

Right to Know Advisory Committee

Wednesday, November 19, 2025

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RIGHT TO KNOW ADVISORY COMMITTEE

Wednesday, November 19, 2025
1 pm

Location: State House, Room 228 (Hybrid Meeting)
Public access also available through the Maine Legislature's livestream:
<https://legislature.maine.gov/Audio/#228>

1. Introductions
2. Subcommittee reports
3. Presentation: AI Task Force (*Governor's Office of Policy Innovation and the Future*)
4. Follow up discussion: executive sessions
5. Follow up discussion: juvenile records
6. Discussion: access to DHHS proceedings
7. Public Comment
8. Discussion: Report recommendations
9. Adjourn

§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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STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 1297 - L.D. 1820

An Act To Amend the Laws Governing Investigations by School Entities into Holders of Credentials**Be it enacted by the People of the State of Maine as follows:**

Sec. 1. 20-A MRSA §13025, as repealed and replaced by PL 2017, c. 477, §1, is amended to read:

§13025. Investigations

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

A. ~~"Boundaries" means the physical, emotional and social structures that ensure that interactions with a student have a legitimate academic purpose.~~

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, ~~violating boundaries~~, inappropriate contact between a credential holder and a student, stalking, or similar behavior that ~~may endanger~~ endangers the health, safety or welfare of a student.

C. "School entity" means an approved private school, school administrative unit, public charter school, school management and leadership center, school in the unorganized territory or school operated by the State.

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.

3. Duties of school entities. A school entity shall notify the department ~~within 15 business days of the~~ immediately if a credential holder who is the subject of a covered investigation leaves the school entity's initiating a employment for any reason prior to the conclusion of the covered investigation. ~~The~~ A school entity shall notify the department

~~immediately if the a credential holder is put on administrative leave disciplined, suspended or terminated as part a result of a covered investigation in which the school entity determined that a student's health, safety or welfare was endangered. The notification must include the matter being investigated. Within 5 business days after completion of a covered investigation, the school entity shall notify the department in writing of the final outcome of the investigation, including, but not limited to, any actions taken, and 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.~~

4. Duties of department. The department shall ~~notify school entities~~ 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.

B. Immediately upon receipt from a school entity of notification pursuant to subsection 3 of ~~a covered investigation or administrative leave~~ 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 ~~is being investigated or has been placed on administrative leave~~ was disciplined, suspended or terminated as part of a result of a covered investigation, or that the credential holder left employment prior to completion of a covered investigation. ~~The department shall notify the superintendent or chief administrative officer of each school entity for which the credential holder works of the final outcome of the covered investigation, including, but not limited to, any actions taken and any final report produced, upon receipt of that information from the investigating school entity~~ 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.

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.

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 ~~in accordance with rules adopted by the department pursuant to subsection 6.~~

6. Rules. ~~The commissioner shall adopt rules as necessary to carry out this section. In adopting rules, the commissioner shall identify the types of conduct of which a school entity must notify the department under subsection 3 and shall develop procedures for school entities to ensure the confidentiality of information received pursuant to subsection 5. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.~~

Sec. 2. Work group; report. The Department of Education shall convene a work group of stakeholders, including but not limited to the Maine School Management Association, the Maine Education Association and the Office of the Attorney General, to study and report to the Joint Standing Committee on Education and Cultural Affairs, no later than February 1, 2020 on recommendations and suggested legislation to improve the law regarding investigations into educator credential holders. The Joint Standing Committee on Education and Cultural Affairs may report out a bill to the Second Regular Session of the 129th Legislature on the subject matter of the report.



Date: January 8, 2020

Source of Report: LD 1820 An Act Amending the Laws Governing Investigations by School Entities into Holders of Certificates

Topic: Improve the Law Regarding Investigations

Context

LD 1820, An Act Amending the Laws Governing Investigations by School Entities into Holders of Certificates, was passed by the Legislature in 2019 and directed the Department of Education to convene a work group of stakeholders and their counsel to study the legislation and make recommendations for improving it.

Actions

The Department convened the following work group of stakeholders on December 16, 2019:

Pender Makin	Commissioner, Department of Education
Dan Chutha	Deputy Commissioner, Department of Education
Sarah Forster	Assistant Attorney General
Jill Adams	Executive Director, Maine Administrators of Services for Children with Disabilities
Grace Leavitt	President, Maine Education Association
Paula Voelker	Executive Director, Maine Education Association
Andrew Mason	General Counsel, Maine Education Association
Holly Couturier	Maine Principals' Association
Steve Bailey	Executive Director, Maine School Management Association and Maine School Boards Association
Eileen King	Deputy Executive Director, Maine School Management Association
Peter Felmly	Attorney, Drummond Woodsum
Karen Kusiak	Maine Department of Education
Jessica Nixon	Maine Department of Education

Findings

Members of the work group had studied Title 20-A §13025 prior to the convening of the group and were prepared to discuss recommendations. The following language changes reflect the discussion of the work group and are offered as suggestions for improving the Investigations law.

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

A. [Repealed, 2019]

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.

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.

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.

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, or upon, completing 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.

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~~ immediately 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.

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.

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 completely reversed upon appeal at the school entity level.

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.

Contact:

Karen Kusiak
Director of Legislative Affairs
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Jessica Nixon
Chief of Staff
Jessica.Nixon@maine.gov

**DRAFT Legislation Proposed by Public Employee Disciplinary Records Subcommittee
Right to Know Advisory Committee
November 2025**

Sec. 1. 20-A MRSA §13025, sub-§3 is amended to read:

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 or if a credential holder that is alleged to have engaged in misconduct that may lead to a covered investigation leaves the school entity's employment for any reason. 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.

Sec. 2. 20-A MRSA §13025, sub-§4, ¶B is amended to read:

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,~~ or the leaving of employment by a credential holder that is alleged to have engaged in misconduct that may lead to a covered investigation, 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.

SUMMARY

This draft amends the laws related to investigations of credentialed educators to clarify that a school is required to notify the Department of Education if a credential holder that is alleged to have engaged in misconduct that could lead to an investigation leaves the school entity's employment for any reason.

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

Sec. 1. 1 MRSA §405, sub-§6, ¶A, as amended by PL 2009, c. 240, §2, is further amended by amending subparagraph (1) to read:

- (1) An executive session may be held only on a matter under subsection 7 or if public discussion could be reasonably expected to cause damage to the individual's reputation or the individual's right to privacy would be violated;

Sec. 2. 1 MRSA §405, sub-§7 is enacted to read:

7. Violation of confidentiality of executive session matter. A member of a body or agency falling within this subchapter or any other person attending an executive session may not disclose a matter, including discussion, underlying facts or information regarding the matter discussed in the executive session under subsection 4 without the approval of a recorded vote of 3/5 of the members present and voting. If an allegation of a violation of confidentiality under this subsection or otherwise unauthorized disclosure of a matter discussed in an executive session is made, the body or agency may conduct the following procedure:

A. By recorded vote of a majority of the members present and voting, initiate an investigation of the allegation;

B. Form an ethics committee composed of members to conduct the investigation, the underlying facts, discussion and findings of which are confidential;

C. Conduct a hearing to adjudicate the allegation, which must be held in executive session pursuant to subsection 6, paragraph A; and

D. If, by a preponderance of the evidence at the hearing under paragraph C, the body or agency determines that a member or other person present at an executive session violated the confidentiality provision of this subsection, prohibit, by a recorded vote of 2/3 of the members present and voting, the member or other person found in violation of this subsection from:

(1) Participating in a future executive session;

(2) Having access to confidential information;

(3) Having access to information or attending an executive session regarding a specific matter in which the body or agency determines that the member or other person has a conflict of interest; or

(4) If the violation was committed by a member of the body or agency, participating in any subsequent vote related to a matter discussed at an executive session at which the member was prohibited from attending under subparagraph (1).

