 grievance arbitration procedure; or

43 (b) If the final written administrative decision is appealed to arbitration, the
44 final written decision of a neutral arbitrator.

F

1 A final written administrative decision that is appealed to arbitration is no longer
2 confidential 120 days after a written request for the decision is made to the
3 employer if the final written decision of the neutral arbitrator is not issued and
4 released before the expiration of the 120 days; and

5 **Sec. 5. Revision of record retention schedules.** The State Archivist shall revise
6 the record retention schedules applicable to state and local government personnel records
7 as follows.

8 1. Except as provided in subsections 2 and 3 and notwithstanding any collective
9 bargaining agreement or other employment contract entered into on or after January 1, 2024
10 to the contrary, final written decisions relating to disciplinary action must be maintained
11 for a period of 20 years.

12 2. For final written decisions relating to less serious conduct or disciplinary action as
13 described in the schedules, the schedules may provide for a shorter retention period of no
14 less than 5 years.

15 3. For final written decisions relating to law enforcement employee disciplinary
16 actions that could be used to impeach the credibility of the law enforcement officer if the
17 law enforcement officer is a witness in a criminal case, the schedules may provide for a
18 retention period of more than 20 years.

19 4. The schedules must use consistent terminology related to records that are not
20 retained and provide definitions for terms used in the schedule such as "remove," "purge"
21 and "destroy."

22 **SUMMARY**

23 This bill implements the recommendations of the Right To Know Advisory Committee
24 related to records of disciplinary actions against public employees.

25 The bill provides that, notwithstanding any collective bargaining agreement or other
26 employment contract entered into on or after January 1, 2024 to the contrary, local
27 government records may not be disposed of except in accordance with record retention
28 schedules established by the State Archivist.

29 The bill amends the statutes governing state, municipal and county employee personnel
30 records to require that, in response to Freedom of Access Act requests for final written
31 decisions, the responding public body provide the records in its possession or custody
32 regardless of the specific file location in which the final written decision is located. The
33 bill also requires the final written decisions applicable to state and county employees to
34 state the conduct or other facts on the basis of which the disciplinary action is being
35 imposed and the conclusions of the state or county employer as to the reasons for that
36 action. Similar language is already included in the statute governing municipal employee
37 personnel records.

38 The bill directs the State Archivist to revise the record retention schedules applicable
39 to state and local government personnel records to require that final written decisions
40 relating to disciplinary action be maintained for a period of 20 years or a lesser period
41 depending on the severity of the conduct or disciplinary action. The State Archivist may
42 increase the retention period beyond 20 years for final written decisions relating to law
43 enforcement employee disciplinary actions that could be used to impeach the credibility of

F

- 1 the law enforcement officer if the law enforcement officer is a witness in a criminal case.
- 2 It also requires that the schedules use consistent terminology and define terms related to
- 3 the disposition of records.

L.D. 1397

Date:

(Filing No. H-)

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE**HOUSE OF REPRESENTATIVES****131ST LEGISLATURE****FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 892, L.D. 1397, “An Act to Implement the Recommendations of the Right To Know Advisory Committee Concerning Records of Disciplinary Actions Against Public Employees”

Amend the bill by striking out all of section 1.

Amend the bill in section 2 in paragraph E in the 13th, 14th, 15th and 16th lines (page 1, lines 25 to 28 in L.D.) by striking out the following: “In response to a request to inspect or copy the final written decision in accordance with Title 1, section 408-A, the Bureau of Human Resources shall produce the final written decision in its possession or custody whether located in a personnel file or in another location.”

Amend the bill in section 3 in subparagraph (5) in the 13th, 14th, 15th and 16th lines (page 2, lines 9 to 12 in L.D.) by striking out the following: “In response to a request to inspect or copy the final written decision in accordance with Title 1, section 408-A, the county shall produce the final written decision in its possession or custody whether located in a personnel file or in another location.”

Amend the bill by striking out all of sections 4 and 5.

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment, which is the majority report of the committee, strikes all of the provisions of the bill other than the provisions amending the statutes governing state and county employee personnel records to require that a final written decision imposing discipline on a state or county employee must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the state or county employer as to the reasons for that action. Similar language is already included in the statute governing municipal employee personnel records.

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 892 - L.D. 1397

**An Act to Implement the Recommendations of the Right To Know Advisory
Committee Concerning Records of Disciplinary Actions Against Public
Employees**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §7070, sub-§2, ¶E, as amended by PL 1997, c. 770, §1, is further amended to read:

E. Except as provided in section 7070-A, complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this paragraph, "final written decision" means:

- (1) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or
- (2) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days;

Sec. 2. 30-A MRSA §503, sub-§1, ¶B, as amended by PL 2019, c. 451, §2, is further amended by amending subparagraph (5) to read:

(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

- (a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or
- (b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

Appendix G

Appendix G

SENATE

ANNE M. CARNEY, DISTRICT 20, CHAIR
RACHEL TALBOT ROSS, DISTRICT 20
DAVID G. HAGGAN, DISTRICT 10

JANET STOCCO, LEGISLATIVE ANALYST
ELIAS MURPHY, LEGISLATIVE ANALYST
SUSAN PINETTE, COMMITTEE CLERK



HOUSE

AMY D. KUHN, FALMOUTH, CHAIR
ADAM R. LEE, AUBURN
DAVID A. SINCLAIR, BATH
ELEANOR Y. SATO, GORHAM
DYLAN R. PUGH, PORTLAND
DANI L. O'HALLORAN, BREWER
JENNIFER L. POIRIER, SKOWHEGAN
RACHEL A. HENDERSON, RUMFORD
ELIZABETH M. CARUSO, CARATUNK
MARK MICHAEL BABIN, FORT FAIRFIELD
AARON M. DANA, PASSAMAQUODDY TRIBE

STATE OF MAINE
ONE HUNDRED AND THIRTY-SECOND LEGISLATURE
COMMITTEE ON JUDICIARY

June 18, 2025

Dear Right to Know Advisory Committee,

We are writing to respectfully request that the Right to Know Advisory Committee (RTKAC) examine issues related to the Freedom of Access Act (FOAA) that were brought to our attention through several items of proposed legislation this year.

Public Records Requests

❖ LD 1484, *An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees*, addressed a complicated issue that the RTKAC and the Judiciary Committee have each spent several years tackling: public access to public employee disciplinary records. As you know, under current law, complaints and accusations of misconduct involving state, county and municipal employees are confidential unless and until discipline is imposed, at which time the final written decision becomes a public record. 5 M.R.S. §7070(2)(E); 30-A M.R.S. §503(1)(B), §2702(1)(B). LD 1484 would have provided that a final written decision imposing discipline would only be publicly accessible if the discipline “is of a nature that imposes or results in financial disadvantage, including, but not limited to, termination, demotion or suspension without pay.”

At the public hearing, the bill’s proponents echoed concerns raised to the RTKAC’s 2024 Subcommittee on Public Employee Disciplinary Records—*i.e.*, the current lack of a statutory definition of “discipline” for which a written record must be available to the public has led to inconsistency across government agencies regarding whether, for example, corrective memos and reprimands must be publicly accessible; the knowledge that minor performance issues may be publicly disclosed exacerbates public employee recruitment and retention issues; and the concern that disclosing less serious disciplinary matters to members of the public may enable those who wish to harass and embarrass public employees, particularly law enforcement officers and school personnel. By contrast, the bill’s opponents emphasized that LD 1484 would dramatically narrow the disclosure of public employee disciplinary records in a way that not only limits government transparency and accountability but also prevents future employers, including other public agencies, from learning about certain types of misconduct before making employment decisions. Moreover, the Maine Association of Criminal Defense Lawyers

G

observed that even discipline that does not involve a financial penalty may, if it implicates the credibility of a law enforcement officer, need to be disclosed to defense counsel for purposes of impeaching the officer's credibility as a matter of state and federal constitutional law.

Given these complex, competing considerations, the Judiciary Committee voted that LD 1484 ought not to pass and to request that the RTKAC consider the bill's proposal as it continues to examine the issues surrounding public access to public employee disciplinary records this year.

❖ LD 1788, *An Act to Strengthen the Freedom of Access Act by Categorizing Commercial Requesters*, proposed to require every person submitting a request for public records under FOAA to certify, on a form to be developed by each public agency or official, whether the request is a commercial request or a noncommercial request and whether the information received in response to the request "is likely to be produced pursuant to an ongoing judicial proceeding." Based on its assessment of the requester's intended use of the public record, the public body, agency or official would then be required to independently determine whether the request is "commercial" or "noncommercial" in nature. The new definitions proposed in the bill clarify that a request made "solely for the purpose of conducting scientific research" or by certain "representative[s] of news media" generally should not be considered commercial in nature. If it concludes that a request is commercial, the public body, agency or official would be authorized by LD 1788 both to charge a fee for the first two hours of staff time required to respond to the request and to establish a fee structure that exceeds the current statutory maximum fee of \$25 per hour.

