

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

Thursday, November 6, 10 am

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

1. Overview of meeting materials and updates from last meeting
2. Review and discussion on Maine State Archives and New England First Amendment Coalition Working Group Report
 - i. Christian Cotz, State Archivist
3. Discussion on public employee misconduct investigations in response to letter from Senator Rotundo
 - i. Educator investigations
 - i. Courtney Belolan, Director of Policy and Government Affairs, Maine DOE
 - ii. Michael Perry, Director of Higher Education & Educator Support Services, Maine DOE
 - ii. Internal investigations/ongoing investigations after a departure from employment
 - i. Lt. Col. Brian Scott, Maine State Police
4. Review and discussion on statutory provisions governing public employee disciplinary records in Title 5 and Title 30-A as well as other places in statute to compare language
5. Revisit committee discussion regarding request for guidance from CLAC on “Brady/Giglio” materials
6. Adjourn

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PUBLIC EMPLOYEE DISCIPLINE RECORDS STAKEHOLDER WORKSHOP REPORT

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



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

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.

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:

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- 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.

Excerpts from Maine State Archives Record Retention Schedules
State Government, Local Government, and Public Safety Schedules

State General Schedule 4 - Personnel Records

State General Schedules are intended as minimum standards. Where other state or federal laws dictate longer retentions, agencies must submit "agency specific" schedules for approval. Intended for State agency use.

Unless otherwise noted, retention begins when records are considered closed (when the normal business process has concluded).

NOTE: The [Bureau of Human Resources](#) is the official recordkeeper of personnel records. Examples of records kept by BHR include: Personnel Records (transaction records only) retained for 60 years once file becomes inactive; Classification files 30-40 years. Individual agencies must keep employee records or have access to electronic records for the determined retention periods below.

Series	Title	Description	Retention
GS4.5	Employee Personnel Records	Records include: applications, salary history, disciplinary records , performance appraisals, job histories, leave authorizations, termination documents, related documents, and correspondence. Retention and management instructions: When an employee transfers to another state agency, the complete personnel folder transfers to the new agency. 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) . If an employee returns within those 10 years, the file becomes reactivated. Note: Employee disciplinary records should be removed from an employee file as directed by collective bargaining contracts. Upon removal, the disciplinary record should be moved into a separate file and retained there for its remaining retention period before destruction.	See Description for Retention Requirements

Local Government Schedule 4 - Personnel Records

NOTES: Schedules pertain to records in any format - paper, electronic (digital data) or other. Determine what the "record copy" of your documents will be and apply the full retention time to those records. No copies shall be retained longer than what is considered the "record copy." For electronic recordkeeping requirements, see Appendix E. For general recordkeeping information refer to the Introduction.

Series	Title	Description	Retention
LG4.1	Employee Disciplinary Records	This record series documents possible discipline of local agency employees. Based upon personnel policies and procedures, discipline may be a verbal reprimand, written reprimand, suspension without pay, demotion, criminal action or termination. NOTE: It is recommended that disciplinary records are filed separate from the employee personnel file (see LG4.4).	Retain 10 years after separation unless collective bargaining contract requires that disciplinary documents be destroyed earlier than the contract shall be followed. NOTE: Retention is counted for active service, not calendar time. If an employee leaves service with active discipline in the file that discipline remains until employee returns or file is destroyed per this schedule

Excerpts from Maine State Archives Record Retention Schedules
State Government, Local Government, and Public Safety Schedules

Local Government Schedule 22 – Jail Records

NOTES: Schedules pertain to records in any format - paper, electronic (digital data) or other. Determine what the "record copy" of your documents will be and apply the full retention time to those records. No copies should be retained longer than what is considered the "record copy." For electronic recordkeeping requirements, See Appendix E. For general recordkeeping information refer to the Introduction.

Series	Series Title	Description	Retention
LG22.11	Disciplinary Hearings	Hearings conducted to determine whether or not discipline is required, and if so what it should be.	6 years

Excerpts from Maine State Archives Record Retention Schedule
Agency-Specific Schedules

Agency	Schedules	Additional Information	Excerpt from Retention Schedule
Administrative and Financial Services (18)	DAFS Schedules (PDF)	Includes: Bureau of Alcoholic Beverages & Lottery Operations; Bureau of Human Resources; Bureau of Real Estate Management; Bureau of the Budget; Central Motor Pool; Data Processing; Employee Health and Benefits; Employee Relations; Financial & Personnel Services; Geographic Information Systems; Maine Board of Tax Appeals; Maine Revenue Services; Office of Information Technology; Office of the State Controller; Purchases; Risk Management; State Claims Commission	<p>Schedule #: 2289 25: Employee Personnel Files Managed by Service Center 18: Administrative & Financial Services In Agency Retention: Contingent Upon Event – See Description Rec Center Retention: 10 Years Disposition: Destroy</p> <p>Records close upon termination of state service.</p> <p>Records include: applications, salary history, disciplinary records, performance appraisals, job histories, leave authorizations, termination documents, related documents, and correspondence.</p> <p>Employee records are retained at the Service Center until termination (no longer an employee of State government). Records will then be sent to the State Records Center for ten years and destroyed. If an employee returns within those 10 years, the file becomes reactivated.</p>
Attorney General (26)	AG Schedules (PDF)	Includes: Administration; Child Protective Division; Child Support Division; Consumer Protection Division; Criminal Division; Health & Human Services Division; Litigation Division; Natural Resources Division; Professional & Financial Regulation Division; Chief Medical Examiner	<p>Schedule #: 1807 40B#: Applications, Permits and Licensing matters resolved without hearing 26: Attorney General In Agency Retention: 2 years Rec Center Retention: 0 Disposition: Destroy</p> <p>The AAGs who represent the Department of Public Safety (including Maine State Police, Emergency Medical Services, Office of the Fire Marshal, State Bureau of Identification and Sex Offender Registry) consult these documents to advise their clients. Licensing and disciplinary files are used when a licensee with a history of violations re-applies or re-offends, applies for other licenses (in response to requests from other agencies) or as examples in similar proceedings. A file might include applications, permits, consent agreements, investigation summaries, and other licensing matters resolved without a hearing.</p>

Excerpts from Maine State Archives Record Retention Schedule
Agency-Specific Schedules

Agency	Schedules	Additional Information	Excerpt from Retention Schedule
Attorney General (26)	AG Schedules (PDF)	Includes: Administration; Child Protective Division; Child Support Division; Consumer Protection Division; Criminal Division; Health & Human Services Division; Litigation Division; Natural Resources Division; Professional & Financial Regulation Division; Chief Medical Examiner	<p>Schedule #: 1807 40C#: Applications, Permits and Licensing matters resolved with hearing or other adjudication 26: Attorney General In Agency Retention: 1 year Rec Center Retention: 6 Disposition: Destroy</p> <p>The AAGs who represent the Department of Public Safety (including Maine State Police, Emergency Medical Services, Office of the Fire Marshal, State Bureau of Identification and Sex Offender Registry) consult these documents to advise their clients and respond to requests for information. Licensing and disciplinary files are used when a licensee with a history of violations re-applies or re-offends, applies for other licenses (in response to requests from other agencies) or as examples in similar proceedings and is resolved with a hearing. A file might include applications, investigation summaries, witness statements, exhibits, decisions, orders and briefs.</p>

Agency	Schedules	Additional Information	Excerpt from Retention Schedule
Corrections (3)	Corrections Schedules (PDF)	Includes: Juvenile Corrections; Long Creek Youth Development Center; Maine Correctional Center; Maine State Prison; Office of Victim Services; Probation and Parole	<p>Schedule #: 1000 4#: Investigative Files (Maine Correctional Center) In Agency Retention: 7 Rec Center Retention: 0 Disposition: Destroy</p> <p>Allegations of wrong doing either by staff or prisoners must be investigated by the Security Officer. Review form, letter of complaint, investigative note and whatever evidence develops, disciplinary hearing and related correspondence. Keep in agency until case closed plus 7 years.</p>

State General Schedule 4 - Personnel Records

State General Schedules are intended as minimum standards. Where other state or federal laws dictate longer retentions, agencies must submit "agency specific" schedules for approval. Intended for State agency use. Municipalities/Counties use [Local Government Record Retention Schedules](#).

Unless otherwise noted, retention begins when records are considered closed (when the normal business process has concluded).

NOTE: The [Bureau of Human Resources](#) is the official recordkeeper of personnel records. Examples of records kept by BHR include: Personnel Records (transaction records only) retained for 60 years once file becomes inactive; Classification files 30-40 years. Individual agencies must keep employee records or have access to electronic records for the determined retention periods below.

Series	Title	Description	Retention
GS4.1	Administrative Report of Work Content (FJA-1)	Individual job description/task statements for each position in State service. A new FJA-1 is prepared whenever duties are changed. BHR will maintain grieved FJA for 3 years following resolution of grievance; all other FJA's (agency copies and BHR record) may be replaced whenever changes are made in job.	Retain until updated then destroy
GS4.2a	Class Specifications (Appealed)	Records are set up for each class or position. Included in the records are: Job Spec, Admin Report of Work Content (FJA-1), appeals and award decisions, Bulletin Announcement, PER-50, and related documents and correspondence. Also, JA-20 and cover form to FJA-1 material. Agencies are not responsible for maintaining appeal materials.	Retain until updated then destroy
GS4.2b	Class Specifications (Not Appealed)	Records are set up for each class or position. Included in the records are: Job Spec, Admin Report of Work content (FJA-1), Bulletin Announcement, PER-50, and related documents and correspondence. Also, JA-20 and cover form to FJA-1 material.	Retain until updated then destroy

State General Schedule 4 - Personnel Records

Series	Title	Description	Retention
GS4.3	Employee Health Records (Routine)	Records relating to the health of employees (not covered by Employee Medical and Exposure Records or other series). Records may include: ergonomic assessments (for routine prevention and if non-injury-related); ADA accommodation records; documentation of known medical conditions (for awareness in case of medical emergency); documentation of ongoing medical treatment (if necessary for job performance/reasonable accommodation); requests/approvals for use of Family and Medical Leave Act (FMLA). May be used to verify eligibility for sick leave, workers' compensation benefits, FMLA, ADA accommodation requests; and supporting medical documentation.	Retain as part of Personnel Folder - 10 years after separation from State service, then destroy.
GS4.4	Employee Medical and Exposure Records	These are occupational medical records retained for employees potentially exposed to toxic or hazardous substances. Exposure records may include (but not limited to): Environmental (workplace) monitoring or measuring of a toxic substance or harmful physical agent; biological monitoring results which directly assess the absorption of a toxic substance or harmful physical agent by body systems; material safety data sheets indicating that the material may pose a hazard to human health. Medical records may include (but not limited to): medical and employment questionnaires or histories; results of medical examinations and laboratory tests; medical opinions, diagnoses, progress notes, and recommendations; employee medical complaints.	Retain 30 years after separation from State service then destroy (per OSHA requirement 29 CFR 1910.1020)