A prohibition under this paragraph may be for a definite or indefinite period.

The member or other person prohibited from attending an executive session or having access to information under this paragraph may appeal the decision to the body or agency immediately after the decision is made and every 30 days thereafter.

A decision made by the body or agency under this paragraph may be appealed to the Superior Court.

A decision by the body or agency under this paragraph may be rescinded by a recorded vote of 2/3 of the members present and voting or upon the expiration of the terms of 2/3 of the members who participated in the vote under this paragraph.

Sec. 3. 1 MRSA §405, sub-§8 is enacted to read:

8. Permitted disclosures of executive session matters. Notwithstanding subsection 7, a member of a body or agency or a person present at an executive session of a body or agency falling within this subchapter may disclose a matter, including discussion, underlying facts or information regarding the matter discussed in an executive session under subsection 4 if disclosure constitutes a report made pursuant to Title 26, section 833 or a complaint made to the Maine Human Rights Commission under Title 5, section 4612. A member of a body or agency or a person present at an executive session may also disclose a matter if the matter is unlawfully discussed in executive session in violation of subsection 5.

DRAFT

Senator Anne Carney, Chair
Representative Rachel Henderson
Amy Beveridge
Jonathan Bolton
Hon. Justin Chenette
Lynda Clancy
Julie Finn
Betsy Fitzgerald



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

STATE OF MAINE

RIGHT TO KNOW ADVISORY COMMITTEE

November 6, 2025

Chief Michael Tracy, Ret., Executive Director
Maine Chiefs of Police Association
PO Box 264
Oakland, ME 04963

Dear Chief Tracy,

I am writing on behalf of the Right to Know Advisory Committee (RTKAC), 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 Act (FOAA) laws. Each year, the Committee considers recommendations for changes in statutes to improve the laws with regard to best practices in providing the public access to records and proceedings and to maintain the integrity of the Freedom of Access laws.

At the Right to Know Advisory Committee's most recent meeting on October 29, 2025, the Committee reviewed a request to consider changes to the FOAA training requirements in statute as they apply to certain law enforcement officers. The concern raised for the Committee's consideration was regarding discrepancies in interpretation of whether or not Chiefs of Police are subject to the statutory training requirements in 1 MRSA §412 since they are not explicitly enumerated in the list of officers subject to FOAA training in 1 MRSA §412, sub-§4. The Committee found that county law enforcement officers, specifically sheriffs, are explicitly enumerated in the list of officials in subsection 4 who are required to be trained on Maine's Freedom of Access Act.

In response to this request for consideration, the Committee also reviewed 25 MRSA §2803-B, ¶M which governs specifically freedom of access requests of law enforcement agencies. The statute reads as follows:

M. Freedom of access requests. The chief administrative officer of a municipal, county or state law enforcement agency shall certify to the board annually that the agency has adopted a written policy regarding procedures to deal with a freedom of access request and that the chief administrative officer has designated a person who is trained to respond to a request received by the agency pursuant to Title 1, chapter 13;

The Committee observed that the language in 25 MRSA §2803-B, ¶M also does not explicitly require Chiefs of Police to be trained in the FOAA pursuant to Title 1, chapter 13.

In response to this concern, the Committee is considering whether adding a provision to 1 MRSA §412, sub-§4 explicitly requiring Chiefs of Police to complete the FOAA training would be appropriate. The Committee is hoping to receive the Association's input on this matter and any feedback the Association may be able to offer regarding the impact that such a statutory change would have on the operations and requirements of municipal law enforcement agencies.

If the Maine Chiefs of Police Association would be interested in providing comments for the Committee's consideration on this matter either in-person or remotely, the Right to Know Advisory Committee will be holding its next meeting on Wednesday, November 19, 2025 at 1:00PM. If you may prefer to provide written comments for the Committee's consideration, written comments can be submitted to the Committee's analyst Sam Senft (Samuel.Senft@legislature.maine.gov) anytime in advance of the November 19, 2025 meeting.

Thank you for your time and consideration of the Committee's request.

Sincerely,

A handwritten signature in cursive script, reading "Anne Carney", followed by a small circular mark.

Sen. Anne Carney
Chair, Right to Know Advisory Committee

cc: Members, Right to Know Advisory Committee

Enclosures (2)

Senator Anne Carney, Chair
Representative Rachel Henderson
Amy Beveridge
Jonathan Bolton
Hon. Justin Chenette
Lynda Clancy
Julie Finn
Betsy Fitzgerald



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

STATE OF MAINE

RIGHT TO KNOW ADVISORY COMMITTEE

XX XX, 2025

Lauren Haven
Maine County Commissioners Association
4 Gabriel Drive, Suite 2
Augusta, Maine 04330
Via email: lauren.haven@mainecounties.org

Dear Lauren Haven:

Over the past several years, the Right to Know Advisory Committee (RTKAC) has considered the challenges of burdensome Freedom of Access Act (FOAA) requests. This year RTKAC formed a subcommittee on technology to explore how technology interacts with the FOAA. The Technology subcommittee became specifically interested in exploring how technology may assist state agencies, counties, municipalities and school districts fulfill FOAA requests. Simultaneously, the Burdensome FOAA Requests subcommittee was also interested if technology can reduce the burden on public access officers. As such, the Technology subcommittee dedicated its second meeting on October 27, 2025 to begin gathering information.

Given our subcommittees' time constraints, we were unable to reach you during this interim to learn more about the processes at the county level. The subcommittees, however, remain interested in gathering information on how counties use technology to fulfill FOAA requests. To better understand which technologies are available to counties, as well as which technologies are used to respond to FOAA requests, the Technology subcommittee and the Burdensome Requests subcommittee request that the Maine County Commissioners Association distribute a survey to its members. The goal of the survey is to use the information collected as a springboard for the 21st RTKAC to further explore how technology may assist counties in fulfilling FOAA requests.

The subcommittees request the Maine County Commissioners Association return, by July 1, 2026, your member organizations' responses to the following questions. **Please note that information provided to the subcommittees in response to this survey will be distributed to all Right to Know Advisory Committee members and is public information.**

Requested Information

1. Detail the technology currently used by the county to retain records and/or respond to FOAA requests. Please include the technologies, referencing specific software/platforms/applications (e.g., Microsoft 365, Google Vault, etc.) used for: 1) retaining records; 2) searching for records; 3) reviewing records; and 4) distributing records.
 - a. Who determines the technology used in the county? What factors contribute to the decision-making process?
 - b. How much does this technology cost?
2. Describe the ways in which the county uses that technology to fulfill FOAA requests. Elaborate on the technology used, when it is used, and who uses it (i.e., is this person trained in the FOAA process?). If technology is not used to fulfill FOAA requests, describe the factors that contributed to the decision not to use technology for fulfilling FOAA requests and how FOAA requests are currently fulfilled.
3. Detail any challenges, potential or realized, with using technology to respond to FOAA requests. Does technology impede or help the response times and/or burden on the county to respond to FOAA requests? Please explain how the use of technology increases or reduces burden on the county.
4. Describe how the county uses AI to help fulfill FOAA requests, specifically referring the application used (e.g., Microsoft Copilot, ChatGPT, etc.). If AI is used in any capacity in the county, please consider sharing the county's AI policy and any benefits and challenges with the use of AI thus far.
5. Determine whether a list of best practices would be helpful for the county to determine more efficient ways to fulfill FOAA requests, including through the use of technology.