According to the sponsor LD 1788 is designed, in part, to mirror the federal Freedom of Information Act by requiring entities who seek access to public records for commercial purposes to pay more than members of the public who seek public records for noncommercial purposes. In addition, the sponsor designed the bill to deter an increasingly common but troubling practice by attorneys and pro se litigants who file FOAA requests as an alternative method of obtaining information that would be available during the discovery process as part of a civil or criminal proceeding. While the committee certainly understands the importance of these considerations, numerous questions remain, including: whether it is appropriate to categorize public records requests based on the intent of the person making the request or whether the Legislature should instead categorize certain types of requests — for example, a request to a registry of deeds for a list of all properties subject to a tax lien — as presumptively commercial; if the intent of the requester should be determinative, whether the language of the bill provides appropriate guidance regarding the types of requests that should be considered commercial; whether to limit the types of additional information that a public agency or official may seek on its certification form regarding the intent of the request; whether a person who requests a public record before deciding whether to initiate litigation should be required to disclose the potential for a future lawsuit when making the request; whether the Legislature should establish any parameters for the increased fees that a public entity may charge a commercial requester; and whether the Legislature should consider authorizing public entities to prioritize the processing of noncommercial public records requests over commercial public records requests.

Ultimately, the committee agreed with the Maine Press Association that these issues surrounding for-profit and litigation-related public records should be referred to the RTKAC for further examination as part of its ongoing work to address burdensome public records requests.

New Public Record Exception

❖ LD 1824, *An Act to Prohibit the Public Release of Information Regarding a Railroad Fatality*, proposed to exclude from the definition of "public record" a report of a law enforcement agency regarding an accident resulting in a fatality involving a railroad or railroad line and all records of communication between the law enforcement agency and a railroad company employee involved in that accident. The exclusion would apply only during the course of an investigation of the accident. The bill further proposed certain exceptions to the confidentiality of these reports and records.

At the work session on LD 1824, the committee determined that it was unclear whether the bill as drafted would be sufficiently narrowly tailored or whether it would pass the statutory balancing test set forth in 1 M.R.S. §434 that the Judiciary Committee uses when reviewing new public record exceptions.

Ultimately, the committee voted that LD 1824 ought not to pass and to request that the RTKAC examine and make recommendations regarding whether a new exception to the definition of "public record" is necessary for records related to an accident involving a railroad or railroad line that results in a fatality.

Executive Sessions

❖ LD 1399, *An Act to Allow Action Against a Person Violating the Confidentiality of an Executive Session of a Public Body or Agency*, proposed to prohibit any person who attends an executive session of a public body or agency from disclosing the substance of any matter discussed or any underlying facts or information related to the matter discussed during the executive session unless 3/5 of the members of the public body present and voting approve of the disclosure. The bill would have also established a process for investigating violations, which could result in a decision barring the person found to have violated the confidentiality of the executive session from participating in future executive sessions, having access to confidentiality information or having access to information or attending an executive session regarding a matter for which the person is determined to have a conflict of interest.

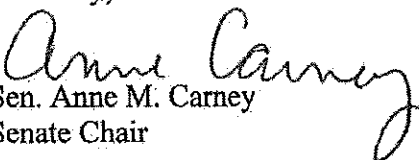
At the work session on LD 1399, the committee was surprised to learn that FOAA does not currently explicitly provide that discussions during executive sessions are confidential or delineate the parameters of that confidentiality. Nevertheless, the committee had numerous concerns regarding LD 1399's proposal for describing the scope of the confidentiality and the appropriate penalties for violating of that confidentiality, including: whether it is advisable to restrict a member of the public body who has disclosed sensitive information in the past from participating in future executive sessions, even though the member retains the authority to vote on issues discussed during the executive session; whether the same penalties should apply to a member of a public body who discloses information learned during an executive session and another person who is present at the executive session and who may have independent knowledge of the facts underlying the issue being discussed (for example, the parent of a student facing an expulsion hearing); and whether investigative proceedings involving violating the confidentiality of executive sessions should themselves be conducted in investigative sessions.

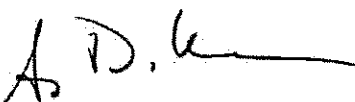
Ultimately, the committee voted that LD 1399 ought not to pass and to request that the RTKAC examine and make recommendations regarding the best way to ensure that the information members of a public body learn during an executive session remains confidential to the extent that confidentiality is appropriate.

G

Thank you very much for your dedication to freedom of access issues in the State. We look forward to your recommendations related to these issues when we receive the RTKAC annual report this coming January.

Sincerely,


Sen. Anne M. Carney
Senate Chair


Rep. Amy D. Kuhn
House Chair

c: Joint Standing Committee on the Judiciary

Appendix H



132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1484

H.P. 975

House of Representatives, April 3, 2025

An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees

Reference to the Committee on Judiciary suggested and ordered printed.

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative BISHOP of Bucksport.
Cosponsored by Senator HAGGAN of Penobscot and
Representatives: CHAPMAN of Auburn, HENDERSON of Rumford, SCHMERSAL-
BURGESS of Mexico, WHITE of Ellsworth, Senator: MARTIN of Oxford.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §7070, sub-§2, ¶E**, as amended by PL 2023, c. 615, §2, is further
3 amended to read:

4 E. Except as provided in paragraph F and section 7070-A, complaints, charges or
5 accusations of misconduct, replies to those complaints, charges or accusations and any
6 other information or materials that may result in disciplinary action. If disciplinary
7 action is taken, and that disciplinary action is of a nature that imposes or results in a
8 financial disadvantage, including, but not limited to, termination, demotion or
9 suspension without pay, the final written decision relating to that action is no longer
10 confidential after the decision is completed if it imposes or upholds discipline. The
11 decision must state the conduct or other facts on the basis of which disciplinary action
12 is being imposed and the conclusions of the acting authority as to the reasons for that
13 action. If an arbitrator completely overturns or removes disciplinary action from an
14 employee personnel file, the final written decision is public except that the employee's
15 name must be deleted from the final written decision and kept confidential. If the
16 employee whose name was deleted from the final written decision discloses that the
17 employee is the person who is the subject of the final written decision, the entire final
18 written report, with regard to that employee, is public.

19 For purposes of this paragraph, "final written decision" means:

20 (1) The final written administrative decision that is not appealed pursuant to a
21 grievance arbitration procedure; or

22 (2) If the final written administrative decision is appealed to arbitration, the final
23 written decision of a neutral arbitrator.

24 A final written administrative decision that is appealed to arbitration is no longer
25 confidential 120 days after a written request for the decision is made to the employer
26 if the final written decision of the neutral arbitrator is not issued and released before
27 the expiration of the 120 days; and

28 **Sec. 2. 30-A MRSA §503, sub-§1, ¶B**, as amended by PL 2023, c. 159, §2, is
29 further amended by amending subparagraph (5) to read:

30 (5) Complaints, charges or accusations of misconduct, replies to those complaints,
31 charges or accusations and any other information or materials that may result in
32 disciplinary action. If disciplinary action is taken, and that disciplinary action is
33 of a nature that imposes or results in a financial disadvantage, including, but not
34 limited to, termination, demotion or suspension without pay, the final written
35 decision relating to that action is no longer confidential after the decision is
36 completed if it imposes or upholds discipline. The decision must state the conduct
37 or other facts on the basis of which disciplinary action is being imposed and the
38 conclusions of the acting authority as to the reasons for that action. If an arbitrator
39 completely overturns or removes disciplinary action from an employee personnel
40 file, the final written decision is public except that the employee's name must be
41 deleted from the final written decision and kept confidential. If the employee
42 whose name was deleted from the final written decision discloses that the
43 employee is the person who is the subject of the final written decision, the entire
44 final written report, with regard to that employee, is public.