State General Schedule 4 - Personnel Records

Series	Title	Description	Retention
GS4.5	Employee Personnel Records	<p>Records include: applications, salary history, disciplinary records, performance appraisals, job histories, leave authorizations, termination documents, related documents, and correspondence.</p> <p>Retention and management instructions: When an employee transfers to another state agency, the complete personnel folder transfers to the new agency. 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). If an employee returns within those 10 years, the file becomes reactivated.</p> <p>Note: Employee disciplinary records should be removed from an employee file as directed by collective bargaining contracts. Upon removal, the disciplinary record should be moved into a separate file and retained there for its remaining retention period before destruction.</p>	See Description for Retention Requirements
GS4.6	Employee Recruitment and Hiring Records	All records which document the selection process and justify the selection decision, including but not limited to: Job announcements and postings; Job description and qualifications; Eligibility lists for specific positions; Applications, resumes and test results; Applicant profile data; Scoring, ranking and selection criteria; Interview questions and evaluations; Background and criminal history checks; Reference check questions and answers.	Hired Candidates: transfer records to the employee's official personnel file. Non-hires: Retain 3 years after completion of recruitment/hiring process then destroy (unless grieved). If grieved destroy 3 years after resolution of grievance.
GS4.7	Employee Suggestion Program	All documentation regarding an agency's Employee Suggestion Program. May include applications, correspondence, award ceremony documentation and evaluations.	Retain adopted suggestions 6 years then destroy; retain non-accepted suggestions 1 year, then destroy
GS4.8	Employee Training Records	All certifications, certificate, and related documentation, for employee required/state training.	Retain 4 years after employee leaves state service then destroy

State General Schedule 4 - Personnel Records

Series	Title	Description	Retention
GS4.9	Employment Eligibility Verification (Form I-9)	Completed I-9 forms (federal employment eligibility verification forms) and related records for each agency employee.	Retain until employee leaves state service plus 3 years from date of hire or 1 year after separation, whichever occurs later then destroy
GS4.10	Grievance/Investigation Case Records	Agency copies of grievances made by employees against an agency or investigations by agency against an employee, including initial statements, responses, appeals, decisions, and supporting materials such as correspondence, exhibits, depositions, notes, recordings, transcripts, referrals, appeals, and copies of arbitration decisions.	Retain 3 years after final resolution then destroy
GS4.11	Human Resource Profile	See General Schedule 3 (Payrolls and Authorizations Series). This form is frequently treated by State agencies as part of the employee's payroll record, because it is the document used to authorize change/increase in rate of pay.	Retain 3 years then destroy
GS4.12	Incident File Records	Records of employee commendation/counseling; corrective action memos; related correspondence between employer and employee.	Destroy after yearly performance appraisal has been prepared and grievance deadline has expired, unless grieved. If grieved, destroy 3 years after resolution of grievance.
GS4.13	Leave Files	Requests and authorizations for vacation, compensatory, sick, and other types of authorized leave, and supporting documentation.	Retain as part of Personnel Folder - 10 years after separation from State service, then destroy.
GS4.14	Position Detail Record	Computer-generated history of each position in State service. Shows current and previous incumbents, salary scale, and classification.	Retain until updated then destroy

State General Schedule 4 - Personnel Records

Series	Title	Description	Retention
GS4.15	Supervisors Files on Individual Employees	Items which should be kept in a supervisory folder include the following: current job description; current performance review; any commendations/counseling's done within the last year (initialed by employee); copy of any disciplinary actions taken within the last year (unless the problem is ongoing) - original goes to agency HR; any documentation of meetings held, memos to staff, etc. (initialed by employee). Items which a supervisor should not keep include the following (these are retained by agency HR): doctor's notes or medical records, FMLA forms, and reasonable accommodation requests.	See Description for Retention Requirements Note: These are copies retained by individual supervisors. Agency HR keep required employee personnel files for the agency per this schedule.
GS4.16	Workers Compensation Files for State Employees	Employer's First Report of Occupational Injury, Employee's Report of Injury, Supervisor's Report of Injury, Wage Statements, Medical Release Forms, Employer's Supplemental Report, Memorandum of Payment or Notice of Controversy Form, Informal Conference Report, Medical Reports, and related correspondence.	Retain until employee leaves state service

Maine State Archives

Local Government Record Retention Schedules

Prepared by the Records Management Division
In Accordance with Maine Title 5, Chapter 6, §95-B
Approved by the Archives Advisory Board
May, 2024 Edition (Version 1)

Maine Local Government Record Retention Schedules

These retention schedules can be used by all local governments and their agencies and offices. "**Local Government**" means a municipality, a quasi-municipal organization (such as a school administrative district, water or sewer district, etc.), an office of county government (such Register of Deeds, County Sheriff, etc.), and offices of District Attorney.

The schedules list those records which any local agency may create or receive in the transaction of official business. For a local agency to have an effective records management program, these retention schedules must be used on a regular basis.

Retention schedules indicate the minimum length of time records must be retained before they can be destroyed or whether records must be retained for archival preservation. The Maine State Archives issued these retention schedules pursuant to [Maine Title 5, Chapter 6, §95-B](#). This approval provides the legal basis for local agencies to incorporate these schedules as part of an active records management program.

The purpose of these schedules is to:

- establish retention requirements for temporary records and ensure records are retained as long as needed for administrative, legal and fiscal purposes;
- ensure records with enduring historical and other research value are identified and retained permanently; and
- facilitate the systematic disposal of unneeded records.

Local Government Schedule 4 - Personnel Records

NOTES: Schedules pertain to records in any format - paper, electronic (digital data) or other. Determine what the "record copy" of your documents will be and apply the full retention time to those records. No copies shall be retained longer than what is considered the "record copy." For electronic recordkeeping requirements, see Appendix E. For general recordkeeping information refer to the Introduction.

Series	Series Title	Description	Retention
LG4.1	Employee Disciplinary Records	<p>This record series documents possible discipline of local agency employees. Based upon personnel policies and procedures, discipline may be a verbal reprimand, written reprimand, suspension without pay, demotion, criminal action or termination.</p> <p>NOTE: It is recommended that disciplinary records are filed separate from the employee personnel file (see LG4.4).</p>	<p>Retain 10 years after separation unless collective bargaining contract requires that disciplinary documents be destroyed earlier than the contract shall be followed.</p> <p>NOTE: Retention is counted for active service, not calendar time. If an employee leaves service with active discipline in the file that discipline remains until employee returns or file is destroyed per this schedule.</p>
LG4.2	Employee Drug Tests	Records of drug test and results for employees of local government agency.	Retain 5 years then destroy
LG4.3	Employee Medical and Exposure Records	<p>These are occupational medical records retained for employees potentially exposed to toxic or hazardous substances. Exposure records may include (but not limited to): environmental (workplace) monitoring or measuring of a toxic substance or harmful physical agent; biological monitoring results which directly assess the absorption of a toxic substance or harmful physical agent by body systems; material safety data sheets indicating that the material may pose a hazard to human health. Medical records may include (but not limited to): medical and employment questionnaires or histories; results of medical examinations and laboratory tests; medical opinions, diagnoses, progress notes, and recommendations; employee medical complaints.</p>	Retain 30 years after separation from service then destroy (per OSHA requirement 29 CFR 1910.1020)

Section C

Public Safety

**The following three schedules have been reviewed and revisions are pending approval.
Schedules below are from the 2018 version.
However, for the purposes of overall revisions, schedule numbers have been updated.**

Local Government Schedule 22 – Jail Records

NOTES: Schedules pertain to records in any format - paper, electronic (digital data) or other. Determine what the "record copy" of your documents will be and apply the full retention time to those records. No copies should be retained longer than what is considered the "record copy." For electronic recordkeeping requirements, See Appendix E. For general recordkeeping information refer to the Introduction.

Series	Series Title	Description	Retention
LG22.1	"TPA"	Accounting for inmate canteen funds, or similar mechanisms - money from candy machines, etc. used for such items as newspapers and recreational equipment.	6 years
LG22.2	Administrative Lockups	Record of prisoners separated from the general population.	10 years
LG22.3a	Administrator's Files - All Other Records	Jail administrator's files that are record materials - that is, documents created or received in the course of business.	6 years
LG22.3b	Administrator's Files - Copies and Informational Materials	Jail administrator's nonrecord materials, such as publications and duplicate copies of records officially maintained elsewhere.	Until no longer needed
LG22.4	Admission/Release Documents	Used to prepare monthly report to Department of Corrections.	2 years
LG 22.5	Audit Reports	Report issued by auditor following each official audit.	10 years
LG 22.6	Board of Prisoners	Bills and receipts.	6 years
LG 22.7	Contingency Reports	Boarding of inmates for or at other jurisdictions.	2 years
LG22.8	Correspondence from Sheriff's Office	Communications between jail and Sheriff's Office.	2 years
LG22.9	Cutlery Reports	Before and after each meal, cutlery is counted to make sure none is missing.	2 years
LG22.10	Daily Classification Log	Record of how many prisoners in each classification are housed each day.	10 years
LG22.11	Disciplinary Hearings	Hearings conducted to determine whether or not discipline is required, and if so what it should be.	6 years
LG22.12	Inmate Accounts	Receipts and daily balance sheets for personal funds held on behalf of inmates.	6 years
LG22.13	Inmate Cards	Index to case files.	Destroy when case file is destroyed
LG22.14a	Inmate Case Files - Admission/Release Forms	Forms completed to document admission and release of inmate.	10 years
LG22.14b	Inmate Case Files - Appearance Bonds	Appearance bonds and other records used to establish date of release.	10 years
LG22.14c	Inmate Case Files - Booking Cards	Records made when an inmate is booked.	10 years