Thank you for your attention to this matter. You may provide your responses by email to XX.XX@legislature.maine.gov or via mail to:

Right to Know Advisory Committee
c/o Office of Policy and Legal Analysis
13 State House Station Cross Office Building,
Room 215 Augusta, Maine 04333-0013

If you have any questions or concerns about our request, please do not hesitate to reach out to Advisory Committee staff, XX or XX, at (207) 287-1670.

Senator Anne Carney, Chair
Representative Rachel Henderson
Amy Beveridge
Jonathan Bolton
Hon. Justin Chenette
Lynda Clancy
Julie Finn
Betsy Fitzgerald



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

STATE OF MAINE

RIGHT TO KNOW ADVISORY COMMITTEE

XX XX, 2025

Rebecca Lambert
Maine Municipal Association
60 Community Drive
Augusta, Maine 04330
Via email: RLambert@memun.org

Dear Rebecca Lambert:

Over the past several years, the Right to Know Advisory Committee (RTKAC) has considered the challenges of burdensome Freedom of Access Act (FOAA) requests. This year RTKAC formed a subcommittee on technology to explore how technology interacts with the FOAA. The Technology subcommittee became specifically interested in exploring how technology may assist state agencies, counties, municipalities and schools fulfill FOAA requests. Simultaneously, the Burdensome FOAA Requests subcommittee was also interested if technology can reduce the burden on public access officers. As such, the Technology subcommittee invited you to present at the subcommittee's second meeting on October 27, 2025. We appreciated your input at that meeting.

Joined by a delegation of members from the Burdensome Requests subcommittee, subcommittee members received a memo and brief presentation from you regarding how municipalities use technology to fulfill FOAA requests. The subcommittees recognize you were not able to gather information from a representative sample of municipalities given our time limitations; however, the memo with initial information from select municipalities made it clear to subcommittee members that there is significant variability in the technologies used in municipalities.

To better understand which technologies are available to municipalities, as well as which technologies are used to respond to FOAA requests, the Technology subcommittee and the Burdensome Requests subcommittee request that the Maine Municipal Association distribute a survey to its members to collect information on the technology used by municipalities when responding to FOAA requests. The goal of the survey is to use the information collected as a springboard for the 21st RTKAC to further explore how technology may assist municipalities in fulfilling FOAA requests.

The subcommittees request Maine Municipal Association to return, by July 1, 2026, your member organizations' responses to the following questions. **Please note that information provided to the subcommittees in response to this survey will be distributed to all Right to Know Advisory Committee members and is public information.**

Requested Information

1. Detail the technology currently used by the municipality to retain records and/or respond to FOAA requests. Please include the technologies, referencing specific software/platforms/applications (e.g., Microsoft 365, Google Vault, etc.) used for: 1) record retention; 2) searching for records; 3) reviewing records; and 4) distributing records.
 - a. Who determines the technology used in the municipality? What factors contribute to the decision-making process?
 - b. How much does this technology cost?
2. Describe the ways in which the municipality uses that technology to fulfill FOAA requests. Elaborate on the technology used, when it is used, and who uses the technology (i.e., is this person trained in the FOAA process?). If technology is not used to fulfill FOAA requests, describe the factors that contributed to the decision not to use technology for fulfilling FOAA requests and how FOAA requests are currently fulfilled.
3. Detail any challenges, potential or realized, with using technology to respond to FOAA requests. Does technology impede or help the response times and/or burden on the municipality to respond to FOAA requests? Please explain how the use of technology increases or reduces burden on the municipality.
4. Describe how the municipality uses AI to help fulfill FOAA requests, specifically referring the application used (e.g., Microsoft Copilot, ChatGPT, etc). If AI is used in any capacity in the municipality, please consider sharing the municipality's AI policy and any benefits and challenges with the use of AI thus far.
5. Determine whether a list of best practices would be helpful for the municipality to determine more efficient ways to fulfill FOAA requests, including through the use of technology.

Thank you for your attention to this matter. You may provide your responses by email to XX.XX@legislature.maine.gov or via mail to:

Right to Know Advisory Committee
c/o Office of Policy and Legal Analysis
13 State House Station Cross Office Building,
Room 215 Augusta, Maine 04333-0013

If you have any questions or concerns about our request, please do not hesitate to reach out to Advisory Committee staff, XX or XX, at (207) 287-1670.

Senator Anne Carney, Chair
Representative Rachel Henderson
Amy Beveridge
Jonathan Bolton
Hon. Justin Chenette
Lynda Clancy
Julie Finn
Betsy Fitzgerald



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

STATE OF MAINE

RIGHT TO KNOW ADVISORY COMMITTEE

XX XX, 2025

Robbie Feinberg
Maine School Management Association
49 Community Drive
Augusta, ME 04330
Via email: RFeinberg@MSMAweb.com

Dear Robbie Feinberg:

Over the past several years, the Right to Know Advisory Committee (RTKAC) has considered the challenges of burdensome Freedom of Access Act (FOAA) requests. This year the RTKAC formed a subcommittee on technology to explore how technology interacts with the FOAA. The Technology subcommittee became specifically interested in exploring how technology may assist state agencies, counties, municipalities and school districts fulfill FOAA requests. Simultaneously, the Burdensome FOAA Requests subcommittee was also interested if technology can reduce the burden on public access officers. As such, the Technology subcommittee invited Justin Cary, an attorney at Drummond Woodsum who represents certain school districts, to present at the subcommittee's second meeting on October 27, 2025.

Joined by a delegation of members from the Burdensome Requests subcommittee, Mr. Cary provided an overview of the ways in which school districts utilize technology. Mr. Cary noted that many school districts in which Drummond Woodsum assists use Google services, like Google Vault which may help retrieve information for FOAA requests. In addition, Mr. Cary explained school districts have been experimenting with generative AI, using programs like MagicSchool AI, to help sift through information requested under FOAA. During this presentation, it became clear to subcommittee members that there is significant variability in the technologies used by school districts. This includes who is using technology at the school district to respond the requests. Specifically, the subcommittees learned district superintendents and technology directors, if the district has one, are primarily responsible for using technology to search for information related to the FOAA request.

To better understand which technologies are available to schools, as well as which technologies are used to respond to FOAA requests, the Technology subcommittee and the Burdensome Requests subcommittee requests that the Maine School Management Association, in collaboration with the Maine Educational Technology Directors Association, distribute a survey

Right to Know Advisory Committee

Draft Letter to MSMA - Revised 11/10/2025

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to its members to collect information on the technology used by school districts when responding to FOAA requests. The goal of the survey is to use the information collected as a springboard for the 21st RTKAC to further explore how technology may assist school districts in fulfilling FOAA requests.