H

1 For purposes of this subparagraph, "final written decision" means:
2 (a) The final written administrative decision that is not appealed pursuant to a
3 grievance arbitration procedure; or
4 (b) If the final written administrative decision is appealed to arbitration, the
5 final written decision of a neutral arbitrator.
6 A final written administrative decision that is appealed to arbitration is no longer
7 confidential 120 days after a written request for the decision is made to the
8 employer if the final written decision of the neutral arbitrator is not issued and
9 released before the expiration of the 120 days; and

10 **Sec. 3. 30-A MRSA §2702, sub-§1, ¶B**, as amended by PL 2019, c. 451, §3, is
11 further amended by amending subparagraph (5) to read:

12 (5) Complaints, charges or accusations of misconduct, replies to those complaints,
13 charges or accusations and any other information or materials that may result in
14 disciplinary action. If disciplinary action is taken, and that disciplinary action is
15 of a nature that imposes or results in a financial disadvantage, including, but not
16 limited to, termination, demotion or suspension without pay, the final written
17 decision relating to that action is no longer confidential after the decision is
18 completed if it imposes or upholds discipline. The decision must state the conduct
19 or other facts on the basis of which disciplinary action is being imposed and the
20 conclusions of the acting authority as to the reasons for that action. If an arbitrator
21 completely overturns or removes disciplinary action from an employee personnel
22 file, the final written decision is public except that the employee's name must be
23 deleted from the final written decision and kept confidential. If the employee
24 whose name was deleted from the final written decision discloses that the
25 employee is the person who is the subject of the final written decision, the entire
26 final written report, with regard to that employee, is public.

27 For purposes of this subparagraph, "final written decision" means:
28 (a) The final written administrative decision that is not appealed pursuant to a
29 grievance arbitration procedure; or
30 (b) If the final written administrative decision is appealed to arbitration, the
31 final written decision of a neutral arbitrator.
32 A final written administrative decision that is appealed to arbitration is no longer
33 confidential 120 days after a written request for the decision is made to the
34 employer if the final written decision of the neutral arbitrator is not issued and
35 released before the expiration of the 120 days; and

36 **SUMMARY**

37 This bill modifies provisions of law related to the confidentiality of certain employee
38 records. Under current law, if disciplinary action is taken against a state, county or
39 municipal employee, the final written decision associated with the disciplinary action is not
40 confidential. Under the bill, only disciplinary actions that are of a nature that impose or
41 result in a financial disadvantage, including, but not limited to, termination, demotion or
42 suspension without pay, may become public.

Appendix

I

An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees**No Fiscal Impact**, 5-2-25

Need a paper copy? Contact the Document Room at (207) 287-1408.

Sponsors

Presented By:

Representative Steven M. Bishop, R - Bucksport**Senator David G. Haggan**, R - Penobscot**Representative Tammy L. Schmersal-Burgess**, R - Mexico**Representative Rachel A. Henderson**, R - Rumford**Representative Quentin J. Chapman**, R - Auburn**Representative Russell P. White**, R - Ellsworth**Senator Joseph E. Martin**, R - Oxford**Committee Actions**Referred To: **Judiciary**, 4-8-25Latest: **Reported Out ONTP**, 4-23-25**Work Session Held**, 4-15-25**Voted, ONTP**, 4-15-25 on motion by Sen. Haggan, second by Rep. Poirier**Ought Not To Pass****Reported Out, ONTP**, 4-23-25**Action Summary**Final Disposition: **Ought Not to Pass Pursuant To Joint Rule 310**, 4-24-25Latest House Action: **Pursuant to Joint Rule 310 ONTP**, 4-24-25Latest Senate Action: **Pursuant to Joint Rule 310 ONTP**, 4-24-25**Scheduled Committee Meetings**

There have been 2 committee meetings scheduled.

Start times for meetings are listed, not when this bill will be discussed.

Public Hearing 4-11-25, 1:00 pm**Work Session** 4-15-25, 1:00 pm**Testimony**

There are 10 testimony items.

Rep. Steven Bishop <i>Rep. Maine State Legislature</i>	4-11-25
Jean-Marie Caterina <i>Maine County Commissioners Association</i>	4-11-25
Michael Edes <i>Maine Law Enforcement Coalition</i>	4-11-25
Adam Goode <i>ME AFL-CIO</i>	4-11-25
Jan Koslinski <i>Maine Education Association</i>	4-11-25
Judith Meyer <i>Maine Freedom of Information Coalition</i>	4-11-25
Judith Meyer <i>Maine Press Association</i>	4-11-25
Tina Nadeau <i>Maine Association of Criminal Defense Lawyers</i>	4-11-25
Alicia Rea <i>ACLU of Maine</i>	4-11-25
Scott Stewart <i>Maine Chiefs of Police Association</i>	4-11-25

House and Senate Stamps

There are 3 bill stamps.

4-3-25 10:54 am

House

Committee on **Judiciary** suggested and ordered printed.The Bill was **REFERRED** to the Committee on **JUDICIARY**.

Sent for concurrence. ORDERED SENT FORTHWITH.

4-8-25 11:50 am

Senate

The Bill was **REFERRED** to the Committee on **JUDICIARY** in concurrence

4-24-25 11:25 am

Senate

Pursuant to Joint Rule 310.3 Placed in Legislative Files (DEAD)



HOUSE OF REPRESENTATIVES

2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002
(207) 287-1440
TTY: (207) 287-4469

Steven Bishop

PO Box 214,
Bucksport, ME 04416
Residence: (207) 991-7909
Steven.Bishop@legislature.maine.gov

Testimony by Representative Steve Bishop

In support of

LD 1484, An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees

Joint Standing Committee on Judiciary

April 11, 2025

Good afternoon, Senator Carney, Representative Kuhn, and distinguished members of the Judiciary Committee. My name is Steve Bishop, and I represent the residents of Bucksport, Orland, Penobscot, and Verona Island in House District 17. Prior to my service in the Maine House, I served with the Bucksport Police Department and as Deputy Mayor for the Town of Bucksport. I am honored to be here today to introduce LD 1484, An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees.

This bill modifies provisions of law related to the confidentiality of state, county, and municipal employee records. Under current law, if disciplinary action is taken against one of these categories of public employees, the final written decision associated with that action is not considered confidential and is therefore available to the public if requested. This legislation clarifies that only disciplinary actions that are of a nature that impose or result in a financial disadvantage, including, but not limited to, termination, demotion, or suspension without pay, may become public.

Public employees from all sectors and all regions of Maine provide invaluable services to the people of this State. But they are also employees that receive the most scrutiny because unlike their private employee counterparts, their work records can be accessed under FOIA requests. Knowing that every performance issue, regardless as to how minor it may be, being subject to public review can make a perspective employee think twice before accepting a public sector position.

House District 17 Orland, Penobscot, Verona Island, and Bucksport



HOUSE OF REPRESENTATIVES

2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002
(207) 287-1440
TTY: (207) 287-4469

Steven Bishop

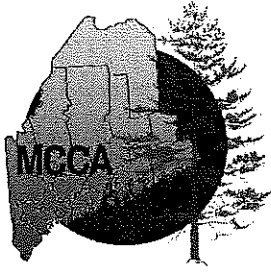
PO Box 214,
Bucksport, ME 04416
Residence: (207) 991-7909
Steven.Bishop@legislature.maine.gov

LD 1484 is a bill that would invest in the quality of services provided by public employees and to help ensure that small infractions such as being late to work, shutting down a computer at the end of the day, or filing a late report, which should be teachable moments do not become part of a permanent public record. Clearly defining what constitutes a disciplinary action that is publicly available is a commonsense change to our law that will help support and retain quality employees in the public sector.

You will be hearing from others today who have the knowledge and experience developing successful public teams that have served our communities whether it is in law enforcement, the classrooms, or in other public service environments. I ask that you lean into the first-hand experience testimony you are about to hear and direct your questions to these experts.

Thank you for your time and consideration of supporting LD 1484.

House District 17 Orland, Penobscot, Verona Island, and Bucksport



Maine County Commissioners Association

4 Gabriel Drive, Suite 2 Augusta, ME 04330, 207-623-4697
www.maine counties.org

April 11, 2025

Sen. Carney, Chair
Rep. Kuhn, Chair
Joint Standing Committee on Judiciary
100 State House Station
Augusta, ME 04333

Re: *Testimony of MCCA regarding LD 1484, An Act Related to Public Access of
Records of Certain Disciplinary Actions of Public Employees*

Chair Carney, Chair Kuhn, and Members of the Joint Standing Committee on Judiciary:

On behalf of the Maine County Commissioners Association, we appreciate the opportunity to provide testimony to this Committee in opposition to LD 1484. County government depends on the public's trust, and that trust is supported by a commitment to transparency in how we manage public resources, including public personnel.

About MCCA. Briefly, the Maine County Commissioners Association was established in 1890 to assist Maine's county government in providing vital services to Maine citizens in a responsive, efficient, and credible manner. The Association is based in Augusta, represents all 16 of Maine's counties, and is governed by a board with representation from each participating county.

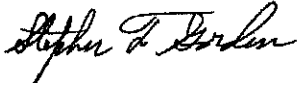
What does LD 1484 do? LD 1484 would make records of the final written decision of disciplinary actions against public employees confidential if the discipline does not result in a financial loss. The bill frames financial loss from the standpoint of the employee—such as suspension without pay or demotion. This would limit public access to certain disciplinary decisions that are currently available under Maine's Freedom of Access Act.