Department Series Report

18: Administrative & Financial Services

Description	Media	Last Updated	In Agency Retention	Rec Center Retention	Disposition	Status
Records are set up for each class of position. Included in records are: job Spec, Admin Report of Work contetn (FJA-1), appeals and awards decisions, Bulletin Announcement, PER-50, and related documents and correspondence. Also JA-20 and cover form to FJA-1 material.	Paper	4/24/2014	Years 5	Years 25	Destroy	Current
2012 and forward	Digital File	4/24/2014	Years 30	No Retention 0	Destroy	Current
Schedule #: 1210 21#:Hay Employee Classification Study						
The Hay Classification Study was a benchmark study of all State of Maine employee classifications, done for assigning each classification to the appropriate pay range relative to nationally recognized standards for the qualifications required and tasks performed. This study still forms the basis for all State job classifications and their assignment to pay ranges; it will continue to do so until such time as another study of the same nature is done. Files include rating sheets for individual positions within classifications, appeals of pay grade assignments, task statements, and comparisons of similar positions in different departments and/or locations. Hold in Record Center until a new study is done plus 10 years.	Paper	8/28/1996	Years 0	Years 10	Destroy	Current
Schedule #: 1424 22:Active Job Class - Exam Plans & Master Keys (open competitive)						
Documents supporting positions/applicant tracking system. The system tracks applications for classified positions including: testing, to produce a register for agencies in order to fill positions.	Paper	4/24/2014	Years 3	No Retention 0	Destroy	Current
Documents supporting positions/applicant tracking system. The system tracks applications for classified positions including: testing, to produce a register for agencies in order to fill positions.	Digital File	4/24/2014	Years 3	No Retention 0	Destroy	Current
Schedule #: 2289 25:Employee Personnel Files Managed by Service Center						

Department Series Report

18: Administrative & Financial Services

Description	Media	Last Updated	In Agency Retention	Rec Center Retention	Disposition	Status
Records close upon termination of state service. Records include: applications, salary history, disciplinary records, performance appraisals, job histories, leave authorizations, termination documents, related documents, and correspondence. Employee records are retained at the Service Center until termination (no longer an employee of State government). Records will then be sent to the State Records Center for ten years and destroyed. If an employee returns within those 10 years, the file becomes reactivated.	Paper	3/5/2024	Contingent Upon Event - See Description	Years 10	Destroy	Current

389WC:Bureau of Human Resources - Workers Compensation

Schedule #: 661 19#:State of Maine Employees Worker's Compensation Files - Injuries Before 1991

Employees First Report of Occupational Injury, Employer's First Report of Occupational Injury, Supervisor's Report of Injury, Wage Statements, Medical Release Forms, Employer's Supplemental Report, Memorandums of Payment, Notice of Controversy, Informal Conference Records, Decrees, Petitions, Medical Reports and any/all file correspondence. The Bureau of Human Resources, Employee Health & Benefits, Workers' Compensation is the agency of record and does maintain and is responsible for the workers' compensation file. Records are considered closed one year after no payments have been made on the claim. Paper records will be retained until scanned. Records currently at the Records Center will be retrieved/reviewed and scanned over time. Any files that have met their 10 year retention will have to be reviewed prior to being destroyed due to error in sending files over prior to statute of limitations.	Paper	6/5/2018	Contingent Upon Event - See Description	0	Contingent Upon Event - See Description	0	Destroy	Current
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Digital File	6/5/2018	Years	10	No Retention	0	Destroy	Current
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Schedule #: 661 22#:State of Maine Employees Workers' Compensation Files - Injuries On or After 1991

Digital File	6/5/2018	Years	6	No Retention	0	Destroy	Current
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Department Series Report

26: Attorney General

Description	Media	Last Updated	In Agency Retention	Rec Center Retention	Disposition	Status
Licensing cases of the various Boards administered by the Department of Professional & Financial Regulation disposed of without hearing. These are cases that are dealt with by the various licensing boards. These boards will have the records – our materials are mostly copies. Our AAG’s conduct a legal review of the case and may give advice on the proposed consent order once the Consent order is finalized. The legal work of the AAG is done and we close the case. The files contain Board determination, Consent Agreements , and letters	Paper	5/10/2010	Years 1	0	Destroy	Current
<hr/>						
Schedule #: 1785 34#:Professional & Financial Regulation Licensing Cases - Hearing Cases						
Licensing cases of the various Boards administered by the Department of Professional & Financial Regulation where case goes to hearing. Cases will consist of records generated by licensing board; records produced by licensee; and legal documents created by an AAG. These files can be extensive and can contain medical or psychological reports.	Mixed	4/8/2021	Years 1	Years 6	Destroy	Current
<p>The Assistant Attorney General assigned to the Board often presents the case against the licensee. The file contains their legal work in prosecuting the case. If there is an appeal to the Superior Court, the AAG continues to use the file to defend the position of the licensing board.Closed when licensing Board hands down ruling and appeal period runs.</p> <p>Mixed media consists of paper, CD's and DVD's.</p>						
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Schedule #: 1807 40B#:Applications, Permits and Licensing matters resolved without hearing						
The AAGs who represent the Department of Public Safety (including Maine State Police, Emergency Medical Services, Office of the Fire Marshal, State Bureau of Identification and Sex Offender Registry) consult these documents to advise their clients. Licensing and disciplinary files are used when a licensee with a history of violations re-applies or re-offends, applies for other licenses (in response to requests from other agencies) or as examples in similar proceedings. A file might include applications, permits, consent agreements, investigation summaries, and other licensing matters resolved without a hearing	Paper	3/28/2011	Years 2	Years 0	Destroy	Current
<hr/>						
Schedule #: 1807 40C#:Applications, Permits and Licensing matters resolved with hearing or other adjudication						

Department Series Report

26: Attorney General

Description	Media	Last Updated	Years	In Agency Retention	1	Rec Center Retention	Years	6	Disposition	Destroy	Status	Current
<p>The AAGs who represent the Department of Public Safety (including Maine State Police, Emergency Medical Services, Office of the Fire Marshal, State Bureau of Identification and Sex Offender Registry) consult these documents to advise their clients and respond to requests for information. Licensing and disciplinary files are used when a licensee with a history of violations re-applies or re-offends, applies for other licenses (in response to requests from other agencies) or as examples in similar proceedings and is resolved with a hearing.</p>	Paper	3/28/2011	Years	1		Years	6		Destroy		Current	
<p>A file might include applications, investigation summaries, witness statements, exhibits, decisions, orders and briefs.</p>												

Department Series Report

3: Corrections

Description	Media	Last Updated	In Agency Retention	Rec Center Retention	Disposition	Status
<p>Schedule #: 2133 12:Juvenile Facility Resident General Education Records</p> <p>These records contain and document juvenile resident's participation in educational programming such as High School Diploma classes, Vocational classes, High School Equivalency Diploma classes and Post-Secondary education. These records include intake forms, high school transcripts, copies of GED / HiSet results/diplomas, copies of High School Diplomas, evaluations/assessments and personal learning plans. In addition, the cumulative records from the resident's prior schools are included.</p> <p>Residents who earn High School Diplomas or High School Equivalency Diplomas while incarcerated are given the originals, while the education department retains a copy. All juvenile education records are stored in print and electronically through the student information system (SIS), PowerSchool. In addition, all High School Equivalency Diplomas are maintained in Diploma Sender, which is an online database.</p> <p>These records are used by correctional educators to document educational needs, verify school attendance and graduation and to assist with educational planning.</p> <p>Records are closed upon discharge.</p>	Paper	5/7/2019	Years 5	Years 10	Destroy	Current
<hr/>						
205#:Maine Correctional Center						
<p>Schedule #: 463 2#:Unwarranted Disciplinary Incident Report</p> <p>Consists of a single report of a disciplinary incident that was unwarranted and therefore shredded rather than added to the inmate case file. Either the Director, or the Disciplinary Board, makes the determination as to whether or the incident report is valid. Destroy after decision has been made.</p>	Paper	4/28/1986	Contingent Upon Event - See Description	0	No Retention	0 Destroy Current
<hr/>						
<p>Schedule #: 1000 4#:Investigative Files (Maine Correctional Center)</p> <p>Alligations of wrong doing either by staff or prisoners must be investigated by the Security Officer. Review form, letter of complaint, investigative note and what ever evidence developes, disciplinary hearing and related correspondence. Keep in agency until case closed plus 7 years.</p>	Paper	7/27/1992	Years	7	No Retention	0 Destroy Current
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206#:Maine State Prison						
<p>Schedule #: 610 8#:Weekly Library Records - Maine State Prison</p>						

MSEA-SEIU Contracts
Retention of Public Employee Disciplinary Records

Executive, Judicial & Legislative Branch Employees	
<p>Executive Branch</p> <ul style="list-style-type: none"> • Administrative Services • Operations, Maintenance and Support • Professional & Technical Services • Supervisory Services 	<p>Upon request of an employee, records of warnings, reprimands, and preventable accident reports shall be removed from personnel files after three (3) years from the date of the occurrence provided that the employee has had no further disciplinary action since that date. Upon request of an employee, records of suspensions and disciplinary demotions shall be removed from personnel files after five (5) years from the date of the occurrence provided that the employee has had no further disciplinary action since that date. However, records of disciplinary suspensions resulting from patient/client abuse, neglect or mistreatment shall not be removed from personnel files under the provisions of this paragraph.</p> <p>Records of warnings and reprimands shall be deemed to be removed from the personnel files after three (3) years from the date of the occurrence provided that the employee has had no further discipline since that date.</p> <p>Records of preventable accident reports shall be deemed to be removed from the personnel files after three (3) years from the date of the occurrence.</p>
<p>Judicial Branch</p> <ul style="list-style-type: none"> • Administrative Services • Professional Services • Supervisory Services 	<p>Employee counseling, although not disciplinary, will be placed in the personnel file and shall be removed from the personnel file after one (1) year from the date of the occurrence, provided that the employee has had no related disciplinary action since that date.</p> <p>Records of oral warnings, written reprimands and preventable accident reports shall be removed from the personnel file after three (3) years from the date of the occurrence, provided that the employee has had no further disciplinary action since that date.</p> <p>Records of disciplinary probations and suspensions shall be removed from personnel files after five (5) years from the date of the occurrence, provided that the employee has had no further disciplinary action since that date.</p> <p>From January 1, 2010, forward, The Administrative Office of the Courts, Human Resources shall remove such document (s) after the appropriate time period has expired and will mail the original to the employee’s address of record.</p>
<p>Legislative Branch</p> <ul style="list-style-type: none"> • Administrative Unit 	<p>Pursuant to 26 MRSA §631, employees are permitted to review their own personnel files and may make copies of their own personnel file. The review must take place during regular business hours and will be conducted under the oversight of the Executive Director or the Executive Director’s designee. An employee will be allowed to place in the file a response of reasonable length to any material contained in the file that the employee believes is adverse.</p>