The subcommittees request Maine School Management Association to return, by July 1, 2026, your member organizations' responses to the following questions. **Please note that information provided to the subcommittees in response to this survey will be distributed to all Right to Know Advisory Committee members and is public information.**

Requested Information

1. Detail the technology currently used by the school district to retain records and/or respond to FOAA requests. Please include the technologies, referencing specific software/platforms/applications (e.g., Microsoft 365, Google Vault, etc.) used for: 1) record retention; 2) searching for records; 3) reviewing records; and 4) distributing records.
 - a. Who determines the technology used in the school district? What factors contribute to the decision-making process?
 - b. How much does this technology cost?
2. Describe the ways in which the school district uses that technology to fulfill FOAA requests. Elaborate on the technology used, when it is used, and who uses the technology (i.e., is this person trained in the FOAA process?). If technology is not used to fulfill FOAA requests, describe the factors that contributed to the decision not to use technology for fulfilling FOAA requests and how FOAA requests are currently fulfilled.
3. Detail any challenges, potential or realized, with using technology to respond to FOAA requests. Does technology impede or help the response times and/or burden on the school district to respond to FOAA requests? Please explain how the use of technology increases or reduces burden on the school district.
4. Describe how the school district uses AI to help fulfill FOAA requests, specifically referring the application used (e.g., Microsoft Copilot, ChatGPT, MagicSchool, etc.). If AI is used in any capacity in the school district, please consider sharing the school district's AI policy and any benefits and challenges with the use of AI thus far.
5. Determine whether a list of best practices would be helpful for the school district to determine more efficient ways to fulfill FOAA requests, including through the use of technology.

Thank you for your attention to this matter. You may provide your responses by email to XX.XX@legislature.maine.gov or via mail to:

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If you have any questions or concerns about our request, please do not hesitate to reach out to Advisory Committee staff, XX or XX, at (207) 287-1670.

Requested Information on Clifford Orders

Clifford Order: whereby the Department of Health and Human Services is required to turn over its records to the Court in a civil or criminal proceeding.

- ❖ 22 MRSA §4008. Records; confidentiality; disclosure
- ❖ 2021 Memo from the Office of Child and Family Services to the Criminal Records Review Committee
- ❖ Defendant's Motion for Order Permitting Access to DHHS Records (22 MRSA §4008(3))
- ❖ Order Granting Defendant's Motion for Order Permitting Access to DHHS Records (22 MRSA §4008(3))

§4008. Records; confidentiality; disclosure

1. Confidentiality of records and information. All department records that contain personally identifying information and are created or obtained in connection with the department's child protective activities and activities related to a child while in the care or custody of the department, and all information contained in those records, are confidential and subject to release only under the conditions of subsections 2 and 3.

Within the department, the records are available only to and may be used only by appropriate departmental personnel and legal counsel for the department in carrying out their functions.

Any person who receives department records or information from the department may use the records or information only for the purposes for which that release was intended.

[PL 2007, c. 485, §1 (AMD); PL 2007, c. 485, §2 (AFF).]

1-A. Disclosure. The department may determine that for the purposes of disclosure under this section records are limited to only records created by the department in connection with its duties under this chapter.

[PL 2021, c. 176, §5 (NEW).]

2. Optional disclosure of records. The department may disclose relevant information in the records to the following persons:

A. An agency or person investigating or participating on a team investigating a report of child abuse or neglect when the investigation or participation is authorized by law or by an agreement with the department; [PL 1987, c. 511, Pt. B, §1 (RPR).]

A-1. A law enforcement agency, to the extent necessary for reporting, investigating and prosecuting an alleged crime, the victim of which is a department employee, an employee of the Attorney General's Office, an employee of any court or court system, a person mandated to report suspected abuse or neglect, a person who has made a report to the department, a person who has provided information to the department or an attorney, guardian ad litem, party, participant, witness or prospective witness in a child protection proceeding; [PL 2005, c. 300, §3 (NEW).]

A-2. An administrator of a social media service, to the extent authorized by a court for reporting, investigating or removing a threat or serious intimidation attempt directed against an employee of the department, an employee of the Attorney General's office, a guardian ad litem or an officer of any court or court system. The information remains confidential and the social media service may not redisclose any of the information provided by the department. For the purposes of this subsection, "social media service" means an electronic medium or service through which users create, share and view user-generated content; [PL 2021, c. 148, §1 (NEW).]

B. [PL 1983, c. 327, §3 (RP).]

C. A physician treating a child who the physician reasonably suspects may be abused or neglected; [RR 2021, c. 2, Pt. B, §181 (COR).]

D. A child named in a record who is reported to be abused or neglected, or the child's parent or custodian, or the subject of the report, with protection for identity of reporters and other persons when appropriate; [PL 1987, c. 744, §3 (AMD).]

D-1. A parent, custodian or caretaker of a child when the department believes the child may be at risk of harm from the person who is the subject of the records or information, with protection for identity of reporters and other persons when appropriate; [PL 2005, c. 300, §4 (NEW).]

D-2. [PL 2023, c. 151, §6 (RP).]

E. A person having the legal responsibility or authorization to evaluate, treat, educate, care for or supervise a child, parent or custodian who is the subject of a record, or a member of a panel

appointed by the department to review child deaths and serious injuries, or a member of the Domestic Abuse Homicide Review Panel established under Title 19-A, section 4115, subsection 4. This includes a member of a treatment team or group convened to plan for or treat a child or family that is the subject of a record. This may also include a member of a support team for foster parents, if that team has been reviewed and approved by the department; [PL 2021, c. 647, Pt. B, §50 (AMD); PL 2021, c. 647, Pt. B, §65 (AFF).]

E-1. [PL 2007, c. 371, §3 (RP).]

F. Any person engaged in bona fide research, provided that no personally identifying information is made available, unless it is essential to the researcher and the commissioner or the commissioner's designee gives prior approval. If the researcher desires to contact a subject of a record, the subject's consent shall be obtained by the department prior to the contact; [PL 1989, c. 270, §2 (RPR).]

G. Any agency or department involved in licensing or approving homes for, or the placement of, children or dependent adults, with protection for identity of reporters and other persons when appropriate; [PL 1989, c. 270, §3 (RPR).]

H. Persons and organizations pursuant to Title 5, section 9057, subsection 6, and pursuant to chapter 857; [PL 1989, c. 270, §4 (RPR); PL 1989, c. 502, Pt. A, §76 (RPR); PL 1989, c. 878, Pt. A, §62 (RPR).]

I. The representative designated to provide child welfare services by the tribe of an Indian child as defined by the federal Indian Child Welfare Act of 1978, 25 United States Code, Section 1903 or the Maine Indian Child Welfare Act, section 3943, subsections 8 and 10, or a representative designated to provide child welfare services by an Indian tribe of Canada; [PL 2023, c. 359, §7 (AMD).]

J. A person making a report of suspected abuse or neglect. The department may only disclose that it has not accepted the report for investigation, unless other disclosure provisions of this section apply; [PL 2015, c. 194, §1 (AMD); PL 2015, c. 198, §1 (AMD).]

K. The local animal control officer or the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902 when there is a reasonable suspicion of animal cruelty, abuse or neglect. For purposes of this paragraph, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B; [PL 2015, c. 494, Pt. A, §21 (AMD).]

L. A person for the purpose of carrying out background screening of an individual who is or may be engaged in:

- (1) Child-related activities or employment; or
- (2) Activities or employment relating to adults with intellectual disabilities, autism, related conditions as set out in 42 Code of Federal Regulations, Section 435.1010 or acquired brain injury; [PL 2023, c. 638, §27 (AMD).]

M. The personal representative of the estate of a child named in a record who is reported to be abused or neglected; and [PL 2023, c. 638, §28 (AMD).]