Discussion. LD 1484 would limit public access to records of written decisions of disciplinary actions against public employees when the discipline does not result in a financial loss to the employee. In doing so, the bill creates a new distinction between "serious" and "non-serious" discipline that may shield from public view important information about how employee misconduct is handled, even when it involves issues of public concern or safety. This could prevent future employers—including other public agencies—from discovering past misconduct that was addressed but not publicly documented, reducing accountability across government.

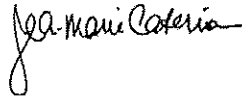
MCCA believes this bill moves in the wrong direction. We support greater transparency, not less, and this proposal undermines longstanding principles of open government that help ensure accountability, build trust in public institutions, and deter future misconduct.

Conclusion. For these reasons, MCCA urges the Committee to vote **Ought Not to Pass** on LD 1484. If you have questions or need additional information, please do not hesitate to let us know.

Respectfully submitted,



Stephen Gorden
Co-Chair, Legislative Policy Committee, MCCA



Jean-Marie Caterina
Co-Chair, Legislative Policy Committee, MCCA

cc: Commissioner Andre Cushing, President, MCCA
James I. Cohen, Verrill Dana, LLP, MCCA Legislative Counsel

April 11, 2025

LD1484 An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees

Senator Carney, Rep. Amy Kuhn and members of the Judiciary Committee,

My name is Michael Edes, the executive director of the Maine Fraternal Order of Police and I am here today, representing the Maine Law Enforcement Coalition. Our coalition is made up of members from the Maine State Trooper's Association, Maine State Law Enforcement Association, Maine Association of Police and the Maine Fraternal Order of Police. Altogether, our coalition represents roughly 90% of the men and women serving in Maine law enforcement.

I am here today to support LD1484, An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees. Every so often, a bill is proposed that does not significantly change the major content to an existing law but will have a great and positive impact on the people the law is focused on. That is the case with LD1484. This bill would only keep confidential, final imposed minor discipline that is mainly corrective, and performance-based final agency action.

Over the past several years, our officers have seen an increase in scrutiny and personal attacks by the press and by defense attorneys, who are looking for nothing else but to discredit law enforcement officers and other first responders. The press has deemed it their mission to expose any and all mistakes by police officers, including very minor policy violations and other job performance-based matters. While they call it being transparent, most of us call it a witch hunt and this is nothing but a continuation of the "defund the police" nonsense. Attorneys representing criminal defendants, find it easier to focus their efforts on trying to discredit police officers for issues totally unrelated to the cases in which they are defending, then it is to just go out and defend their clients on the facts of the case.

LD1484 would allow the lowest stages of disciplinary and corrective actions to remain confidential, while still allowing agencies and their employees to improve in their performance, grow as an organization and to move forward without the continuing public shaming that comes with having to release all minor discipline and employee performance records.

We all strive to provide a better quality of service to the public that we are sworn to serve and protect. We believe in accountability, and we believe in transparency. However, the current system of allowing every minor personnel performance record to be publicly accessed and released only serves to erode public confidence in our employees, decrease morale within our agencies and to foster an atmosphere of fear within personnel.

I strongly urge the members of this committee to support LD1484.



I



MAINE AFL-CIO

A Union of Unions Standing for Maine Workers
21 Gabriel Drive, Augusta, Maine 04330

(207) 622-9675

Visit our website: www.maineaflcio.org

President
Cynthia Phinney

Vice President
Grant Provost

Secretary Treasurer
Doug Born

Testimony of Adam Goode, Maine AFL-CIO Legislative & Political Director, In Support of LD 1484 , “An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees”

Senator Carney, Representative Kuhn and members of the Joint Standing Committee on Judiciary, my name is Adam Goode. I'm the Legislative and Political Director of the Maine AFL-CIO. We represent 40,000 working people in the state of Maine. We work to improve the lives and working conditions of our members and all working people. We testify in support of LD 1484.

This bill aims to define “discipline” for public employees, which the public can access upon request. It is our understanding that this committee passed LD 1397 in the 131st, which included language on disciplinary records for public employees to ensure that public records more clearly delineated the conduct for which a public employee was disciplined. That law did not clearly define “discipline”.

Only disciplinary actions of public sector workers that are of a nature that impose or result in a financial disadvantage, including, but not limited to, termination, demotion or suspension without pay, should become public. We think that is the right approach. Under current law, corrective memos or reprimands are considered discipline. This means that currently policy violations that come from honest mistakes are also made public.

This bill draws an appropriate line on which disciplinary issues should be made public. Minor mistakes happen in the workplace. Corrections officers, firefighters, educators and county, municipal or state employees, especially those who are new, may deal with disciplinary action related to minor mistakes in order to address performance issues. Being late for work or in submitting reports, or failing to keep equipment clean, may require disciplinary action. These actions are not serious misconduct, are best addressed internally, and don't merit being public information.

Disciplinary actions where an employee faces suspension, demotion or termination are of a different nature and would remain public information if you pass LD 1484. We ask that you vote “ought to pass”.



I

Maine Education Association

Jesse Hargrove President | Beth French Vice President | Jaye Rich Treasurer
Rebecca Cole NEA Director | Rachelle Bristol Executive Director

Testimony

In Support Of

LD 1484: An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees

Jan Kosinski, Government Relations Director, Maine Education Association

Before the Judiciary Committee

April 11th, 2025

Senator Carney, Representative Kuhn, and other members of the Judiciary Committee,

My name is Jan Kosinski, and I am the Director of Government Relations for the Maine Education Association (MEA). The MEA represents nearly 24,000 educators, including teachers and other educators in nearly every public school in the state, as well as full-time faculty and other professional and support staff in both the University of Maine and Community College systems. Thousands of retired educators continue their connection and advocacy work through the MEA- Retired program.

I offer this testimony today on behalf of the MEA in support of LD 1484, *An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees*.

Last session this committee was charged with grappling with the delicate balance between the public's right to know and the personnel files of public workers. In a perfect world, there will be no issue here. Yet sadly, every year, there are multiple cases of arbitrary and capricious discipline actions from administrators in public schools. In some cases, these are often beginning levels of discipline, often the first step in a progressive discipline policy. However, a despondent and aggrieved employee may choose to walk away. In some cases, the first mark of discipline -- not necessarily leading to a termination or a demotion, just the first mark -- is enough for someone to recognize that they should find a different place to work. They may object to the accusation, and the low-level discipline but decide to walk away and find work in another district. Should this record be available to the public?

However, if an employee has a credible case and they are facing termination, demotion, or suspension, they will often pursue the grievance process through the collective bargaining agreement, should one exist. If their case is strong, they may take it all the way to arbitration. This grievance and arbitration process provides an additional protection for public employees. Through it, arbitrary, capricious, unfair discipline decisions can be overturned and thrown out.

The bill before you would slightly increase the threshold for a public employee's file to be deemed a public record. It restricts the definition only to the discipline that "imposes or results" in significant disciplinary action -- action so bad it requires a suspension, a demotion, or a termination. We prefer this approach because it helps eliminate the likelihood of low-level discipline being used to target or harass a teacher, educator, or any public employee in our state. Further, actions that result in significant discipline, including termination, demotion, and suspension without pay have the safety valve of the grievance and arbitration process to help resolve discipline disputes between employers and employees, at least for unionized employees.

35 Community Drive, Augusta, ME 04330 | 1349 Broadway, Bangor, ME 04401
PO Box 310, Caribou, ME 04736 | 29 Christopher Toppi Drive, South Portland ME 04106

207-622-5866 | 207-888-2070 fax | www.maineea.org



I

Maine Education Association

Jesse Hargrove President | Beth French Vice President | Jaye Rich Treasurer
Rebecca Cole NEA Director | Rachelle Bristol Executive Director

Lastly, if a public employee covered by a collective bargaining agreement has experienced a disciplinary event at work that has resulted in suspension, demotion, or termination, and they have decided not to pursue a grievance, these cases are and will remain public under this bill.

Thank you for your time and your attention and your service to the people of Maine. I will do my best to answer any questions you may have.

35 Community Drive, Augusta, ME 04330 | 1349 Broadway, Bangor, ME 04401
PO Box 310, Caribou, ME 04736 | 29 Christopher Toppi Drive, South Portland ME 04106

207-622-5866 | 207-888-2070 fax | www.maineaa.org



Maine Freedom of Information Coalition

Sen. Carney, Rep. Kuhn, members of the Joint Standing Committee on Judiciary, my name is Judith Meyer. I am here today on behalf of the Maine Freedom of Information Coalition, on whose board I serve as president, in opposition to LD 1484, An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees.