MSEA-SEIU Contracts
Retention of Public Employee Disciplinary Records

Executive Branch	
<p><u>Administrative Services</u></p> <p>p. 37</p>	<p>ARTICLE 49. PERSONNEL FILES</p> <p>4. Upon request of an employee, records of warnings, reprimands, and preventable accident reports shall be removed from personnel files after three (3) years from the date of the occurrence provided that the employee has had no further disciplinary action since that date. Upon request of an employee, records of suspensions and disciplinary demotions shall be removed from personnel files after five (5) years from the date of the occurrence provided that the employee has had no further disciplinary action since that date. However, records of disciplinary suspensions resulting from patient/client abuse, neglect or mistreatment shall not be removed from personnel files under the provisions of this paragraph.</p> <p style="padding-left: 40px;">Records of warnings and reprimands shall be deemed to be removed from the personnel files after three (3) years from the date of the occurrence provided that the employee has had no further discipline since that date.</p> <p style="padding-left: 40px;">Records of preventable accident reports shall be deemed to be removed from the personnel files after three (3) years from the date of the occurrence.</p>
<p><u>Operations, Maintenance & Support</u></p> <p>p. 38</p>	<p>ARTICLE 50. PERSONNEL FILES</p> <p>4. Upon request of an employee, records of warnings, reprimands, and preventable accident reports shall be removed from personnel files after three (3) years from the date of the occurrence provided that the employee has had no further disciplinary action since that date. Upon request of an employee, records of suspensions and disciplinary demotions shall be removed from personnel files after five (5) years from the date of the occurrence provided that the employee has had no further disciplinary action since that date. However, records of disciplinary suspensions resulting from patient/client abuse, neglect or mistreatment shall not be removed from personnel files under the provisions of this paragraph.</p> <p style="padding-left: 40px;">Records of warnings and reprimands shall be deemed to be removed from the personnel files after three (3) years from the date of the occurrence provided that the employee has had no further discipline since that date.</p> <p style="padding-left: 40px;">Records of preventable accident reports shall be deemed to be removed from the personnel files after three (3) years from the date of the occurrence.</p>

MSEA-SEIU Contracts
Retention of Public Employee Disciplinary Records

Executive Branch	
<p><u>Professional and Technical Services</u></p> <p>p. 42</p>	<p>ARTICLE 49. PERSONNEL FILES</p> <p>4. Upon request of an employee, records of warnings, reprimands, and preventable accident reports shall be removed from personnel files after three (3) years from the date of the occurrence provided that the employee has had no further disciplinary action since that date. Upon request of an employee, records of suspensions and disciplinary demotions shall be removed from personnel files after five (5) years from the date of the occurrence provided that the employee has had no further disciplinary action since that date. However, records of disciplinary suspensions resulting from patient/client abuse, neglect or mistreatment shall not be removed from personnel files under the provisions of this paragraph.</p> <p style="padding-left: 40px;">Records of warnings and reprimands shall be deemed to be removed from the personnel files after three (3) years from the date of the occurrence provided that the employee has had no further discipline since that date.</p> <p style="padding-left: 40px;">Records of preventable accident reports shall be deemed to be removed from the personnel files after three (3) years from the date of the occurrence.</p>
<p><u>Supervisory Services</u></p> <p>pp. 46-47</p>	<p>ARTICLE 49. PERSONNEL FILES</p> <p>4. Upon request of an employee, records of warnings, reprimands, and preventable accident reports shall be removed from personnel files after three (3) years from the date of the occurrence provided that the employee has had no further disciplinary action since that date. Upon request of an employee, records of suspensions and disciplinary demotions shall be removed from personnel files after five (5) years from the date of the occurrence provided that the employee has had no further disciplinary action since that date. However, records of disciplinary suspensions resulting from patient/client abuse, neglect or mistreatment shall not be removed from personnel files under the provisions of this paragraph.</p> <p style="padding-left: 40px;">Records of warnings and reprimands shall be deemed to be removed from the personnel files after three (3) years from the date of the occurrence provided that the employee has had no further discipline since that date.</p> <p style="padding-left: 40px;">Records of preventable accident reports shall be deemed to be removed from the personnel files after three (3) years from the date of the occurrence.</p>

MSEA-SEIU Contracts
Retention of Public Employee Disciplinary Records

Judicial Branch	
<p><u>Administrative Services</u></p> <p>p. 42</p>	<p>ARTICLE 46. PERSONNEL FILES (2019)</p> <p>Employee counseling, although not disciplinary, will be placed in the personnel file and shall be removed from the personnel file after one (1) year from the date of the occurrence, provided that the employee has had no related disciplinary action since that date.</p> <p>Records of oral warnings, written reprimands and preventable accident reports shall be removed from the personnel file after three (3) years from the date of the occurrence, provided that the employee has had no further disciplinary action since that date.</p> <p>Records of disciplinary probations and suspensions shall be removed from personnel files after five (5) years from the date of the occurrence, provided that the employee has had no further disciplinary action since that date.</p> <p>From January 1, 2010, forward, The Administrative Office of the Courts, Human Resources shall remove such document (s) after the appropriate time period has expired and will mail the original to the employee’s address of record.</p>
<p><u>Professional Services</u></p> <p>p. 43-44</p>	<p>ARTICLE 50. PERSONNEL FILES (2019)</p> <p>Employee counseling, although not disciplinary, will be placed in the personnel file and shall be removed from the personnel file after one (1) year from the date of the occurrence, provided that the employee has had no related disciplinary action since that date.</p> <p>Records of oral warnings, written reprimands and preventable accident reports shall be removed from the personnel file after three (3) years from the date of the occurrence, provided that the employee has had no further disciplinary action since that date.</p> <p>Records of disciplinary probations and suspensions shall be removed from personnel files after five (5) years from the date of the occurrence, provided that the employee has had no further disciplinary action since that date.</p> <p>From January 1, 2010, forward, The Administrative Office of the Courts, Human Resources shall remove such document (s) after the appropriate time period has expired and will mail the original to the employee’s address of record.</p>

MSEA-SEIU Contracts
Retention of Public Employee Disciplinary Records

Judicial Branch	
<p><u>Supervisory Service</u></p> <p>p. 39</p>	<p>ARTICLE 46. PERSONNEL FILES (2019)</p> <p>Employee counseling, although not disciplinary, will be placed in the personnel file and shall be removed from the personnel file after one (1) year from the date of the occurrence, provided that the employee has had no related disciplinary action since that date.</p> <p>Records of oral warnings, written reprimands and preventable accident reports shall be removed from the personnel file after three (3) years from the date of the occurrence, provided that the employee has had no further disciplinary action since that date.</p> <p>Records of disciplinary probations and suspensions shall be removed from personnel files after five (5) years from the date of the occurrence, provided that the employee has had no further disciplinary action since that date.</p> <p>From January 1, 2010, forward, The Administrative Office of the Courts, Human Resources shall remove such document (s) after the appropriate time period has expired and will mail the original to the employee’s address of record.</p>

Legislative Branch	
<p><u>Administrative Unit</u></p> <p>p. 49</p>	<p>Article 43. Personnel Files</p> <p>The Office of the Executive Director is responsible for maintaining the official personnel files for employees and for responding to requests for personal information about employees. Personnel files include, but are not limited to, memoranda and documents related to employees’ appointment, transfer, promotion, demotion, suspension, dismissal or other disciplinary action, commendations, records of training, salary rates, benefits history, payroll deductions and tax withholdings, leaves of absence, time records, employment history, performance evaluation, residence and mailing address, emergency contacts and changes in status.</p> <p>Pursuant to 26 MRSA §631, employees are permitted to review their own personnel files and may make copies of their own personnel file. The review must take place during regular business hours and will be conducted under the oversight of the Executive Director or the Executive Director’s designee. An employee will be allowed to place in the file a response of reasonable length to any material contained in the file that the employee believes is adverse.</p>

MSEA-SEIU Contracts
Retention of Public Employee Disciplinary Records

MSEA-SEIU Contracts – Other Public Employee Disciplinary Records

Municipalities & Counties	
<p><u>City of Auburn</u></p> <p style="text-align: center;">p. 21</p>	<p style="text-align: center;">Article 13. Discipline/Discharge</p> <p>Section 4 Two years after an incident giving rise to discipline, an employee may submit a request to [H]uman Resources, that the incident [be] purged from the employee’s record. Such a request shall be reviewed by a three (3) member committee composed of the City Manager or designee, Human Resources Director or designee, and a Union Steward. In considering whether to purge an incident the committee may consider the employee’s work record and violations since the date of the incident in question. The employee may also submit, in writing, reasons why the incident should be purged. The decision of the committee shall be final and binding upon all parties.</p>
<p><u>City of Lewiston Employees</u></p> <p style="text-align: center;">p. 19</p>	<p style="text-align: center;">ARTICLE 12 DISCIPLINE AND DISCHARGE</p> <p>Section 5. Personnel Files a. Upon request from the Employee, records of oral reprimands shall be removed from the personnel files after one (1) year from the date of occurrence. b. Upon request from the Employee, records of written reprimands shall be removed from the personnel files after two (2) years from the date of occurrence. c. Upon request from the Employee, records of suspensions shall be removed from the personnel files after five (5) years from the date of occurrence, however, an Employee, after three (3) years, may request that a record of suspension be removed provided no other disciplinary action has been imposed in the interim.</p>
<p><u>York County Employees</u></p> <p style="text-align: center;">pp. 6-7</p>	<p style="text-align: center;">ARTICLE 8 Discipline and Discharge for Cause</p> <p>Section 1. Employees may be discharged for just cause after the Employer has given due written warning to the employee and the Union Steward or other authorized agent of the Union. For record retention purposes, all disciplinary action of a verbal or written nature shall be removed from all files after a period of eighteen (18) months from the date of issuance and may not be relied upon for any purpose by either party. A copy of all disciplinary actions and removals from the personnel files of the employee in question, shall be given to the President of Local 1297. The spirit of this clause is that discipline will not be allowed to accumulate against an employee without their knowledge. Notwithstanding the above, the Employer shall place all written disciplinary action older than eighteen (18) months into the purged file. The purged file is maintained for the limited purpose of maintaining historical records of discipline for litigation purposes only. Release of purged file information can only occur where a court has ordered the release of otherwise confidential personnel records, or if the employee has signed a waiver of release to otherwise confidential records.</p>