N. The Maine Commission on Public Defense Services established by Title 5, section 12004-G, subsection 25-A for the purpose of assigning, evaluating or supervising counsel, with protection for identity of reporters and other persons when appropriate. [PL 2023, c. 638, §29 (NEW).]
[PL 2023, c. 638, §§27-29 (AMD).]

3. Mandatory disclosure of records. The department shall disclose relevant information in the records to the following persons:

A. The guardian ad litem of a child, appointed pursuant to section 4005, subsection 1; [PL 2005, c. 300, §8 (AMD).]

A-1. The court-appointed guardian ad litem or attorney of a child who is the subject of a court proceeding involving parental rights and responsibilities, grandparent visitation, custody, guardianship or involuntary commitment. The access of the guardian ad litem or attorney to the records or information under this paragraph is limited to reviewing the records in the offices of the department. Any other use of the information or records during the proceeding in which the guardian ad litem or attorney is appointed is governed by paragraph B; [PL 2009, c. 38, §1 (AMD).]

B. A court on its finding that access to those records may be necessary for the determination of any issue before the court or a court requesting a home study from the department pursuant to Title 18-C, section 9-304 or Title 19-A, section 905. Access to such a report or record is limited to counsel of record unless otherwise ordered by the court. Access to actual reports or records is limited to in camera inspection, unless the court determines that public disclosure of the information is necessary for the resolution of an issue pending before the court; [PL 2017, c. 402, Pt. C, §60 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. A grand jury on its determination that access to those records is necessary in the conduct of its official business; [PL 1983, c. 327, §4 (AMD); PL 1983, c. 470, §12 (AMD).]

D. An appropriate state executive or legislative official with responsibility for child protection services, provided that no personally identifying information may be made available unless necessary to that official's functions; [PL 2001, c. 439, Pt. X, §2 (AMD).]

E. The protection and advocacy agency for persons with disabilities, as designated pursuant to Title 5, section 19502, in connection with investigations conducted in accordance with Title 5, chapter 511. The determination of what information and records are relevant to the investigation must be made by agreement between the department and the agency; [PL 1991, c. 630, §2 (AMD).]

F. The Commissioner of Education when the information concerns teachers and other professional personnel issued certificates under Title 20-A, persons employed by schools approved pursuant to Title 20-A or any employees of schools operated by the Department of Education; [PL 2001, c. 696, §18 (AMD).]

G. The prospective adoptive parents. Prior to a child being placed for the purpose of adoption, the department shall comply with the requirements of Title 18-C, section 9-304, subsection 3 and section 8205; [PL 2017, c. 402, Pt. C, §61 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

H. Upon written request, a person having the legal authorization to evaluate or treat a child, parent or custodian who is the subject of a record. This includes a member of a treatment team or group convened to plan for or treat a child or family that is the subject of a record; [PL 2003, c. 673, Pt. Z, §3 (AMD).]

I. Any government entity that needs such information in order to carry out its responsibilities under law to protect children from abuse and neglect. For purposes of this paragraph, "government entity" means a federal entity, a state entity of any state, a local government entity of any state or locality or an agent of a federal, state or local government entity; [PL 2007, c. 371, §4 (AMD).]

J. To a juvenile court when the child who is the subject of the records has been brought before the court pursuant to Title 15, Part 6; [PL 2013, c. 293, §1 (AMD).]

K. A relative or other person whom the department is investigating for possible custody or placement of the child; [PL 2015, c. 381, §1 (AMD).]

L. To a licensing board of a mandated reporter, in the case of a mandated reporter under section 4011-A, subsection 1 who appears from the record or relevant circumstances to have failed to make a required report. Any information disclosed by the department personally identifying a licensee's client or patient remains confidential and may be used only in a proceeding as provided by Title 5, section 9057, subsection 6; [PL 2023, c. 151, §7 (AMD).]

M. Law enforcement authorities for entry into the National Crime Information Center database of the Federal Bureau of Investigation and to a national information clearinghouse for missing and exploited children operated pursuant to 42 United States Code, Section 5773(b). Information disclosed pursuant to this paragraph is limited to information on missing or abducted children or youth that is required to be disclosed pursuant to 42 United States Code, Section 671(a)(35)(B); and [PL 2023, c. 151, §8 (AMD).]

N. A party to a child protection proceeding and the attorney representing the party in the proceeding, with protection for identity of reporters and other persons when appropriate. [PL 2023, c. 151, §9 (NEW).]

[PL 2023, c. 151, §§7-9 (AMD).]

3-A. Confidentiality. The proceedings and records of the child death and serious injury review panel created in accordance with section 4004, subsection 1, paragraph E are confidential and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. The commissioner shall disclose conclusions of the review panel upon request and recommendations pursuant to section 4004, subsection 1, paragraph E, but may not disclose data that is otherwise classified as confidential.

[PL 2021, c. 550, §2 (AMD).]

4. Unlawful dissemination; penalty. A person is guilty of unlawful dissemination if the person knowingly disseminates records that are determined confidential by this section, in violation of the mandatory or optional disclosure provisions of this section. Unlawful dissemination is a Class E crime that, notwithstanding Title 17-A, section 1604, subsection 1, paragraph E, is punishable by a fine of not more than \$500 or by imprisonment for not more than 30 days.

[PL 2019, c. 113, Pt. C, §67 (AMD).]

5. Retention of unsubstantiated child protective services records. Except as provided in this subsection, the department shall retain unsubstantiated child protective services case records for no more than 5 years following a finding of unsubstantiation and then expunge unsubstantiated case records from all departmental files or archives unless a new referral has been received within the 5-year retention period. An expunged record or unsubstantiated record that should have been expunged under this subsection may not be used for any purpose, including admission into evidence in any administrative or judicial proceeding.

[PL 2017, c. 472, §1 (AMD).]

6. Disclosing information; establishment of fees; rules. The department may charge fees for searching and disclosing information in its records as provided in this subsection.

A. The department may charge fees for the services listed in paragraph B to any person except the following:

- (1) A parent in a child protection proceeding, an attorney who represents a parent in a child protection proceeding or a guardian ad litem in a child protection proceeding when the parent, attorney or guardian ad litem requests the service for the purposes of the child protection proceeding;
- (2) An adoptive parent or prospective adoptive parent who requests information in the department's records relating to the child who has been or might be adopted;

(3) A person having the legal authorization to evaluate or treat a child, parent or custodian who is the subject of a record, including a member of a treatment team or group convened to plan for or treat a child or family that is the subject of a record; the information in the record must be requested for the purpose of evaluating or treating the child, parent or custodian who is the subject of the record;

(4) Governmental entities of this State that are not engaged in licensing; and

(5) Governmental entities of any county or municipality of this State that are not engaged in licensing.

An order by a court for disclosure of information in records pursuant to subsection 3, paragraph B must be deemed to have been made by the person requesting that the court order the disclosure. [PL 2015, c. 194, §4 (AMD).]

B. The department may charge fees for the following services:

(1) Searching its records to determine whether a particular person is named in the records;

(2) Receiving and responding to a request for disclosure of information in department records, whether or not the department grants the request; and

(3) Disclosing information in department records. [PL 2015, c. 194, §4 (AMD).]

C. The department shall adopt rules governing requests for the services listed in paragraph B. Those rules may provide for a mechanism for making a request, the information required in making a request, the circumstances under which requests will be granted or denied and any other matter that the department determines necessary to efficiently respond to requests for disclosure of information in the records. The rules must establish a list of specified categories of activities or employment for which the department may provide information for background or employment-related screening pursuant to subsection 2, paragraph L. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2015, c. 194, §4 (AMD).]