* * *

The Maine Freedom of Information echoes the position taken by the Maine Press Association that the bill before you would substantially narrow access to final written disciplinary decisions based entirely on whether discipline created a "financial disadvantage."

As already mentioned, several years ago the Maine Freedom of Information Coalition conducted a disciplinary records audit of Maine's law enforcement agencies. The purpose of the audit was to measure response to a straightforward Freedom of Access Act request and to record response and cost.

In response to more than 150 FOAA requests, we received hundreds of records (although nearly a third of all police agencies ignored our request), ranging from no discipline issued in the prior five years in some departments to more than a hundred disciplinary actions in a single department. The tremendous majority of disciplinary records created no "financial disadvantage" for employees.

The full response, including disciplinary records, is available at:

<https://drive.google.com/drive/folders/1lhAS4pvP2uL9ja2MUffWxH4QTHio8M9E?usp=sharing>

Email: Mainefreedomofinfo@gmail.com

Password: Mainenews11

(Click "my drive" on left to access the documents.)

While it wasn't the goal to chart the types of disciplinary actions, the audit revealed some interesting data on the kinds of behaviors that prompted discipline, from being late for shift to leaving a loaded service weapon in a public location, and many more serious offenses. The audit also revealed whether some – but not all – discipline was issued with or without pay, and whether discipline was the first offense of certain officers or not.

What the data also revealed is that not every department details disciplinary records in such a way that it's clear what the offense was, or the consequence of that offense, which prompted the recent change in law to require that level of written detail for county and state final disciplinary decisions.

The data collected by MFOIC is not complete by any means and for purposes of the bill before you, the audit touched only on law enforcement and not the tens of thousands of other public employees the bill applies to, so this audit data can serve as a starting place to determine the level and frequency of disciplinary actions in one profession, but much more research needs to be done to fully understand what impact setting an access tier may have for employees and for the public. That is especially true if the threshold is whether discipline creates "financial disadvantage" since we know from law enforcement records those records represent a clear minority.

The MFOIC recommends that this bill be forwarded to RTK for further research and consideration, and that RTK be asked to bring a recommendation back to Judiciary next year.

* * *

The **Maine Freedom of Information Coalition** is a broad coalition of public access advocates who strive to educate Maine citizens and legislators about the rights and responsibilities of citizens in accessing information so they may participate more fully in our democracy. MFOIC supports open access to government information, supports those who exercise their rights to access government information under Maine's Freedom of Access Act, and periodically conducts audits of government agency practices in making government information available according to the spirit and letter of FOAA.



MAINE PRESS ASSOCIATION
On the record since 1864

P.O. Box 336 Camden, ME 04843

mainepressassociation.org

Sen. Carney, Rep. Kuhn, members of the Joint Standing Committee on Judiciary, my name is Judith Meyer. I am here today on behalf of the Maine Press Association against LD 1484, An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees.

* * *

The Maine Press Association has been part of ongoing discussions as a member of the Right to Know Advisory Committee regarding confidentiality of disciplinary records, and voted in support of a RTK recommendation regarding these records that has been reported out to this committee but not yet come forward as a bill. We urge that this bill and the RTK recommendation already on the table be considered in tandem.

During the last session, at the recommendation of RTK, the Legislature voted to align public access and wording of disciplinary records at the municipal, county and state levels. That update required that, at all government levels, if disciplinary action is taken a final written decision becomes public after the completed decision imposes discipline. The decision must state the conduct "or other facts on the basis of which disciplinary action is imposed and the conclusions of the acting authority as to the reasons for that action" so the public understands the behavior and the consequence.

The proposal before you would substantially narrow public access to final written disciplinary decisions by limiting public access only to discipline that "is of a nature that imposes or results in a financial disadvantage, including, but not limited to, termination, demotion or suspension without pay."

What that means is that any discipline short of demotions that result in loss of salary, and unpaid short- or long-term suspensions or terminations would be confidential. So, censures, letters or warning, paid suspensions of any length, and requirements for employees to undergo additional training to address workplace failures would be confidential.

In 2022, the Maine Freedom of Information Coalition conducted an audit of police disciplinary records, tracking how many were issued to who and for what over a five-year period.

In one department, two officers were disciplined for holding down a 12-year-old boy by his wrists and ankles as the child's mother spanked him. One of the officers was suspended without pay for three days. The second officer was suspended for two days. Under the bill before you, the public could know about the first officer, but not the second.

In many agencies, in cases of discipline, salaried employees are suspended with pay, which means under this bill the public would never have access to those significant disciplinary actions

I

– even for the highest-ranking officials – including a recent case of a school superintendent who was suspended with pay for months. And, we know from prior reporting of Maine Press members, that law enforcement officers have frequently been disciplined for seemingly major infractions but in ways that stop short of any sort of “financial disadvantage.”

The policy behind existing law is that public employees are sometimes subject to unsubstantiated or even harassing complaints that are meritless and that these sorts of things shouldn't be public. On the other hand, where public employees engage in substantiated misconduct and disciplinary action is imposed the balance tilts in favor of transparency.

And, tilts away from possible mischief.

Last year, the RTK Public Employees Disciplinary Records Subcommittee – which I chaired – was asked to look at the possibility of establishing tiered access to disciplinary records. We met multiple times and heard from a number of government officials, including human resources officers and representatives of teachers and law enforcement.

Several of them pointed out that shielding disciplinary records helps recruitment and retention efforts because employees know that those records can't be accessed by the public or potential future employers, but there were strong words of caution that establishing a tier – particularly if it was tied to financial consequences – “may avoid discipline when a warning or suspension is warranted.”

During RTK discussions last year, there was some support for shielding corrective memoranda or minor written reprimands after a period of time, when the goal of discipline can often be to modify conduct, but there was no consensus on how to define minor versus major discipline, particularly when a series of minor problem behaviors – taken together – can amount to major problem behaviors.

There was consensus around the problem of employees being able to move to a new job without anyone knowing about their disciplinary history if records are removed from personnel files under collective bargaining agreements, and strong support that this problem be addressed in earnest.

In the end, RTK recommended that Judiciary continue consideration of all of these issues, and that it seek stakeholder input beyond law enforcement, municipalities and school administrators before taking action. To that end, the Maine Press Association asks that this bill be sent to the Right to Know Advisory Committee for further consideration.

* * *

The **Maine Press Association**, founded in 1864, is one of the oldest professional news organizations in the nation. Our goals, as spelled out in our charter and by-laws are: To promote and foster high ethical standards and the best interests of the newspapers, journalists, and media organizations of the state of Maine that constitute its membership; to encourage improved business and editorial practices and better media environment in the state; and to improve the conditions of journalism and journalists by promoting and protecting the principles of freedom of speech and of the press and the public's right to know.



MAINE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

P.O. Box 17642
Portland, ME 04112-8642
(207) 523-9869
mainemacdl@gmail.com

April 11, 2025

**2024-2025
OFFICERS**

President
Jeremy Pratt

President-Elect
Matthew D. Morgan

Vice President
Sarah E. Branch

Treasurer
Justin Andrus

Secretary
Luke Rioux

**2024-2025
DIRECTORS**

Jesse James Archer
Randall Bates
Dylan R. Boyd
Andrew Edwards
Daniel Dubé
Andrew Edwards
Benjamin T. Everett
Kristine C. Hanly
James Mason
Joseph Mekonis
Jennifer Rohde
Robert J. Ruffner
John Steed
Caitlyn Smith
Lisa Whittier

**EXECUTIVE
DIRECTOR**

Tina Heather Nadeau

Senator Anne Carney, Chair
Representative Amy Kuhn, Chair
Joint Committee on Judiciary
5 State House Station, Room 438
Augusta, ME 04333

**RE: LD 1484: An Act Related to Public Access of Records of Certain
Disciplinary Actions of Public Employees**

Dear Senator Carney, Representative Kuhn, and Honorable Members of the Judiciary Committee:

The Maine Association of Criminal Defense Lawyers is a non-profit organization that has nearly 300 member attorneys who practice criminal defense across the state. Since 1992, MACDL has advocated for its members and the people we are fortunate to represent in courtrooms throughout Maine and at the State House.

MACDL presents this testimony **in opposition** of LD 1484.

“Sunlight is said to be the best of disinfectants; electric light the most effective policeman.”¹

What this bill proposes would cast more darkness over the disciplinary actions against State actors—which comes with a host of problems.

This bill would further limit the public disclosure of disciplinary information regarding public officials. For our clients who are accused of crimes by State actors, this would have great impact on our ability to access such information regarding law enforcement officials and similar State actors.

Disciplinary information can be essential in investigating the credibility of law enforcement witnesses. This includes even “low-level” discipline like a reprimand for things like fudging a timecard, making inappropriate statements to co-workers, or not following department policy. Such discipline, under this proposal, would no longer be available for public disclosure if it did not result in the loss of wages.