MSEA-SEIU Contracts
Retention of Public Employee Disciplinary Records

Colleges/Universities	
<p><u>Maine Community College System Supervisory Services</u> p. 29</p> <p><u>Maine Community College System Support Services</u> p. 31</p>	<p style="text-align: center;">ARTICLE 44. PERSONNEL FILES</p> <p>4. Upon request of an employee, records of reprimands and preventable accident reports shall be removed from personnel files after five (5) years from the date of the occurrence provided that the employee has had not further disciplinary action since that date. Upon request of an employee, records of suspensions and disciplinary demotions shall be removed from personnel files after five (5) years from the date of the occurrence provided that the employee had had no further disciplinary action since that date. However, records of discipline resulting from violations of Board of Trustees sexual harassment policy shall not be removed from personnel files under the provisions of this paragraph.</p>
<p><u>Maine Maritime Academy - Faculty</u> pp. 28-29</p>	<p style="text-align: center;">ARTICLE 15 PERSONNEL FILE</p> <p>B. RESPONSIBILITY OF MAINTAINING THE PERSONNEL FILE</p> <ol style="list-style-type: none"> 1. The custodian of the personnel files shall ensure that all materials placed in the personnel file of a unit member shall be dated when received, and numbered sequentially. 2. The administrative official concerned shall be responsible for filing copies of official personnel correspondence at the time they are sent to the member of the Bargaining Unit. 3. It shall be the responsibility of the unit member to annually update the personnel file with information regarding teaching, research, publications, and Academy and community services. 4. Records of discipline shall be retained until the next evaluation for retention. <p>D. REMOVAL OF OUTDATED EVALUATIONS</p> <ol style="list-style-type: none"> 1. Evaluation materials of unit members shall be retained in the Dean's office for a period of six (6) years. 2. All evaluation materials kept by the Dean's office may be examined only in compliance with either of the following conditions: <ol style="list-style-type: none"> a. Upon written notice by the President to the member of the Bargaining Unit, which notice shall contain a statement of the reason(s) for such examination; or b. Upon written notice by the member of the Bargaining Unit to the President, which notice shall contain a statement of the reason(s) for such examination.

MSEA-SEIU Contracts
Retention of Public Employee Disciplinary Records

Colleges/Universities

**ARTICLE 9
Discipline**

Maine Maritime Academy – Staff, Support & Professional
p. 9

F. The Academy agrees that it will follow the principle of progressive discipline for minor offenses prior to effecting a discharge or suspension without pay of a unit member. Counseling, while encouraged, is not part of the discipline process. For purposes of this Article, progressive discipline shall be defined as:

1. first written warning
2. second written warning
3. suspension without pay
4. discharge

Notice of **minor discipline (Written Warnings)** shall remain in effect for a period of **not more than one (1) year from the date of the occurrence** upon which a complaint and warning is based, provided that the unit member has received no other related disciplines during such period. **Records of suspensions** shall remain in effect for **a period of not more than two (2) years from the date of the occurrence**. Supervisory commendations and employee rebuttals may be placed in a Unit member’s personnel file.

**ARTICLE 7
DISCIPLINE**

Maine Maritime Academy - Supervisory
p. 9

F. The Academy agrees that it will follow the principle of progressive discipline for minor offenses prior to effecting a discharge or suspension without pay of a unit member. Counseling, while encouraged, is not part of the discipline process. For purposes of this Article, progressive discipline shall be defined as:

1. first written warning
2. second written warning
3. suspension without pay
4. discharge

G. Notice of **minor discipline (Written Warnings)** shall remain in effect for a period of **not more than one (1) year from the date of the occurrence** upon which a complaint and warning is based, provided that the unit member has received no other related disciplines during such period. **Records of suspensions** shall remain in effect for a period of **not more than two (2) years from the date of the occurrence**. Supervisory commendations and employee rebuttals **may be placed in a Unit member’s personnel file for a like period**.

MSEA-SEIU Contracts
Retention of Public Employee Disciplinary Records

State Agency

ARTICLE 23: PERSONNEL FILES

Maine Turnpike Authority – Fare Collection

p. 72

Maine Turnpike Authority – Headquarters

pp. 74-75

Maine Turnpike Authority- Maintenance Operators

p. 83

4. Records of discipline **expire** at the following intervals but remain in personnel files for other managerial decisions:
 A. **After two (2) years** for **verbal or written reprimands** if the employee received no subsequent discipline at the same or greater level since the date of entry;
 B. **After four (4) years** for **all discipline** if the employee received no suspensions since the date of entry.

Maine Public Employees Retirement System (Maine PERS)

PERSONNEL FILES

Maine Public Employees Retirement System –
Administrative Services

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Maine Public Employees Retirement System –
Professional and Technical Services

pp. 24-25

Maine Public Employees Retirement System –
Supervisory Services

pp. 24-25

Purging the File

Upon request of the employee, records of **reprimands** shall be removed from the employee's file **three (3) years after the date of the underlying occurrence**, provided the employee has had no further disciplinary action since that date. Upon request of the employee, records of **suspensions and disciplinary demotions** shall be removed from their file **five (5) years after the date of the underlying occurrence**, provided the employee has had no further disciplinary action since that date.

Records of **reprimands** shall be deemed to be removed from the personnel files after **three (3) years from the date of the occurrence** provided that the employee has had no further disciplinary action since that date. Records of **suspensions and disciplinary demotions** shall be deemed to be removed from the personnel files after **five (5) years from the date of the occurrence** provided that the employee has had no further disciplinary action since that date.



Our Contracts

State Government

Executive Branch



[ADMINISTRATIVE SERVICES](#)

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[ADMINISTRATIVE UNIT](#)

Public Sector

Auburn City Employees



Child Development Services



[PROFESSIONAL UNIT](#)



Community Colleges



[ADJUNCT](#) [↗]

[SUPERVISORY SERVICES](#) [↗]

[SUPPORT SERVICES](#) [↗]

Maine Educational Center for the Deaf and Hard of Hearing



[PROFESSIONAL & SUPERVISORY](#) [↗]

[SUPPORT SERVICES](#) [↗]

Lewiston



[LEWISTON CITY EMPLOYEES](#) [↗]

[LEWISTON SCHOOL EMPLOYEES](#) [↗]

Maine Maritime Academy



[FACULTY](#) [↗]

[STAFF, SUPPORT & PROFESSIONAL](#) [↗]

[SUPERVISORY](#) [↗]

Maine Turnpike Authority



[FARE COLLECTION](#) [↗]

[HEADQUARTERS](#) [↗]

[MAINTENANCE OPERATIONS](#) [↗]

MainePERS



[ADMINISTRATIVE SERVICES](#) [↗]

[PROFESSIONAL AND TECHNICAL SERVICES](#) [↗]

[SUPERVISORY SERVICES](#) [↗]



Private Sector

ACLU of Maine

American Red Cross

Independence Advocates Of Maine

Maine Health Interpreters

Maine People's Alliance

Natural Resources Council of Maine

Planned Parenthood - Maine

Preble Street

Sexual Assault Response Services - Southern ME

Speak About It

Through These Doors

Become a Steward

To become a Steward, contact your District Representative or your chief steward for more information. You also can contact MSEA-SEIU directly by calling 207-622-3151 Or, you can print out one of the forms below, get the signatures and send it to MSEA-SEIU headquarters.



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

§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).

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§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).

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Compiled Excerpts of Public Employee Disciplinary Record Statutes
Comparison Charts

STATE, COUNTY, AND MUNICIPAL EMPLOYEES	
<p><u>5 MRSA</u> <u>§7070(2)(E)</u></p> <p>State Employees</p>	<p>§7070. Personnel records 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. <i>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.</i> 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.</p> <p>For purposes of this paragraph, "final written decision" means:</p> <ul style="list-style-type: none"> (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. <p>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</p>
<p><u>30-A MRSA</u> <u>§503(1)(B)(5)</u></p> <p>County Employees</p>	<p>§503. Personnel records (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. <i>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.</i> 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.</p> <p>For purposes of this subparagraph, "final written decision" means:</p> <ul style="list-style-type: none"> (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. <p>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</p>
<p><u>30-A MRSA</u> <u>§2702(1)(B)(5)</u></p> <p>Municipal Employees</p>	<p>§2702. Personnel records (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. <i>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.</i> 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.</p> <p>For purposes of this subparagraph, "final written decision" means:</p> <ul style="list-style-type: none"> (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. <p>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</p>

Compiled Excerpts of Public Employee Disciplinary Record Statutes
Comparison Charts

STATE, COUNTY, AND MUNICIPAL LAW ENFORCEMENT – USE OF PHYSICAL OR DEADLY FORCE	
<p><u>5 MRSA §7070-A</u></p> <p>State Employees – Law Enforcement Officers</p>	<p>§7070-A. Personnel records; deadly force or physical force by law enforcement officer</p> <p>The name of a law enforcement officer is not confidential under section 7070, subsection 2, paragraph E in cases involving:</p> <ol style="list-style-type: none"> 1. Deadly force. The use of deadly force by a law enforcement officer; or 2. Physical force. The use of physical force by a law enforcement officer resulting in death or serious bodily injury. <p>In cases specified in subsections 1 and 2, 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.</p>
<p><u>30-A MRSA §503(1-A)</u></p> <p>County Employees – Law Enforcement Officers</p>	<p>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:</p> <ol style="list-style-type: none"> A. The use of deadly force by a law enforcement officer; or B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury. <p>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.</p>
<p><u>30-A MRSA §2702(1-A)</u></p> <p>Municipal Employees – Law Enforcement Officers</p>	<p>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:</p> <ol style="list-style-type: none"> A. The use of deadly force by a law enforcement officer; or B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury. <p>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.</p>

Compiled Excerpts of Public Employee Disciplinary Record Statutes
Comparison Charts

STATE AND COUNTY EMPLOYEES – SEXUAL MISCONDUCT WITHIN STATE CORRECTIONAL FACILITY OR COUNTY JAIL	
<p><u>5 MRSA §7070(2)(F)</u></p> <p>State Employees – Correctional Facility Employees</p>	<p>§7070. Personnel records</p> <p>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:</p> <ul style="list-style-type: none"> (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.
<p><u>30-A MRSA §503(1-B)</u></p> <p>County Employees – County Jail Employees</p>	<p>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:</p> <ul style="list-style-type: none"> 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; B. Whether the individual under paragraph A is still employed at the county jail or detention facility; 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 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.