D. The department shall establish a schedule of fees by rule. The schedule of fees may provide that certain classes of persons are exempt from the fees, and it may establish different fees for different classes of persons. All fees collected by the department must be deposited in the General Fund. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2003, c. 673, Pt. W, §1 (NEW).]

E. A governmental entity that is engaged in licensing may charge an applicant for the fees imposed on it by the department for searching and disclosing information in its records. [PL 2015, c. 194, §4 (AMD).]

F. This subsection may not be construed to permit or require the department to make a disclosure in any particular case. [PL 2003, c. 673, Pt. W, §1 (NEW).]
[PL 2015, c. 194, §4 (AMD).]

7. Appeal of denial of disclosure of records. A parent, legal guardian, custodian or caretaker of a child who requests disclosure of information in records under subsection 2 and whose request is denied may request an administrative hearing to contest the denial of disclosure. The request for hearing must be made in writing to the department. The department shall conduct hearings under this subsection in accordance with the requirements of Title 5, chapter 375, subchapter 4. The issues that may be determined at hearing are limited to whether the nondisclosure of some or all of the information requested is necessary to protect the child or any other person. The department shall render after hearing without undue delay a decision as to whether some or all of the information requested should be disclosed. The decision must be based on the hearing record and rules adopted by the commissioner. The decision must inform the requester that the requester may file a petition for judicial review of the

decision within 30 days of the date of the decision. The department shall send a copy of the decision to the requester by regular mail to the requester's most recent address of record.

[PL 2015, c. 501, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 733, §18 (NEW). PL 1983, c. 327, §§3-5 (AMD). PL 1983, c. 354, §§1,2 (AMD). PL 1983, c. 470, §§12,13 (AMD). PL 1983, c. 783, §4 (AMD). PL 1985, c. 495, §18 (AMD). PL 1985, c. 506, §§A43-45 (AMD). PL 1985, c. 739, §§5,6 (AMD). PL 1987, c. 511, §§A3,B1 (AMD). PL 1987, c. 714, §§5-7 (AMD). PL 1987, c. 744, §§3-7 (AMD). PL 1989, c. 118 (AMD). PL 1989, c. 270, §§2-5 (AMD). PL 1989, c. 483, §A33 (AMD). PL 1989, c. 502, §§A76,77,D18 (AMD). PL 1989, c. 700, §A89 (AMD). PL 1989, c. 857, §58 (AMD). PL 1989, c. 878, §§A62,63 (AMD). PL 1991, c. 630, §§2-4 (AMD). PL 1993, c. 294, §§3, 4 (AMD). PL 1993, c. 686, §8 (AMD). PL 1993, c. 686, §13 (AFF). PL 1995, c. 391, §2 (AMD). PL 1995, c. 694, §§D38,39 (AMD). PL 1995, c. 694, §E2 (AFF). PL 2001, c. 439, §X2 (AMD). PL 2001, c. 696, §§17-20 (AMD). PL 2003, c. 673, §§W1,Z2-4 (AMD). PL 2005, c. 300, §§2-9 (AMD). PL 2007, c. 140, §§5-7 (AMD). PL 2007, c. 335, §1-3 (AMD). PL 2007, c. 335, §5 (AFF). PL 2007, c. 371, §§3-6 (AMD). PL 2007, c. 473, §1 (AFF). PL 2007, c. 485, §1 (AMD). PL 2007, c. 485, §2 (AFF). PL 2009, c. 38, §1 (AMD). PL 2011, c. 657, Pt. W, §5 (REV). PL 2013, c. 293, §§1-3 (AMD). PL 2015, c. 194, §§1-4 (AMD). PL 2015, c. 198, §§1-3 (AMD). PL 2015, c. 381, §§1-3 (AMD). PL 2015, c. 494, Pt. A, §§21-23 (AMD). PL 2015, c. 501, §§1, 2 (AMD). PL 2017, c. 402, Pt. C, §§60, 61 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2017, c. 472, §1 (AMD). PL 2019, c. 113, Pt. C, §67 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2021, c. 148, §1 (AMD). PL 2021, c. 176, §5 (AMD). PL 2021, c. 550, §2 (AMD). PL 2021, c. 647, Pt. B, §50 (AMD). PL 2021, c. 647, Pt. B, §65 (AFF). RR 2021, c. 2, Pt. B, §181 (COR). PL 2023, c. 39, §1 (AMD). PL 2023, c. 151, §§6-9 (AMD). PL 2023, c. 359, §7 (AMD). PL 2023, c. 638, §§27-29 (AMD).

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Janet T. Mills
Governor

Jeanne M. Lambrew, Ph.D.
Commissioner



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MEMORANDUM

TO: Criminal Records Review Committee

FROM: John Feeney, Chief Operating Office, Office of Child and Family Services

DATE: October 28, 2021

SUBJECT: Office of Child and Family Services (OCFS) Findings Process

Every child abuse/neglect investigation conducted by OCFS staff results in one of three findings outcomes: a **substantiated** finding of abuse and/or neglect, an **indicated** finding of abuse and/or neglect, or **unsubstantiated** findings. There four different types of substantiations and indications:

- Substantiated or indicated physical abuse
- Substantiated or indicated emotional abuse
- Substantiated or indicated neglect
- Substantiated sexual abuse

The definition of each abuse type is located in OCFS' [Child and Family Policy](#) (IV.D-1. Child Abuse and Neglect Findings Policy). In order to be substantiated or indicated the definition of "person responsible for a child" as defined in [22 MRS §4002 must be met](#). Indicated findings are for low to moderate severity abuse or neglect and substantiated findings are considered high severity.

Pursuant to statute ([22 MRS §4008](#)), if an investigation results in a finding of unsubstantiated then the records are retained for five years unless a new report is received during the five-year retention period.

Individuals who are substantiated or indicated receive a letter from the Department notifying them of the finding(s) made against them. Each individual case is different, and an individual may be substantiated or indicated for more than one abuse type or severity and more than one child depending on the circumstances, facts, and evidence gathered during the investigation.

Both substantiated and indicated findings and the records associated with the investigation remain in OCFS' records permanently. A substantiated finding results in the individual being placed on **Maine's Child Abuse Registry**. This may disqualify an individual from holding certain positions that involve caring for children and vulnerable or incapacitated adults.

Employers may only search the Registry with a signed release from the individual that authorizes them to conduct such a search. No details regarding the substantiated finding are released, only a statement regarding whether the individual has been substantiated. Indicated findings are not released in response to a Child Abuse Registry check.

The letter notifying an individual of a finding includes information on the effect of findings and the individual's right to **appeal** the finding. Appeals are governed by rule [10-148, Chapter 201](#). There are two levels of appeals, **paper review** and **hearing**. A paper review is a review of all the records gathered during the investigation, as well as anything additional submitted by the appellant for the review. These reviews are conducted by OCFS staff members whose positions are outside of child welfare. Currently, if an indicated finding is upheld at paper review, that is the end of the appeals process. If a substantiated finding is upheld at paper review the appellant can request a hearing regarding the finding. These hearings are held before Hearing Officers from the Department's Administrative Hearing Unit. After the hearing has concluded, the Hearing Officer makes a written recommendation to the Commissioner regarding the finding and the Commissioner makes the final decision to uphold or overturn the finding.

