

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

Monday, November 17, 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 of responses received from stakeholders regarding request for comment
 - i. Maine State Police policy on employee misconduct investigations
 - ii. Uniform definitions of terms
 - iii. Addressing misconduct (credentialing vs. employment)
3. Recommendations
4. Adjourn

Public Employee Disciplinary Records Subcommittee
Request for Written Comment

Sent Friday, November 7, 2025

Good afternoon _____,

I am writing on behalf of the Right to Know Advisory Committee, an on-going advisory council, created by [Public Law 2005, chapter 631](#), with oversight authority and responsibility for a broad range of activities associated with the purposes and principles underlying Maine's Freedom of Access laws. The Right to Know Advisory Committee was created to serve as a resource and advisor about Maine's Freedom of Access laws and may make recommendations for changes in statutes to improve public access to records and proceedings and to maintain the integrity of the Freedom of Access laws. Each year, the Committee assembles a select group of subcommittees dedicated to further examination of topics requested of the Advisory Committee for consideration.

This year, the Right to Know Advisory Committee has reconvened a subcommittee dedicated to further exploration of issues related to public access to disciplinary records of public employees. As part of its work this interim, the subcommittee has asked me to contact the [\[name of organization\]](#) to see if you would be willing to share your perspective and the perspective of the public employees your organization serves on the following topics presented for consideration this year.

REQUESTED PERSPECTIVE

At the subcommittee's November 6, 2025 meeting ([recording here](#)), members heard from a representative of the Maine State Police to learn about the Maine State Police's Office of Professional Standards policy requiring the completion of any misconduct investigation of an employee to the point of completion, even if an employee who is the subject of the investigation has departed from their employment with the Maine State Police prior to the conclusion of the investigation (such as a resignation or a retirement).

QUESTION 1: From the perspective of your organization and the public employees your organization represents, please share some thoughts about this policy. How would your organization or its members feel about a policy requiring the completion of any misconduct investigations of the employees that your organization represents even if an employee who is the subject of the investigation has left their position?

QUESTION 2: From the perspective of your organization and the public employees your organization represents, would it be beneficial for state law to establish uniform definitions for the following terms: "discipline," "suspension," and "final agency action?"

QUESTION 3: From the perspective of your organization and the public employees your organization represents, is employee misconduct best handled through credentialing regulations (e.g., a governing body issuing a suspension of an employee's certification after findings of misconduct) or between an employee and their direct supervisor(s)?

If your organization may be willing to provide any written comments or feedback in response to these questions, please submit any written comments via email to Advisory Committee staff at XXXX@legislature.maine.gov by **Friday, November 14, 2025 at 5:00PM**. If you have any questions, please do not hesitate to contact Advisory Committee staff via email or call 207-287-1670.

Thank you for your time and consideration of this request.

Public Employee Disciplinary Records Subcommittee
Compilation of Written Responses

Response Received from the Maine School Management Association (p. 1 of 2)
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QUESTION 1: From the perspective of your organization and the public employees your organization represents, please share some thoughts about this policy. How would your organization or its members feel about a policy requiring the completion of any misconduct investigations of the employees that your organization represents even if an employee who is the subject of the investigation has left their position?

The Maine School Management Association appreciates the intent of the Maine State Police policy and its desire for accountability and transparency throughout the hiring process. However, we believe that it could pose some unique challenges for schools.

While schools are fully supportive of any effort to prevent employee misconduct and protect students, districts face significant challenges in ensuring a comprehensive, fair investigation in situations when an employee resigns before an investigation has begun or is completed. First, a district cannot force an employee who has left the district to comply with an investigation and respond to questions or requests for information. Districts also do not have any power in these situations to discipline a former employee for not cooperating. This could result in a due process issue, with a district ultimately completing an investigation without being able to be truly fair to all sides.

With the district having little authority in these situations, we believe that these kinds of misconduct investigations may be best completed at the state level. Currently, we feel that 20-A MRSA §13025 contemplates these challenges and largely addresses these issues. It requires that 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 DOE must notify school districts of any investigations that it takes up, and, if receiving a notice of a covered investigation by a local school district, “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.”

We believe that for the vast majority of cases, this process, if appropriately followed, will provide enough safeguards against any employee misconduct. However, we would advocate for two solutions that we believe would strengthen this process:

- We understand, based on Sen. Rotundo’s letter, that in some situations (such as if a credential holder leaves before an investigation begins), this process may not be sufficient. We suggest that the legislature could amend §13025 to instead require a school entity to notify the department immediately if a credential holder **who is facing allegations that could be subject of a**

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Response Received from the Maine School Management Association (p. 1 of 2)
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covered investigation leaves the school entity’s employment for any reason prior to the conclusion of the covered investigation. This would ensure that in any case of potential misconduct – even if an investigation had not yet begun before an employee left the district – the department would be notified.

- In addition, many districts already include a question on their hiring forms asking if a potential employee has ever resigned over allegations and/or an investigation over misconduct from a previous employer. An example from one school district reads: *“Have you ever failed to be rehired, been asked to resign a position, resigned to avoid termination or investigation, or been terminated from employment? If yes, explain.”*

We believe that including this language (or language similar to it) universally on hiring forms would provide another level of safeguard. As an association, MSMA would be happy to work with your committee to ensure all districts adopt such language on their hiring forms.