Compiled Excerpts of Public Employee Disciplinary Record Statutes
Comparison Charts

PUBLIC EMPLOYEE DISCIPLINARY RECORDS – ACROSS STATUTE	
<p style="text-align: center;"><u>5 MRSA §17057(5)(B)(6)</u></p> <p style="text-align: center;">Maine Public Employees Retirement System Employees</p>	<p>5. Personnel records of Maine Public Employees Retirement System staff.</p> <p>(6) 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. 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 decision, with regard to that employee, is public.</p> <p>For purposes of this subparagraph, "final written decision" means:</p> <ul style="list-style-type: none"> (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. <p>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.</p>
<p style="text-align: center;"><u>20-A MRSA §13004(2-A)(D)</u></p> <p style="text-align: center;">List of Persons Credentialed – School Employees</p>	<p>2-A. Confidentiality</p> <p>D. Notwithstanding paragraph A, the following information concerning final written decisions relating to disciplinary action taken by the commissioner against a person holding a credential is a public record:</p> <ul style="list-style-type: none"> (1) The name of the person; (2) The type of action taken, consisting of denial, revocation, suspension, surrender or reinstatement; (3) The grounds for the action taken; (4) The relevant dates of the action; (5) The type of credential and endorsements held, including relevant dates; (6) The schools where the person was or is employed; and (7) The dates of employment.
<p style="text-align: center;"><u>20-A MRSA §101(2)(C)</u> & <u>20-A MRSA §6101(3)</u></p> <p style="text-align: center;">School Employee Records</p>	<p>2. Access.</p> <p>C. Any written record of a decision involving disciplinary action taken with respect to an employee by the governing body of the school administrative unit shall not be included within any category of confidential information set forth in paragraph B.</p> <p>3. Commissioner's review.</p> <p>Records of complaints, charges of misconduct, investigations and disciplinary actions may be provided by the commissioner or the commissioner's designee to the Department of Health and Human Services when an investigation of child abuse or neglect in accordance with Title 22, section 4099-N, subsection 3 is in process.</p>

Compiled Excerpts of Public Employee Disciplinary Record Statutes
Comparison Charts

PUBLIC EMPLOYEE DISCIPLINARY RECORDS – ACROSS STATUTE	
<p><u>30-A MRSA §4706(5)(B)(5)</u></p> <p>Housing Authorities Employees</p>	<p>5. Confidentiality of personnel records.</p> <p>(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. <u>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;</u> and</p>
<p><u>35-A MRSA §114(1)(B)(5)</u></p> <p>Public Utilities Commission Employees</p>	<p>1. Confidential.</p> <p>(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations or any other information or materials that may result in disciplinary action; or</p>

State, County and Municipal Employee Disciplinary Records – Legislative History

In the Nineteenth Annual Report of the Right to Know Advisory Committee, the Advisory Committee issued a recommendation to the 2025 Committee to 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 (reproduced from the report below).

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.

The following tables outline the legislative history of the specific statutory provisions governing public employee disciplinary records in Title 5, section 7070, Title 30-A, section 503, and Title 30-A, section 2702.

STATE EMPLOYEES

State Employees 5 MRSA §7070(2)(E)

Enacted	PL 1985, c. 785, Pt. B, §38 (pp. 3980-3981)	LD 2392
Amended	PL 1991, c. 229 §1	LD 878
Amended	PL 1991, c. 729 §1	LD 2018
Amended	PL 1997, c. 124 §2	LD 825
Amended	PL 1997, c. 770 §1	LD 1913
Amended	PL 2023, c. 159 §1	LD 1397
Amended	PL 2023, c. 615 §2	LD 2250

State Correctional Facility Employees 5 MRSA §7070(2)(F)

Enacted	PL 2023, c. 615 §3	LD 2250
Amended	PL 2023, c. 646 Pt. B, §B-1 (p.19)	LD 2290

State Law Enforcement Officers 5 MRSA §7070-A

Enacted	PL 1991, c. 729 §2	LD 2018
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Specific only to the use of deadly or physical force by law enforcement officers - regardless of whether disciplinary action is taken, the findings of any investigation into an 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.

COUNTY EMPLOYEES

County Employees 30-A MRSA §503(1)(B)(5)

Enacted	PL 1987, c. 737, Pt. A, §2 (pp. 1389-1390)	LD 2538
Amended	PL 1991, c. 229 §2	LD 878
Amended	PL 1997, c. 770 §2	LD 1913
Amended	PL 2019, c. 451 §2	LD 1790
Amended	PL 2023, c. 159 §2	LD 1397

County Law Enforcement Officers 30-A MRSA §503(1-A)

Enacted	PL 1991, c. 729 §6	LD 2018
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Specific only to the use of deadly or physical force by law enforcement officers - regardless of whether disciplinary action is taken, the findings of any investigation into an 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.

County Jail Employees 30-A MRSA §503(1-B)

Enacted	PL 2023, c. 615 §4	LD 2250
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MUNICIPAL EMPLOYEES

Municipal Employees 30-A MRSA §2702(1)(B)(5)

Enacted	PL 1987, c. 737, Pt. A, §2 (pp. 1453-1454)	LD 2538
Amended	PL 1991, c. 229 §3	LD 878
Amended	PL 1997, c. 770 §3	LD 1913

Municipal Law Enforcement Officers 30-A MRSA §2702(1-A)

Enacted	PL 1991, c. 729 §7	LD 2018
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Specific only to the use of deadly or physical force by law enforcement officers - regardless of whether disciplinary action is taken, the findings of any investigation into an 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.

Public Employee Disciplinary Records Statutes
Originally Enacted Language vs. Current Language

STATE EMPLOYEES

State Employees 5 MRSA §7070(2)(E)

Enacting Statute (PL 1985)	Current Statute 2023 (PL 2023)
<p>E. 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 shall no longer be confidential after it is completed; and</p>	<p>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.</p> <p>For purposes of this paragraph, "final written decision" means:</p> <ul style="list-style-type: none"> (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. <p>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</p>

State Correctional Facility Employees 5 MRSA §7070(2)(F)

Enacting Statute (PL 2023)	Current Statute (PL 2023)
<p>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:</p> <ul style="list-style-type: none"> (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 indict the individual under subparagraph (1) based on the allegation of sexual misconduct or sexual harassment. 	<p><i>Only difference is in subparagraph (4), amended to read:</i></p> <p>(4) Whether the prosecuting agency declined to <u>seek an indictment or the grand jury declined to</u> indict the individual under subparagraph (1) based on the allegation of sexual misconduct or sexual harassment.</p>

Public Employee Disciplinary Records Statutes
Originally Enacted Language vs. Current Language

STATE EMPLOYEES

State Law Enforcement Officers 5 MRSA §7070-A

No Changes Since Statute Enacted	(PL 1991)
<p>§7070-A. Personnel records; deadly force or physical force by law enforcement officer</p> <p>The name of a law enforcement officer is not confidential under section 7070, subsection 2, paragraph E in cases involving:</p> <ol style="list-style-type: none">1. Deadly force. The use of deadly force by a law enforcement officer; or2. Physical force. The use of physical force by a law enforcement officer resulting in death or serious bodily injury. <p>In cases specified in subsections 1 and 2, 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.</p>	

Public Employee Disciplinary Records Statutes
Originally Enacted Language vs. Current Language

COUNTY EMPLOYEES

County Employees 30-A MRSA §503(1)(B)(5)

Enacting Statute (PL 1987)	Current Statute (PL 2023)
<p>(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 it is completed; and</p>	<p>§503. Personnel records</p> <p>(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.</p> <p>For purposes of this subparagraph, "final written decision" means:</p> <ul style="list-style-type: none"> (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. <p>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</p>

County Law Enforcement Officers 30-A MRSA §503(1-A)

No Changes Since Statute Enacted	(PL 1991)
<p>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:</p> <ul style="list-style-type: none"> A. The use of deadly force by a law enforcement officer; or B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury. <p>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.</p>	

Public Employee Disciplinary Records Statutes
Originally Enacted Language vs. Current Language

COUNTY EMPLOYEES

County Jail Employees 30-A MRSA §503(1-B)

No Changes Since Statute Enacted	(PL 2023)
<p>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:</p> <ul style="list-style-type: none">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;B. Whether the individual under paragraph A is still employed at the county jail or detention facility;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; andD. 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.	

Public Employee Disciplinary Records Statutes
Originally Enacted Language vs. Current Language

MUNICIPAL EMPLOYEES

Municipal Employees 30-A MRSA §2702(1)(B)(5)

Enacting Statute (PL 1987)	Current Statute (PL 1997)
<p>(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 it is completed. The decision shall 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; and</p>	<p>(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.</p> <p>For purposes of this subparagraph, "final written decision" means:</p> <ul style="list-style-type: none"> (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. <p>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</p>

Municipal Law Enforcement Officers 30-A MRSA §2702(1-A)

No Changes Since Statute Enacted (PL 1991)
<p>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:</p> <ul style="list-style-type: none"> A. The use of deadly force by a law enforcement officer; or B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury. <p>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.</p>

§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).

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§7070-A. Personnel records; deadly force or physical force by law enforcement officer

The name of a law enforcement officer is not confidential under section 7070, subsection 2, paragraph E in cases involving: [PL 1991, c. 729, §2 (NEW).]

1. Deadly force. The use of deadly force by a law enforcement officer; or [PL 1991, c. 729, §2 (NEW).]

2. Physical force. The use of physical force by a law enforcement officer resulting in death or serious bodily injury. [PL 1991, c. 729, §2 (NEW).]

In cases specified in subsections 1 and 2, 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, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 729, §2 (NEW).

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§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, except that personal contact information is not a public record as provided in Title 1, section 402, subsection 3, paragraph O.

(2) Telephone numbers are confidential 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 2025, c. 111, §§4, 5 (AMD).]