There is an important exception to the appeals process. If the appellant is or becomes a party to certain court proceedings, they are **ineligible** to appeal until the conclusion of that case. These court proceedings include a child protective case, any civil proceeding where there is a factual issue of whether or not the appellant subjected the child to abuse or neglect, and any criminal proceeding in which the appellant is charged with conduct substantially similar to that upon which the Department based its finding. If the child protective case results in a jeopardy finding, the civil case results in a finding that the appellant did subject the child to abuse or neglect, or the individual is convicted of or pleads guilty to criminal charges related to the substantially similar conduct, then the Department defers to the court's finding and the appellant is permanently ineligible to appeal. If the court case concludes without any of these results, then the appeal may proceed after the court case has concluded.

Records regarding investigations that have not been expunged pursuant to statute are used by the Department in future interactions with families, as well as by staff when licensing resource family homes and placing children with relatives. In addition, if the Department receives a Clifford Order from the Court to produce an individual's DHHS records in a civil or criminal proceeding, records regarding previous investigations may be released to the Court.

STATE OF MAINE
COUNTY, ss

UNIFIED CRIMINAL DOCKET
LOCATION: [CITY/TOWN OF COURT]
DOCKET NO.: [DOCKET #]

STATE OF MAINE)	
)	
v.)	DEFENDANT’S MOTION FOR ORDER
)	PERMITTING ACCESS TO DHHS RECORDS
[DEFENDANT’S NAME])	22 M.R.S.A. §4008(3)
Defendant)	

NOW COMES Defendant, through the undersigned counsel, and hereby moves this Honorable Court—pursuant to 22 M.R.S.A. §4008(3)—to order access to Department of Health and Human Services (DHHS) records pertaining to [NAME AND DOB]. In support thereof, Defendant submits as follows:

1. [WHAT’S IN THE RECORDS *e.g.*, DHHS has conducted interviews and assessments of both parents, which the defense has reason to believe contain information relevant to this case. Specifically, the defense believes that the aforementioned may include information about the cause of the alleged victim’s injuries that the defendant is alleged to have inflicted].
2. [RECORDS BEING SOUGHT] are or should be in the possession of DHHS. Those records are necessary for the determination of the case currently before the Court.
3. Disclosure of such records is in accordance with Maine Revised Statutes Title 22 §4008(3):

Mandatory disclosure of records. The department shall disclose relevant information in the records to the following persons: B. A court on its finding that access to those records may be necessary for the determination of any issue before the court or a court requesting a home study from the department pursuant to Title 18-A, section 9-304 or Title 19-A, section 905. Access to such a report or record is limited to counsel of record unless otherwise ordered by the court. Access to actual reports or records is limited to

in camera inspection, unless the court determines that public disclosure of the information is necessary for the resolution of an issue pending before the court;

4. The State [objects/does not object] to this Motion.

WHEREFORE, Defendant respectfully requests that this Honorable Court order access to the above-referenced DHHS records pertaining to [NAME AND DOB].

[ATTORNEY NAME], Esq., Bar No. [BAR #]
Attorney for Defendant
Firm Name
Address
Phone

Dated: November 10, 2025

CERTIFICATE OF SERVICE:

I certify that a true copy of the foregoing Motion was sent to the State via electronic mail to [prosecutor's email] on November 10, 2025.

[ATTORNEY NAME], Esq., Bar No. [BAR #]
Attorney for Defendant

Dated: November 10, 2025

ORDER:

Defendant's Motion is granted // denied.

Judge/Justice Unified Criminal Court

STATE OF MAINE
COUNTY, ss

UNIFIED CRIMINAL DOCKET
LOCATION: [CITY/TOWN OF COURT]
DOCKET NO.: [DOCKET #]

STATE OF MAINE)	
)	ORDER GRANTING
v.)	DEFENDANT'S MOTION FOR ORDER
)	PERMITTING ACCESS TO DHHS RECORDS
[DEFENDANT'S NAME])	22 M.R.S.A. §4008(3)
Defendant)	

This matter comes before this Court on Defendant's Motion for Order Permitting Access to Department of Health and Human Services (DHHS) Records. The Court is mindful of the need to weigh the confidentiality of the records requested against the need for access to the documents for preparation and trial in this case. With that balance in mind, the Court enters the following Order:

Within thirty (30) days of the issuance of this order, DHHS shall deliver all records concerning the following minor child:

[NAME(S) AND DATE(S) OF BIRTH]

To assist the court in its *in camera* review of the file, a Department representative may identify those portions of the records which the Department believes should not be released because they are either not relevant to this matter or contain particularly sensitive and confidential information. The Court shall conduct an *in camera* review of those portions so marked and determine whether and under what additional conditions, if any, to release them.

The parties' attorneys shall be permitted to review those portions of the records that the Court has not excluded based upon its *in camera* review and all remaining records submitted by the Department pursuant to this Order. The records are to remain in the Court Clerk's office at all times. No duplicates or copies are to be made of any of the records and no information contained in the records is to be disclosed to any party except by further order of the Court.

If either attorney desires to receive copies of any of the records reviewed by them, to discuss the contents of the records with anyone, or to make use of the contents of the records for any purpose, he or she shall list the documents or information sought to be released and present such request to the Court. The Court will then review the records and make a further Order as to that request.

These documents are subject to any motions *in limine* brought by either party. A copy of the request for release shall be provided to counsel for DHHS reasonably in advance of any hearing or conference on the request.

If the documents or information are provided to either party, both parties should be mindful that the records remain confidential and may be used only for the purpose of the present litigation.

Counsel shall take such steps as may be necessary to preserve the confidentiality of those records while they are in their office files and shall not further disseminate the information without Court order.

DATE

Judge/Justice, Unified Criminal Docket

Exceptions – draft legislation

Reference #1

25 MRSA §1577, sub-§2

§1577. DNA records

2. ~~Access to records.~~ The following persons or agencies may have access to DNA records:
Permissible disclosure. DNA records may be disclosed to the following persons or agencies:

- A. Local, county, state and federal criminal justice and law enforcement agencies, including forensic laboratories serving the agencies, for identification purposes that further official criminal investigations;
- B. The FBI for storage and maintenance of CODIS;
- C. Medical examiners and coroners for the purpose of identifying remains; and
- D. A person who has been identified and charged with a criminal offense or a juvenile crime as a result of a search of DNA records stored in the state DNA data base. **A Disclosure to a person who has been identified and charged with a criminal offense or a juvenile crime has access only is limited** to that person's records and any other records that person is entitled to under the Maine Rules of Evidence.

Reference #3 (13)

26 MRSA §685, sub-§3

3. Confidentiality. This subsection governs the use of information acquired by an employer in the testing process.

A. Unless the employee or applicant consents, all information acquired by an employer in the testing process is confidential and may not be **released disclosed** to any person other than the employee or applicant who is tested, any necessary personnel of the employer and a provider of rehabilitation or treatment services under subsection 2, paragraph C. This paragraph does not prevent:

- (1) The **release disclosure** of this information when required or permitted by state or federal law, including **release disclosure** under section 683, subsection 8, paragraph D; or
- (2) The use of this information in any grievance procedure, administrative hearing or civil action relating to the imposition of the test or the use of test results.

B. Notwithstanding any other law, the results of any substance use test required, requested or suggested by any employer may not be used in any criminal proceeding.