We believe that these two steps would protect students, ensure accountability, and strengthen the investigation process outlined in Maine statute.

QUESTION 2: From the perspective of your organization and the public employees your organization represents, would it be beneficial for state law to establish uniform definitions for the following terms: “discipline,” “suspension,” and “final agency action?”

Our only concern regarding this question would be how “discipline” would be defined in state law. In many local collective bargaining agreements, “discipline” is defined in a particular manner, and a definition in state law contradictory to that could create ambiguity and confusion in particular districts.

QUESTION 3: From the perspective of your organization and the public employees your organization represents, is employee misconduct best handled through credentialing regulations (e.g., a governing body issuing a suspension of an employee’s certification after findings of misconduct) or between an employee and their direct supervisor(s)?

We believe that for the overwhelming majority of disciplinary issues, discipline is best handled at the local level. One example would be tardiness: if an employee is repeatedly late to work, this kind of situation is clearly best handled at the local district level, instead of through credentialing regulations. Collective bargaining agreements contemplate these types of cases and what discipline should be administered.

However, we fully believe that if an issue involves allegations of severe employee misconduct (such as those described in 20-A MRSA §13025), it is clearly serious enough that other potential employers should be aware, and the Maine Department of Education should be looking at whether the credential holder maintains their certification. We think the investigation process outlined in §13025 largely ensures that the state is made aware of such situations, and we offer suggestions to strengthen that process in our response to Question 1.

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Response Received from the Maine Municipal Association (p. 1 of 1)
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Thank you so much for the opportunity to provide MMA's perspective and the data requested by the subcommittee to make informed policy decisions.

MMA is happy to collaborate on a survey to our members to get their perspective. However, the short timeline indicated with this request would make it difficult to get the type of qualitative data needed for the broad perspective questions being asked.

Since this data is part of the committee's ongoing work efforts, it would be ideal if our Legislative Policy Committee could weigh in on this request during their next scheduled meeting on January 15, 2026. If that timeline doesn't work for the committee, we're happy to work with you to come up with some sort of compromise that can fit the needs of the committee and the provide the desired qualitative results.

Thank you again for reaching out with your request.

Summary of 2025 Topics Considered**Nineteenth Annual Report Recommendations Related to Public Employee Disciplinary Records**

Recommendation 1: *Request that the State Archivist convene a working group with stakeholders to make recommendations regarding a tiered system of retention for public employee disciplinary records.*

Status: The 2025 subcommittee reviewed the report of the working group and received additional information.

Recommendation 2: *Request that the Criminal Law Advisory Commission provide guidance related to records that could be used to impeach a witness in a criminal case (so-called “Brady/Giglio” materials).*

Status: The subcommittee discussed this request and expressed an interest in further examination of this topic next year.

Recommendation 3: *Review provisions of law relating to state, county and municipal employee personnel records and consider whether establishing consistency among provisions is appropriate.*

Status: The subcommittee expressed an interest in further discussion on this topic received additional information.

Requests for Consideration❖ **Letter from the Joint Standing Committee on the Judiciary re: LD 1484**

On June 18, 2025, the Joint Standing Committee on the Judiciary submitted a letter to the Right to Know Advisory Committee respectfully requesting that the Committee examine issues related to FOAA that were brought to the Committee’s attention through several items of proposed legislation this year. Given the complex and competing considerations presented to the Judiciary Committee in its consideration of LD 1484, *An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees*, the Judiciary Committee voted that LD 1484 ought not to pass and requested that the Advisory Committee consider the bill’s proposal as it continues to examine the issues surrounding public access to public employee disciplinary records this year.

❖ **Letter from Senator Rotundo re: sexual misconduct investigations of educators**

On September 25, 2025, Senator Rotundo submitted a letter to the Right to Know Advisory Committee requesting further consideration of how educators and schools share information about educator investigations related to sexual misconduct, including investigations that are never completed.

Invited Presenters and Requests for Comment

The subcommittee heard from four presenters at the November 6, 2025 meeting, including:

Presenter	Topic
Christian Cotz, Maine State Archivist	Retention and access to public employee disciplinary records, working group discussion
Lt. Col. Brian Scott, Maine State Police	Maine State Police policy on concluding employee misconduct investigations, including after a departure from employment
Courtney Belolan, Maine Department of Education	Maine Department of Education processes related to 20-A MRSA §13025
Michael Perry, Maine Department of Education	Maine Department of Education processes related to 20-A MRSA §13025

At the November 6, 2025 meeting, the subcommittee initiated a request for written comment from the following stakeholders on topics related to public employee misconduct investigations, uniformity in the definition of terms used, and how misconduct is addressed (credentialing vs. employment).

Stakeholders		
Maine Municipal Association	Maine Chiefs of Police Association	Maine Education Association
Maine County Commissioners Association	Maine Sheriffs Association	Maine School Management Association
Maine Service Employees Association		