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 2025, c. 111, §§4, 5 (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). PL 2025, c. 111, §§4, 5 (AMD).

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§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, except that personal contact information is not a public record as provided in Title 1, section 402, subsection 3, paragraph O.

(2) Telephone numbers are confidential 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 2025, c. 111, §§6, 7 (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 2025, c. 111, §§6, 7 (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). PL 2025, c. 111, §§6, 7 (AMD).

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§17057. Information not public record

1. Medical information. Medical information of any kind in the possession of the retirement system, including information pertaining to diagnosis or treatment of mental or emotional disorders, is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3. Records containing medical information may be examined by the employee to whom they relate or by the State or participating local district employer of the employee for any purposes related to any claim for workers' compensation or any other benefit. The employee must be advised in writing by the retirement system of any request by the employer to examine the employee's medical records. Medical information obtained pursuant to this section remains confidential, except as otherwise provided by law, and except when involved in proceedings resulting from an appeal pursuant to section 17451, subsection 2.

[PL 2017, c. 46, §1 (AMD).]

2. Financial and personal information. The following private financial and personal information of members, beneficiaries or participants in any of the programs of the retirement system in the possession of the retirement system is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3:

A. Information regarding member, beneficiary or participant accounts with financial institutions, including account numbers; [PL 2017, c. 46, §2 (NEW).]

B. Information regarding member and beneficiary election of payment methods, including elected deductions from those payments; [PL 2017, c. 46, §2 (NEW).]

C. Information regarding participation in defined contribution or deferred compensation plans, including account numbers, investment allocations, contributions, distributions and balances; [PL 2017, c. 46, §2 (NEW).]

D. Information regarding designated beneficiaries; and [PL 2017, c. 46, §2 (NEW).]

E. Information regarding a participant's amount of insurance coverage or group life insurance. [PL 2017, c. 46, §2 (NEW).]

[PL 2017, c. 46, §2 (RPR).]

3. Home contact information. Except as provided in this subsection, records of home contact information of members and benefit recipients of any of the programs of the retirement system and of staff members that are in the possession of the retirement system are confidential, not open to public inspection and not public records as defined in Title 1, section 402, subsection 3.

A. For purposes of this subsection, "home contact information" means a home address, home telephone number, home facsimile transmission number or home e-mail address. [PL 2003, c. 632, §1 (NEW).]

B. [PL 2007, c. 47, §1 (RP).]

C. This subsection does not apply to the home address of a member or a benefit recipient of any of the programs of the retirement system used only for membership recruitment purposes by a nonprofit or public organization established to provide programs, services and representation to Maine public sector retirees unless the retirement system member or benefit recipient has signed a form made available by the retirement system indicating that the individual does not authorize disclosure of that individual's home address. The retirement system may not provide information under this subsection to an organization if the retirement system has determined that the organization obtained information for the purpose of membership recruitment but used the information for a purpose other than membership recruitment. [PL 2007, c. 491, §70 (AMD).]

[PL 2007, c. 491, §70 (AMD).]

4. Investment activity information. Disclosure of private market investment activity of the retirement system is governed by this subsection.

A. Documentary material, data or information in the possession of the retirement system that consists of trade secrets or commercial or financial information that relates to actual or potential private market investments of the retirement system is confidential and not open to public inspection and does not constitute "public records" as defined in Title 1, section 402, subsection 3 if, in the sole discretion of the retirement system, the disclosure of the material, data or information may:

- (1) Impair the retirement system's ability to obtain such material, data or information in the future;
- (2) Cause substantial harm to the competitive position of the retirement system or of the person or entity from whom the information was obtained; or
- (3) Result in the potential violation of state and federal laws and regulations relating to insider trading. [PL 2011, c. 449, §1 (AMD).]

B. The following information concerning any fund in which the retirement system is invested is not exempt from disclosure:

- (1) The retirement system's total commitment to the fund;
- (2) The date of the commitment to the fund;
- (3) Contributions and distributions made to or received from the fund;
- (4) The market value of the investment;
- (5) The name of the fund; and
- (6) The interim internal rate of return of the fund. [PL 2011, c. 449, §1 (AMD).]

C. For purposes of this subsection, "private market investment" means:

- (1) Direct investments in land, timber, mineral rights, private company equity or private company debt;
- (2) Indirect investments in limited partnerships, limited liability corporations or other entities that may invest in the investments described in subparagraph (1);
- (3) Investments in unregistered securities or funds offered under exemptions provided in Section 144(A) of the Securities Act of 1933, as amended, or Section 3(c)1 or 3(c)7 of the Investment Company Act of 1940, as amended; or
- (4) Investments or potential investments of the retirement system pursuant to the state innovation finance program authorized under Title 10, section 1026-T. [PL 2011, c. 449, §1 (NEW).]

[PL 2011, c. 449, §1 (AMD).]

5. Personnel records of Maine Public Employees Retirement System staff. The following records are confidential and not open to public inspection and are not public records as defined in Title 1, section 402, subsection 3:

A. 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 retirement system for use in the examination or evaluation of applicants for positions as retirement system employees, are confidential.

- (1) Notwithstanding any confidentiality provision to the contrary, 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.
- (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 a union representative from access to personnel records, consistent with paragraph D, that may be necessary for the bargaining agent to carry out collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this paragraph remain confidential and are not open to public inspection; [PL 2011, c. 449, §2 (NEW).]
- B. Personal information. Records containing the following information are confidential, except that the records may be examined by the employee to whom they relate when the examination is permitted or required by law:

- (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 the employee's immediate family;
- (5) Personal information pertaining to the employee's race, color, religion, sex, national origin, ancestry, age, physical disability, mental disability, marital status, sexual orientation and gender identity; social security number; personal contact information as provided in Title 1, section 402, subsection 3, paragraph O; and personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance; and
- (6) 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. 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 decision, 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.

This paragraph does not preclude a union representative from having access to personnel records that are necessary for the bargaining agent to carry out collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this paragraph remain confidential and are not open for public inspection; [PL 2021, c. 366, §24 (AMD).]

C. Other information to which access by the general public is prohibited by law; and [PL 2011, c. 449, §2 (NEW).]

D. Certain information for grievance and other proceedings. The retirement system may release specific information designated confidential by this paragraph to be used in negotiations, mediation, fact finding, arbitration, grievance proceedings and other proceedings in which the retirement system is a party. For the purpose of this paragraph, "other proceedings" means unemployment compensation proceedings, workers' compensation proceedings, human rights proceedings and labor relations proceedings. [PL 2011, c. 449, §2 (NEW).]

[PL 2021, c. 366, §24 (AMD).]

6. Treatment of confidential information. Confidential information provided under subsection 5 is governed by the following.

A. Only the information that is necessary and directly related to the proceeding may be released. [PL 2011, c. 449, §2 (NEW).]

B. The proceeding for which the confidential information is provided must be private and not open to the public if possible. If the proceeding is open to the public, the confidential information may 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 2011, c. 449, §2 (NEW).]

C. The retirement system may use this confidential information in proceedings and provide copies to an employee organization if that organization is a party to the proceedings and the information is directly related to those proceedings as defined by the applicable collective bargaining agreement. Confidential personnel records in the possession of the retirement system are not open to public inspection and are not public records. [PL 2011, c. 449, §2 (NEW).]

[PL 2011, c. 449, §2 (NEW).]

SECTION HISTORY

PL 1989, c. 76 (NEW). PL 1991, c. 480, §2 (RPR). PL 1991, c. 580, §2 (AMD). PL 1991, c. 824, §A7 (RPR). PL 2003, c. 632, §1 (AMD). PL 2005, c. 149, §§1,2 (AMD). PL 2007, c. 47, §§1, 2 (AMD). PL 2007, c. 491, §70 (AMD). RR 2009, c. 2, §3 (COR). PL 2009, c. 633, §1 (AMD). PL 2011, c. 449, §§1, 2 (AMD). PL 2017, c. 46, §§1, 2 (AMD). PL 2021, c. 366, §24 (AMD).

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§6101. Record of directory information

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

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

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

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

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

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

- (1) All information, working papers and examinations used in the examination or evaluation of all applicants for employment;
 - (2) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;
 - (3) Performance evaluations, personal references and other reports and evaluations reflecting on the quality or adequacy of the employee's work or general character compiled and maintained for employment purposes;
 - (4) Credit information;
 - (5) Except as provided by subsection 1, the personal history, general character or conduct of the employee or any member of the employee's immediate family;
 - (6) Complaints, charges of misconduct, replies to complaints and charges of misconduct and memoranda and other materials pertaining to disciplinary action;
 - (7) Social security number;
 - (8) The teacher action plan and support system documents and reports maintained for certification purposes; and
 - (9) Criminal history record information obtained pursuant to section 6103. [PL 1995, c. 547, §4 (AMD).]
- C. Any written record of a decision involving disciplinary action taken with respect to an employee by the governing body of the school administrative unit shall not be included within any category of confidential information set forth in paragraph B. [PL 1981, c. 693, §§5, 8 (NEW).]
- [PL 1995, c. 547, §4 (AMD).]

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

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

Records of complaints, charges of misconduct, investigations and disciplinary actions may be provided by the commissioner or the commissioner's designee to the Department of Health and Human Services when an investigation of child abuse or neglect in accordance with Title 22, section 4099-N, subsection 3 is in process.

[PL 2025, c. 362, §1 (AMD).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 470, §5 (AMD). PL 1983, c. 806, §60 (AMD). PL 1983, c. 862, §58 (AMD). PL 1985, c. 506, §A37 (AMD). PL 1987, c. 620, §§1,2 (AMD). PL 1995, c. 547, §§2-4 (AMD). PL 1997, c. 452, §§1,2 (AMD). PL 2025, c. 362, §1 (AMD).

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§13004. List of persons credentialed; records confidential

1. Lists. The commissioner shall keep a list of credentialed individuals. This list is a public record. [PL 2017, c. 235, §3 (AMD); PL 2017, c. 235, §41 (AFF).]

2. Records confidential. Transcripts, recommendations and other documents submitted in support of an application for a credential or collected by the department for verification of credential records are confidential. They may be made available only to the following:

A. School boards and superintendents; [PL 1981, c. 693, §§5, 8 (NEW).]

B. Authorized personnel of the department in fulfilling assigned duties; and [PL 1981, c. 693, §§5, 8 (NEW).]

C. Individuals and their representatives who request to examine their own records. [PL 1981, c. 693, §§5, 8 (NEW).]

[PL 2017, c. 235, §3 (AMD); PL 2017, c. 235, §41 (AFF).]