It was just a few years ago that the Bangor Daily News exposed the labyrinth around police disciplinary records and how difficult it was even for other law enforcement agencies to access such information when evaluating a potential job candidate. The

¹ Louis Brandeis, What Publicity Can Do, Harper’s Weekly (1913). Brandeis was sworn in as an Associate Justice of the United States Supreme Court just three years later.

I

investigation also uncovered how departments were redacting essential—and ostensibly public—information from the disciplinary records they actually produced. Protecting even more disciplinary action does not keep us safer and it does not give law enforcement agencies the information they need to make informed decisions regarding hiring and promoting officers.

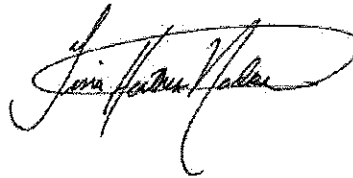
In a criminal trial, the credibility of all witnesses is a central concern. On the ground, I can represent that both District Attorney's Offices and law enforcement agencies remain either confused or ignorant of the obligation to disclose disciplinary action of officers involved in prosecutions as a matter of course. When prosecutors charge a person with a crime, they have a constitutional obligation to turn over any information that could cast doubt on the credibility of police who might serve as a witness in court, referred to as Giglio material. Litigation around what information much be disclosed to criminal defendants under the constitution is contentious and unnecessarily protracted.

Last session, this Committee was instrumental in the ultimate passage of LD 1397, which required that the basis for discipline—including the factual background and the reasons for discipline—be included in the final disciplinary action. That was a step forward towards transparency of disciplinary records for State actors. This current bill would be a step backwards.

We currently have enough issues with getting any disciplinary information from these law enforcement agencies—we do not need this Legislature to create any loopholes for State agencies to further exploit to protect the disciplinary records of State employees.

Thank you for your consideration, for your attention to these important matters, and for allowing me to present this testimony on this bill to you all today.

Sincerely,

A handwritten signature in black ink, appearing to read "Tina Heather Nadeau", with a stylized, flowing script.

Tina Heather Nadeau, Esq.
MACDL Executive Director



TESTIMONY OF ALICIA REA, ESQ.
LD 1484 – Ought Not to Pass

**An Act Related to Public Access of Records of Certain
Disciplinary Actions of Public Employees**

Joint Standing Committee on Judiciary

April 11, 2025

PO Box 7860
Portland, ME 04112

(207) 774-5444
ACLUMaine.org
@ACLUMaine

Senator Carney, Representative Kuhn, and distinguished members of the Joint Standing Committee on Judiciary, greetings. My name is Alicia Rea, and I am the policy fellow of the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, I urge you to oppose LD 1484.

This legislation will dramatically narrow the public disclosure of employee discipline records to only those that have a financial disadvantage to the employee. Therefore, even if repeated allegations of misconduct by a public employee were substantiated and the employee was subjected to repeated written discipline and suspension, none of those records would be considered public records unless the discipline or suspension also included financial penalties. The impacted statutes cover personnel records for state, county, and municipal employees.¹

The public's right to access government information, which is essential for democratic oversight of the government, comes from Maine's Freedom of Access Act.² The Freedom of Access Act's "basic purpose ... is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed."³ When public employee disciplinary records—especially those of law enforcement officers—are withheld from disclosure, it restricts the flow of information that enables informed public discourse. Suppressing records that reveal misconduct undermines the public's ability to scrutinize institutions that wield state power.

Nondisclosure of disciplinary records when the discipline has no financial impact on the employee directly undercuts accountability, particularly in law enforcement employment. Without public access, it becomes nearly

¹ 5 M.R.S. § 7070; 30-A M.R.S. § 503; § 2702.

² See 13 M.R.S. § 401 et seq.

³ *MaineToday Media, Inc. v. State*, 2013 ME 100, ¶ 8.



Maine

I

impossible to identify repeat offenders, systemic issues, or failures in internal disciplinary processes. This lack of oversight can shield officers from consequences, allowing inappropriate behaviors to carry on.

An extensive investigation by the Bangor Daily News exposed widespread abuses of power by sheriffs and their deputies and the difficulty of holding these wrongdoers accountable.⁴ In another case, three jail guards let a person die in their custody despite his cries for help.⁵ The guards faced only minor repercussions, and the county settled a lawsuit with the family for an undisclosed amount.

Transparency is a key mechanism for accountability—when disciplinary actions are available to the public, it not only deters future misconduct but also affirms a public agency's commitment to justice and reform. Denying the public this information sends the message that the state, counties, and municipalities are above scrutiny, which undermines the rule of law and erodes public trust.

We urge you to reject this bill.

⁴ Erin Rhoda, *A Maine sheriff resigned after sexting his officers. The full story is even darker*, Bangor Daily News, Nov. 30, 2020, <https://bangordailynews.com/2020/11/30/maine-focus/a-maine-sheriff-resigned-after-sexting-his-officers-the-full-story-is-even-darker/>.

⁵ Josh Keefe, *In trove of officer misconduct records, Maine sheriffs hide the worst offenses*, Dec. 2, 2020, Bangor Daily News, <https://bangordailynews.com/2020/12/02/maine-focus/in-trove-of-officer-misconduct-records-maine-sheriffs-hide-the-worst-offenses/>.



Maine Chiefs of Police Association
P.O. Box 264 – Oakland, Maine 04963-0264

Chief Jason Moen - President

Chief Michael D. Tracy (Ret.), Executive Director, Tel: (207) 838-6583
email: mcopa@maine.rr.com Web site: www.mainechiefs.com

Testimony in support of

L.D. 1484, An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees

Joint Standing Committee on Judiciary

April 11, 2025

Senator Carney, Representative Kuhn, and honorable members of the Judiciary Committee. My name is Scott Stewart. I serve as Chief of the Brunswick Police Department. I am here today on behalf of Chief Jason Moen, President of the Maine Chiefs of Police Association, to provide testimony in strong support of LD 1484.

The mission of the Maine Chiefs of Police Association is: to secure a closer official and personal relationship among Maine Police Officials, to secure a unity of action in law enforcement matters, to enhance the standards of police personnel, police training, and police professionalism generally, to devise ways and means for equality of law enforcement throughout the state of Maine, to advance the prevention and detection of crime, to prescribe to the Law Enforcement Code of Ethics, and to promote the profession of law enforcement as an integral and dedicated force in today's society sworn to the protection of life and property.

LD 1484 aims to define "discipline" for public employees, which the public can access upon request.

Multiple bills have been introduced in the past concerning public access to the disciplinary records of police officers and other public employees. The Right-to-Know Advisory Committee has also devoted countless hours to grappling with this issue, balancing privacy concerns with transparency. After much deliberation and consideration, the 131st Legislature passed LD 1397, which introduced language regarding disciplinary records for public employees to ensure that public records more clearly delineate the conduct for which a public employee was disciplined.

This was a positive step toward ensuring that the public is well-informed about the discipline of public employees. However, the applicable personnel statutes still do not define "discipline."

Some agencies consider corrective memos or reprimands to constitute "discipline" due to collective bargaining contracts or internal policies. In contrast, other agencies do not, as these actions are typically used for minor infractions, such as policy violations arising from honest mistakes often related to officer inexperience, and in turn are utilized to train or mentor officers or employees. Such actions aim to address minor performance issues as opposed to instances of serious misconduct. Depending on how each agency defines "discipline", could result in conflicting responses to requests made under the Freedom of Access Act. This can create an impression that an agency is withholding documents, ultimately obscuring the transparency improvements made over the past couple of years.

LD 1484 would define the nature of disciplinary records that are accessible to the public upon request as "... action of a nature that imposes or results in a financial disadvantage, including, but not limited to, termination, demotion, or a suspension without pay..." This would provide consistency in what agencies must disclose pursuant to a public access request and clearly define what the public can expect to receive when requesting records.

This higher level of discipline is used to penalize employees who have engaged in serious misconduct. Such information should be publicly available, due to its essential role in promoting transparency and maintaining public trust. No one, including police officers, want to shield colleagues who cross the line and engage in misconduct. However, being late for work, delayed in submitting reports, or failing to maintain a clean cruiser are breaches that may warrant reprimands but do not qualify as serious misconduct for which an officer or employee may be demoted, suspended, or terminated.

Shielding low-level, generally administrative, infractions from public scrutiny will allow competent officers to make mistakes, be held accountable, correct their errors, and improve. When the policy infraction is: minor, relates more to performance than actual wrongdoing, and does not negatively affect an officer's or employee's integrity or credibility, the process functions much more effectively when managed internally.