2-A. Confidentiality. The provisions of this subsection govern confidentiality.

A. Complaints and responses pursuant to section 13020 and any other information or materials that may result in an action to deny, revoke or suspend a credential are confidential, except when submitted in court proceedings to revoke or suspend a credential. [PL 2017, c. 235, §3 (AMD); PL 2017, c. 235, §41 (AFF).]

B. Except for information designated confidential under section 6101 or section 6103, information designated confidential under paragraph A may be released or used by the department as necessary to:

(1) Complete its own investigations;

(2) Provide information to a national association of state directors of teacher education and certification to which the State belongs;

(3) Assist other public authorities to investigate an individual's credential in another jurisdiction;

(4) Report or prevent criminal misconduct or assist law enforcement agencies in their investigations; or

(5) Report child abuse or neglect under Title 22, section 4011-A. [PL 2017, c. 235, §3 (AMD); PL 2017, c. 235, §41 (AFF).]

C. The department may publish and release as public information statistical summaries of complaints and dispositions as long as the release of such information does not jeopardize the confidentiality of individually identifiable information. [PL 2009, c. 331, §1 (NEW).]

D. Notwithstanding paragraph A, the following information concerning final written decisions relating to disciplinary action taken by the commissioner against a person holding a credential is a public record:

(1) The name of the person;

(2) The type of action taken, consisting of denial, revocation, suspension, surrender or reinstatement;

(3) The grounds for the action taken;

(4) The relevant dates of the action;

(5) The type of credential and endorsements held, including relevant dates;

(6) The schools where the person was or is employed; and

(7) The dates of employment. [PL 2017, c. 235, §3 (AMD); PL 2017, c. 235, §41 (AFF).]
[PL 2017, c. 235, §3 (AMD); PL 2017, c. 235, §41 (AFF).]

2-B. Addresses of credential holders and applicants. Home addresses held by the department of individuals with credentials or applicants for credentials in the State may be made available in response to the following:

A. Formal request from a commissioner or chief executive officer of other state agencies, including the judicial branch when access to that information may be necessary in carrying out an official function; and [PL 1987, c. 395, Pt. A, §86 (NEW).]

B. Formal request by majority vote of any joint standing committee of the Legislature when access to that information may be necessary in carrying out an official function. [PL 1987, c. 395, Pt. A, §86 (NEW).]

The use of these addresses by any other agency or department of government to which they may be furnished is limited to the purposes for which they are furnished and by the law under which they may be furnished. It is unlawful for any person to solicit, disclose, receive, make use of or authorize, knowingly permit, participate in or acquiesce in the use of, any list of or names of, or any information concerning, persons applying for or receiving assistance, directly or indirectly, derived from the records, papers, files or communications of the State or subdivisions or agencies, or acquired in the course of the performance of official duties. Any person violating this subsection must be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both. [PL 2017, c. 235, §3 (AMD); PL 2017, c. 235, §41 (AFF).]

3. Duplication costs. Individuals requesting copies of their records bear the costs of copying them. [PL 2017, c. 235, §3 (AMD); PL 2017, c. 235, §41 (AFF).]

4. Rules.

[PL 2017, c. 235, §3 (RP); PL 2017, c. 235, §41 (AFF).]

SECTION HISTORY

PL 1981, c. 693, §§5,8 (NEW). PL 1983, c. 470, §11 (AMD). PL 1983, c. 806, §92 (AMD). PL 1987, c. 395, §A86 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2007, c. 666, §1 (AMD). PL 2009, c. 331, §1 (AMD). PL 2009, c. 567, §10 (AMD). PL 2017, c. 235, §3 (AMD). PL 2017, c. 235, §41 (AFF).

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§4706. Records confidential

1. Confidential information. Records containing the following information are deemed confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. Any information acquired by an authority or a member, officer, employee or agent of an authority from applicants for residential tenancy in housing owned, financed, assisted or managed by an authority or from any residential tenants of such housing or from any 3rd person pertaining to any applicant for tenancy or to any tenant of such housing; [PL 1993, c. 175, §1 (AMD).]

B. Any written or recorded financial statement, as determined by an authority, of an individual submitted to an authority or a member, officer, employee or agent of an authority, in connection with an application for, or receipt of, a grant, mortgage or mortgage insurance; [PL 2007, c. 562, §1 (AMD).]

C. Any information acquired by the Maine State Housing Authority or a state public body, private corporation, copartnership, association, fuel vendor, private contractor or individual, or an employee, officer or agent of any of those persons or entities, providing services related to weatherization, energy conservation, homeless assistance or fuel assistance programs of the Maine State Housing Authority, when that information was provided by the applicant for, or recipient of, those services or by a 3rd person; [PL 2007, c. 562, §2 (AMD).]

D. Any statements of financial condition or information pertaining to financial condition submitted to any of the persons or entities set forth in paragraph C in connection with an application for services related to weatherization, energy conservation, homeless assistance or fuel assistance programs of the Maine State Housing Authority; and [PL 2007, c. 562, §3 (AMD).]

E. The address of a shelter or other living accommodations for victims of domestic violence. [PL 2007, c. 562, §4 (NEW).]
[PL 2007, c. 562, §§1-4 (AMD).]

2. Wrongful disclosure prohibited. No member, officer, employee or agent of an authority may knowingly divulge or disclose information declared confidential by this section, except that:

A. An authority may make such full and complete reports concerning administration of its programs as required by the Federal Government, any agency or department of the Federal Government, or the Legislature; [PL 1993, c. 175, §3 (AMD).]

B. An authority may publish statistics or other information of a general nature drawn from information declared confidential by this section, provided that the publication is accomplished in a manner which preserves confidentiality; [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).]

C. An authority may comply with a subpoena, request for production of documents, warrant or court order that appears on its face to have been issued or made upon lawful authority; [PL 1993, c. 175, §3 (AMD).]

D. In any litigation or proceeding in which an authority is a party, the authority may introduce evidence based on any information that is deemed confidential and is within the control or custody of the authority; [PL 2019, c. 313, §1 (AMD).]

E. Any person or agency directly involved in the administration or auditing of weatherization, energy conservation or fuel assistance programs of the Maine State Housing Authority and any agency of the State with a legitimate reason to know must be given access to those records described in subsection 1, paragraphs C and D; and [PL 2019, c. 313, §2 (AMD).]

F. The Maine State Housing Authority may provide records to the Efficiency Maine Trust pursuant to Title 35-A, section 10104, subsection 4, paragraph A, subparagraph (2). [PL 2019, c. 313, §3 (NEW).]

[PL 2019, c. 313, §§1-3 (AMD).]

3. Waiver. This section shall not be construed to limit in any way the right of any person whose interest is protected by this section to waive, in writing or otherwise, the benefits of that protection. [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).]

4. Penalty. A member, officer, employee or agent of an authority who violates subsection 2 commits a civil violation for which a forfeiture of not more than \$200 may be adjudged against the member, officer, employee or agent of an authority for each violation. For the purpose of applying penalties under this subsection, a separate violation is deemed to have occurred with respect to each separate act of disclosure.

[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).]

5. Confidentiality of personnel records. The following records are confidential and not open to public inspection:

A. Except as otherwise 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 authority for use in the examination or evaluation of applicants for employment by the authority.

(1) Applications, resumes and letters and notes of reference pertaining to the applicant hired, other than those letters and notes of reference expressly submitted in confidence, 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; [PL 2017, c. 234, §8 (NEW).]

B. Authority 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 the 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; 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, saving plans, pension plans, health insurance and life insurance;
- (g) Religion;
- (h) Sex, sexual orientation or gender identity; or
- (i) Social security number; and [PL 2021, c. 366, §31 (AMD).]

C. Other information to which access by the general public is prohibited by law. [PL 2017, c. 234, §8 (NEW).]
[PL 2021, c. 366, §31 (AMD).]

6. Employee right to review. On written request from an employee or former employee, the authority shall provide the employee, former employee or the employee's authorized representative with an opportunity to review the employee's personnel file, if the authority has a personnel file for that employee. The review must 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 that the authority may possess. The records described in subsection 5, paragraph B may also be examined by the employee to whom the records relate, as provided in this subsection.
[PL 2017, c. 234, §8 (NEW).]

7. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, subsection 5 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 2017, c. 234, §8 (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 1993, c. 175, §§1-4 (AMD). PL 2007, c. 562, §§1-4 (AMD). PL 2017, c. 234, §8 (AMD). PL 2019, c. 313, §§1-3 (AMD). PL 2021, c. 366, §31 (AMD).

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§114. Utility personnel records

1. Confidential. The following records of public utilities are confidential and, except as otherwise provided in subsection 3, are excluded from the books, accounts, papers, records, memoranda, documents and information otherwise available to the commission under this Title and may not be open to public inspection:

A. Materials prepared for and used specifically in the examination or evaluation of applicants for positions with a public utility, including working papers, research materials, records and examinations; [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. Records 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;
- (3) Information pertaining to the credit worthiness of a named employee;
- (4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family; or
- (5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations or any other information or materials that may result in disciplinary action; or [PL 1987, c. 141, Pt. A, §6 (NEW).]

C. Other information to which access by the general public is prohibited by law. [PL 1987, c. 141, Pt. A, §6 (NEW).]

[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Compliance. Failure or refusal by any public utility or any officer, agent or attorney of any public utility to comply with any order, data request or subpoena calling for the production of those records other than an order issued pursuant to subsection 3, shall not serve as the basis for any civil or criminal fine, penalty or forfeiture.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

3. In camera inspection. Upon request by the commission staff, the Public Advocate or intervenor in a matter before the commission or upon the commission's own motion and for good cause shown, the commission may order a public utility to produce for in camera inspection by the commission or hearing examiner the records designated confidential under subsection 1. The employee whose records are the subject of such a request shall be notified by the commission of the request and shall be given the opportunity to be heard before an order to produce is issued. If the commission or hearing examiner determines after in camera inspection that a record is reasonably relevant to the matter before it and that production of the record is not unjust or unlawful and that the materiality of the record outweighs any harm to the employee from its disclosure, the commission or hearing examiner may order that the record be made a part of the discovery or evident aspects of the proceedings, subject to the terms and conditions that are just, due consideration being given to the privacy interests of the employee involved. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

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