I urge you to vote Ought to Pass on this bill.

Thank you all for your time and consideration.

Appendix J



Peggy Rotundo
Senator, District 21

THE MAINE SENATE
132nd Legislature

3 State House Station
Augusta, Maine 04333

September 25, 2025

To the Members of the Right to Know Advisory Committee:

I am writing to ask that the Right to Know Advisory Committee consider a serious issue related to school hirings that has come up in my district and is not a unique problem.

Issue

The issue involves how educators and schools share information about educators' investigations related to sexual misconduct, including investigations that are never completed.

Specific Circumstance

This issue was raised to me by a constituent who personally experienced sexual harassment in the past by an educator who now works at her child's school. When she realized the person who had harassed her was working at her daughter's school, she was worried. After some brief online research, she discovered that he had left another school district during another sexual misconduct investigation. This experience made her concerned about the lack of accountability and information sharing between school districts about sexual misconduct investigations of educators.

Existing Maine Statutes and Rules

There are existing statutes intended to address this issue, and they include responsibilities of schools and the Department of Education and rights of the employee. Currently, school districts are required to notify the Department of Education if an employee leaves the district while the employee is being investigated for conduct that could jeopardize their certification status, including conduct that involves alcohol, illegal drugs, physical abuse, emotional abuse, inappropriate contact between a credentialed holder and a student, stalking or similar behavior that endangers the health, safety or welfare of a student. See 20-A M.R.S. §§13025, 13026.

A school department is also required to inform the department if an investigation results in findings of wrongdoing, and the employee is disciplined, suspended, or terminated because of a covered investigation in which the school entity determined that a student's health, safety, or welfare was endangered. *Id.*

Possible Remedy

While these safeguards are important, some school employees subject to investigation have escaped notice, moving from one school district to another. A possible way to address this problem is to require applicants to provide notice to potential school employers if the applicant has been subject to investigation by a former school employer. It has come to my attention that the Committee may consider similar issues regarding the hiring of other public employees, and I would respectfully ask that you consider these school hirings, too. Information about states who have already passed similar legislation and model legislation can be found here: <https://enoughabuse.org/get-vocal/laws-by-state/screening-school-employees/>



Peggy Rotundo
Senator, District 21

THE MAINE SENATE
132nd Legislature

3 State House Station
Augusta, Maine 04333

Here is a list of potential proposed legislative changes we are hoping you will consider:

- Requiring applicants to disclose any current or previous investigations, which is addressed at length in the above model legislation
- Requiring schools to ask the Department about any current or previous investigations, again addressed at length in the above model legislation
- Requiring schools to begin and complete these investigations as soon as they have notice, even if the educator leaves their employment.
- If the above recommendations are implemented, a report back from the DOE to your Committee and the Legislative Joint Standing Committee on Education and Cultural Affairs to see if these changes are increasing the number of schools participating in informed hiring practices
- Reviewing potential expansions to our current law barring non disclosure agreements to include NDAs initiated by educators investigated for sexual misconduct
- Reviewing any provisions that might potentially prevent disclosure of these personnel records such as Title 1 MRSA, Chapter 13

I appreciate the expertise and thoughtfulness of the Right to Know Committee in considering my request. I hope that the Committee has time to take up the issue and make recommendations to strengthen processes and safeguards to ensure that school employers, school employees and the department are working together to ensure the safety of Maine students in your communities. Thank you for your time.

Sincerely yours,

A handwritten signature in black ink that reads "Peggy Rotundo".

Peggy Rotundo
Senate District 21

*Appropriations and Financial Affairs Committee
State House (207) 287-1515 * Fax (207) 287-1585
Peggy.Rotundo@legislature.maine.gov * legislature.maine.gov/senate*

§13025. Investigations

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

A. [PL 2019, c. 403, §1 (RP).]

B. "Covered investigation" means an investigation by a school entity into the conduct of a holder of a credential that a school entity has a reasonable expectation would affect the credential holder's employment or contracted service because the alleged conduct involves alcohol, illegal drugs, physical abuse, emotional abuse, inappropriate contact between a credential holder and a student, stalking or similar behavior that endangers the health, safety or welfare of a student. [PL 2019, c. 403, §1 (AMD).]

C. "School entity" means an approved private school, school administrative unit, public charter school, education service center, school in the unorganized territory or school operated by the State. [PL 2019, c. 219, §6 (AMD).]

[PL 2019, c. 219, §6 (AMD); PL 2019, c. 403, §1 (AMD).]

2. Subpoenas. When conducting an investigation relating to the credentialing of personnel under chapter 501 and this chapter and rules of the state board, the commissioner may issue subpoenas for education records relevant to that investigation.

[PL 2017, c. 477, §1 (NEW).]

3. Duties of school entities. A school entity shall notify the department immediately if a credential holder who is the subject of a covered investigation leaves the school entity's employment for any reason prior to the conclusion of the covered investigation. A school entity shall notify the department immediately if a credential holder is disciplined, suspended or terminated as a result of a covered investigation in which the school entity determined that a student's health, safety or welfare was endangered. The school entity shall provide to the department any final report produced in support of the school entity's decision to discipline, suspend or terminate the credential holder. The credential holder who is the subject of the report may submit to the department a written rebuttal to the report. The written rebuttal must be placed in the department's investigative file.

[PL 2019, c. 403, §1 (AMD).]

4. Duties of department. The department shall act in accordance with this subsection.

A. The department shall notify the superintendent or chief administrative officer of a school entity within 15 business days of the department's initiating an investigation into a holder of a credential who works for the school entity and shall notify the school entity immediately if the department takes action on that credential. Within 5 business days after completion of an investigation, the department shall notify each school entity for which the credential holder works of the final outcome of the investigation, including, but not limited to, any actions taken, and shall provide to the school entity any final written decision. [PL 2017, c. 477, §1 (NEW).]

B. Immediately upon receipt from a school entity of notification pursuant to subsection 3 of the discipline, suspension or termination of a credential holder, or the leaving of employment by a credential holder prior to the completion of a covered investigation of that credential holder, the department shall notify the superintendent or chief administrative officer of all other school entities for which the credential holder works, as reported to the department under section 13026, that the credential holder was disciplined, suspended or terminated as a result of a covered investigation, or that the credential holder left employment prior to completion of a covered investigation. If a credential holder provides consent as part of that credential holder's application for employment with a school entity, the department shall notify the superintendent or the chief administrative officer of that school entity if that credential holder left employment with a school entity prior to the completion of a covered investigation of that credential holder. [PL 2019, c. 403, §1 (AMD).]

C. The department shall destroy copies of all records and reports related to a finding resulting in discipline, suspension or termination of a credential holder if the finding resulting in that discipline, suspension or termination is reversed upon appeal at the school entity level. [PL 2019, c. 403, §1 (NEW).]

[PL 2019, c. 403, §1 (AMD).]

5. Confidentiality. The department may share information that is confidential pursuant to section 6101 or 13004 with a school entity in accordance with subsection 4. A school entity that receives confidential information shall maintain the confidentiality of that information.

[PL 2019, c. 403, §1 (AMD).]

6. Rules.

[PL 2019, c. 403, §1 (RP).]

7. Certification hearing officers; immunity. The commissioner shall appoint a certification hearing officer for covered investigations. For the purposes of this section, while carrying out their official duties, certification hearing officers appointed pursuant to this subsection are considered state employees and are entitled to the immunity provided state employees under the Maine Tort Claims Act. [PL 2023, c. 643, Pt. Z, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 167, Pt. D, §1 (NEW). PL 2017, c. 235, §29 (AMD). PL 2017, c. 235, §41 (AFF). PL 2017, c. 477, §1 (RPR). PL 2019, c. 219, §6 (AMD). PL 2019, c. 403, §1 (AMD). PL 2023, c. 643, Pt. Z, §2 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 131st Maine Legislature and is current through January 1, 2025. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

§13026. Compliance with criminal history record check and fingerprinting requirements

1. List of school administrative unit employees. Beginning January 1, 2019, and quarterly thereafter, a school administrative unit shall submit to the department a list of the names of all employees subject to certification, approval or authorization and indicate for each person included on the list the date on which the person most recently commenced employment with the school administrative unit.

[PL 2017, c. 426, §1 (NEW).]

2. Notification of noncompliance. Upon receipt of a list from a school administrative unit pursuant to subsection 1, the department shall determine for each person included on the list whether the person has complied with all applicable criminal history record check and fingerprinting requirements of section 6103 and rules adopted by the state board. If the department determines that the person has failed to comply with any such applicable requirement, the department shall immediately notify the school administrative unit of the person's failure to comply.

[PL 2017, c. 426, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 426, §1 (NEW).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 131st Maine Legislature and is current through January 1, 2025. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

STATE OF MAINE

Appendix J

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-TWO

H.P. 711 - L.D. 965

An Act Concerning Nondisclosure Agreements in Employment

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 26 MRSA §599-C is enacted to read:

§599-C. Nondisclosure agreements

1. Employer defined. As used in this section, unless the context otherwise indicates, "employer" has the same meaning as in section 615, subsection 3.

2. Certain preemployment and employment agreements prohibited. An employer may not require an employee, intern or applicant for employment to enter into a contract or agreement that waives or limits any right to report or discuss unlawful employment discrimination, as defined and limited by Title 5, chapter 337, subchapter 3, occurring in the workplace or at work-related events.

3. Certain settlement, separation and severance agreements prohibited. An employer may not require an employee, intern or applicant for employment to enter into a settlement, separation or severance agreement that includes a provision that:

A. Limits an individual's right to report, testify or provide evidence to a federal or state agency that enforces employment or discrimination laws;

B. Prevents an individual from testifying or providing evidence in federal and state court proceedings in response to legal process; or

C. Prohibits an individual from reporting conduct to a law enforcement agency.

4. Settlement, separation or severance agreement requirements. A settlement, separation or severance agreement may include a provision that prevents the subsequent disclosure of factual information relating to a claim of unlawful employment discrimination, as defined and limited by Title 5, chapter 337, subchapter 3, only if:

A. The agreement expressly provides for separate monetary consideration for the provision in addition to anything of value to which the employee, intern or applicant for employment is already entitled;

B. The provision applies to all parties to the agreement to the extent otherwise permitted by law;

J

C. The agreement clearly states that the individual retains the right to report, testify or provide evidence to federal and state agencies that enforce employment or discrimination laws and to testify and provide evidence in federal and state court proceedings; and

D. The employer retains a copy of the agreement for 6 years following the execution of the agreement or the end of employment, whichever is later. Records required to be kept by this paragraph must be accessible to any representative of the Department of Labor at any reasonable hour.

Nothing in this section may be construed as limiting the use of nondisclosure agreements to protect the confidentiality of proprietary information, trade secrets or information that is otherwise confidential by law, rule or regulation.

5. Enforcement. The Department of Labor shall enforce this section. In addition, the Attorney General may bring an action under this section to impose a fine or to enjoin further violation. An employer that intentionally violates this section commits a civil violation for which a fine of up to \$1,000 may be adjudged.

§599-C. Nondisclosure agreements

1. Employer defined. As used in this section, unless the context otherwise indicates, "employer" has the same meaning as in section 615, subsection 3.
[PL 2021, c. 760, §1 (NEW).]

2. Certain preemployment and employment agreements prohibited. An employer may not require an employee, intern or applicant for employment to enter into a contract or agreement that waives or limits any right to report or discuss unlawful employment discrimination, as defined and limited by Title 5, chapter 337, subchapter 3, occurring in the workplace or at work-related events.
[PL 2021, c. 760, §1 (NEW).]

3. Certain settlement, separation and severance agreements prohibited. An employer may not require an employee, intern or applicant for employment to enter into a settlement, separation or severance agreement that includes a provision that:

A. Limits an individual's right to report, testify or provide evidence to a federal or state agency that enforces employment or discrimination laws; [PL 2021, c. 760, §1 (NEW).]

B. Prevents an individual from testifying or providing evidence in federal and state court proceedings in response to legal process; or [PL 2021, c. 760, §1 (NEW).]

C. Prohibits an individual from reporting conduct to a law enforcement agency. [PL 2021, c. 760, §1 (NEW).]

[PL 2021, c. 760, §1 (NEW).]

4. Settlement, separation or severance agreement requirements. A settlement, separation or severance agreement may include a provision that prevents the subsequent disclosure of factual information relating to a claim of unlawful employment discrimination, as defined and limited by Title 5, chapter 337, subchapter 3, only if:

A. The agreement expressly provides for separate monetary consideration for the provision in addition to anything of value to which the employee, intern or applicant for employment is already entitled; [PL 2021, c. 760, §1 (NEW).]

B. The provision applies to all parties to the agreement to the extent otherwise permitted by law; [PL 2021, c. 760, §1 (NEW).]

C. The agreement clearly states that the individual retains the right to report, testify or provide evidence to federal and state agencies that enforce employment or discrimination laws and to testify and provide evidence in federal and state court proceedings; and [PL 2021, c. 760, §1 (NEW).]

D. The employer retains a copy of the agreement for 6 years following the execution of the agreement or the end of employment, whichever is later. Records required to be kept by this paragraph must be accessible to any representative of the Department of Labor at any reasonable hour. [PL 2021, c. 760, §1 (NEW).]

Nothing in this section may be construed as limiting the use of nondisclosure agreements to protect the confidentiality of proprietary information, trade secrets or information that is otherwise confidential by law, rule or regulation.

[PL 2021, c. 760, §1 (NEW).]

5. Enforcement. The Department of Labor shall enforce this section. In addition, the Attorney General may bring an action under this section to impose a fine or to enjoin further violation. An employer that intentionally violates this section commits a civil violation for which a fine of up to \$1,000 may be adjudged.

[PL 2021, c. 760, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 760, §1 (NEW).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 131st Maine Legislature and is current through January 1, 2025. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

Title 1, Chapter 13: PUBLIC RECORDS AND PROCEEDINGS

Subchapter 1: FREEDOM OF ACCESS

- 1 §400. Short title (. /title1sec400.html)
- 1 §401. Declaration of public policy; rules of construction (. /title1sec401.html)
- 1 §402. Definitions (. /title1sec402.html)
- 1 §402-A. Public records defined (REPEALED) (. /title1sec402-A.html)
- 1 §403. Meetings to be open to public; record of meetings (. /title1sec403.html)
- 1 §403-A. Public proceedings through remote access during declaration of state of emergency due to COVID-19 (REPEALED) (. /title1sec403-A.html)
- 1 §403-B. Remote participation in public proceedings (. /title1sec403-B.html)
- 1 §404. Recorded or live broadcasts authorized (. /title1sec404.html)
- 1 §404-A. Decisions (REPEALED) (. /title1sec404-A.html)
- 1 §405. Executive sessions (. /title1sec405.html)
- 1 §405-A. Recorded or live broadcasts authorized (REPEALED) (. /title1sec405-A.html)
- 1 §405-B. Appeals (REPEALED) (. /title1sec405-B.html)
- 1 §405-C. Appeals from actions (REPEALED) (. /title1sec405-C.html)
- 1 §406. Public notice (. /title1sec406.html)
- 1 §407. Decisions (. /title1sec407.html)
- 1 §408. Public records available for public inspection and copying (REPEALED) (. /title1sec408.html)
- 1 §408-A. Public records available for inspection and copying (. /title1sec408-A.html)
- 1 §409. Appeals (. /title1sec409.html)
- 1 §410. Violations (. /title1sec410.html)
- 1 §411. Right To Know Advisory Committee (. /title1sec411.html)
- 1 §412. Public records and proceedings training for certain officials and public access officers (. /title1sec412.html)
- 1 §413. Public access officer (. /title1sec413.html)
- 1 §414. Public records; information technology (. /title1sec414.html)

Subchapter 1-A: PUBLIC RECORDS EXCEPTIONS AND ACCESSIBILITY

- 1 §431. Definitions (. /title1sec431.html)
- 1 §432. Exceptions to public records; review (. /title1sec432.html)
- 1 §433. Schedule for review of exceptions to public records (. /title1sec433.html)
- 1 §434. Review of proposed exceptions to public records; accessibility of public records (. /title1sec434.html)

Subchapter 2: DESTRUCTION OR MISUSE OF RECORDS

- 1 §451. Lawful destruction of records (REPEALED) (. /title1sec451.html)

1 §452. Removal, secretion, mutilation of or refusal to return state documents
(./title1sec452.html)

J

Subchapter 3: PRINTING AND PURCHASE OF DOCUMENTS AND LAWS

- 1 §501. State agency defined (./title1sec501.html)
- 1 §501-A. Publications of state agencies (./title1sec501-A.html)
- 1 §502. Property of State (./title1sec502.html)
- 1 §503. Delivery to successor in office (./title1sec503.html)
- 1 §504. Source of authority to be shown (./title1sec504.html)
- 1 §505. Mailing lists (./title1sec505.html)

Subchapter 4: EXECUTIVE ORDERS

- 1 §521. Executive orders (./title1sec521.html)

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.
If you need legal advice, please consult a qualified attorney.

Office of the Revisor of Statutes (mailto:webmaster_ros@legislature.maine.gov) · 7 State
House Station · State House Room 108 · Augusta, Maine 04333-0007

Data for this page extracted on 1/07/2025 11:10:17.