Reference #4 (28)

27 MRSA §10, sub-§6

6. Confidentiality. Any records containing the name, address or any other personally identifiable information relating to the parents and children participating in the program are confidential and may ~~not~~ be disclosed ~~other than~~ only:

- A. In a de-identified, aggregate form for study, evaluation or audit of the program; and
- B. With informed parental consent and for the purpose of expanding access to the program, to other state agencies, including, but not limited to, the Department of Corrections, the Department of Education and the Department of Health and Human Services

Reference #5 (34)

28-B MRSA §114

§114. Confidentiality

The home address, telephone number and e-mail address of the applicant, employees of the applicant and all natural persons having a direct or indirect financial interest in the applied-for license are confidential. However, if the home address, telephone number or e-mail address have been provided as the public contact information, that information is not confidential

Reference #10 (39)

29-A MRSA §253

§253. Confidentiality of nongovernment vehicle records

Upon receiving a written request by an appropriate criminal justice official and showing cause that it is in the best interest of public safety, the Secretary of State may determine that records of a nongovernment vehicle ~~may be held~~ are confidential for a specific period of time, which may not exceed the expiration of the current registration.

Reference #15 (44)

§1301. Application

6-A. Confidentiality. Except as required by 18 United States Code, Section 2721(b) or as needed to implement the federal National Voter Registration Act of 1993, the federal Help America Vote Act of 2002 or other federal election law, the Secretary of State may not ~~disseminate disclose~~ information collected under subsection 6. For every willful violation of this subsection, a person commits a civil violation for which a fine of not more than \$500 may be adjudged.

Reference #19 (49)

7-A. Accident report database; public dissemination of accident report data. Data contained in an accident report database maintained, administered or contributed to by the Department of Public Safety, Bureau of State Police must be treated as follows.

A. For purposes of this subsection, the following terms have the following meanings.

- (1) "Data" means information existing in an electronic medium and contained in an accident report database.
- (2) "Nonpersonally identifying accident report data" means any data in an accident report that are not personally identifying accident report data.
- (3) "Personally identifying accident report data" means:
 - (a) An individual's name, residential and post office box mailing address, social security number, date of birth and driver's license number;
 - (b) A vehicle registration plate number;
 - (c) An insurance policy number;
 - (d) Information contained in any free text data field of an accident report; and
 - (e) Any other information contained in a data field of an accident report that may be used to identify a person.

B. Except as provided in paragraph B-1 and Title 16, section 805-A, subsection 1, paragraph F, ~~the Department of Public Safety, Bureau of State Police may not publicly disseminate~~ personally identifying accident report data that are contained in an accident report database maintained, administered or contributed to by the Bureau of State Police are confidential. ~~Such data are not public records for the purposes of Title 1, chapter 13.~~

B-1. The Department of Public Safety, Bureau of State Police may ~~disseminate~~ disclose a vehicle registration plate number contained in an accident report database maintained, administered or contributed to by the Bureau of State Police to a person only if that person provides the Bureau of State Police an affidavit stating that the person will not:

- (1) Use a vehicle registration plate number to identify or contact a person; or
- (2) Disseminate a vehicle registration plate number to another person.

C. ~~The Department of Public Safety, Bureau of State Police may publicly disseminate nonpersonally~~ Nonpersonally identifying accident report data that are contained in an accident report database maintained, administered or contributed to by the Bureau of State Police are not confidential. The cost of furnishing a copy of such data is not subject to the limitations of Title 1, section 408-A

Reference #33 (73)

33 MRSA §2600-A

§2600-A. Confidentiality of personal information of applicant or licensee

An applicant or licensee shall provide the board with a current professional address and telephone number, which will be their public contact address, and a personal residence address, ~~and~~ telephone number and email address. An applicant's or licensee's personal residence address, ~~and~~ telephone number is and email address are confidential information and may not be disclosed except as permitted by this section or as required by law. ~~Unless-However, if~~ the personal residence address and telephone number have been provided as the public contact address, the personal residence address and telephone number are not confidential. Personal health information submitted as part of any application is confidential information and may not be disclosed except as permitted by this section or as required by law. The personal health information and personal residence address, ~~and~~ telephone number and email address may be provided to other governmental licensing or disciplinary authorities or to any health care providers located within or outside this State that are concerned with granting, limiting or denying a physician's employment or privileges.

Reference #34 (74)

32 MRSA §2600-E

§2600-E. Inspection or copying of record; procedure

1. Request for record; redaction. When the board receives a request to inspect or copy all or part of the record of an applicant or licensee, the board shall redact confidential information ~~that is not public~~ before making the record available for inspection or copying.

2. Notice and opportunity to review. When the board acknowledges a request to inspect or copy an applicant's or a licensee's record as required by Title 1, section 408-A, subsection 3, the board shall send a notice to the applicant or licensee at the applicant's or licensee's last address on file with the board explaining that the request has been made and that the applicant or licensee may review the redacted record before it is made available for inspection or copying. The acknowledgment to the requester must include a description of the review process provided to the applicant or licensee pursuant to this section, including the fact that all or part of the record may be withheld if the board finds that disclosure of all or part of the redacted record creates a potential risk to the applicant's or licensee's personal safety or the personal safety of any 3rd party. The applicant or licensee has 10 business days from the date the board sends the notice to request the opportunity to review the redacted record. If the applicant or licensee so requests, the board shall send a copy of the redacted record to the applicant or licensee for review. The board shall make the redacted record available to the requester for inspection or copying 10 business days after sending the redacted record to the applicant or licensee for review unless the board receives a petition from the applicant or licensee under subsection 4.

3. Reasonable costs. Reasonable costs related to the review of a record by the applicant or licensee are considered part of the board's costs to make the redacted record available for inspection or copying under subsection 2 and may be charged to the requester.

4. Action based on personal safety. An applicant or licensee may petition the board to withhold the release of all or part of a record under subsection 2 based on the potential risk to the applicant's or licensee's personal safety or the personal safety of any 3rd party if the record is disclosed to the public. The applicant or licensee must petition the board to withhold all or part of the record within 10 business days after the board sends the applicant or licensee the redacted record. The petition must include an explanation of the potential safety risks and a list of items requested to be withheld. Within 60 days of receiving the petition, the board shall notify the applicant or licensee of its decision on the petition. If the applicant or licensee disagrees with the board's decision, the applicant or licensee may file a petition in Superior Court to enjoin the release of the record under subsection 5.

5. Injunction based on personal safety. An applicant or licensee may bring an action in Superior Court to enjoin the board from releasing all or part of a record under subsection 2 based on the potential risk to the applicant's or licensee's personal safety or the personal safety of any 3rd party if the record is disclosed to the public. The applicant or licensee must file the action within 10 business days after the board notifies the applicant or licensee under subsection 4 that the board will release all or part of the redacted record to the requester. The applicant or licensee shall immediately provide written notice to the board that the action has been filed, and the board may not make the record available for inspection or copying until the action is resolved.

6. Hearing. The hearing on an action filed under subsection 5 may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

7. Application. This section does not apply to requests for records from other governmental licensing or disciplinary authorities or from any health care providers located within or outside this State that are concerned with granting, limiting or denying an applicant's or licensee's employment or privileges.

Reference #35 (80)

32 MRSA §6080

§6080. Confidentiality

Information confidentiality and disclosure is governed by this section.

1. Confidentiality and prohibited disclosure. Except as otherwise provided in subsection 2, all information or reports obtained by the administrator from an applicant for a license, licensee or authorized delegate and all information contained in or related to an examination, investigation, operating report or condition report prepared by, on behalf of or for the use of the administrator, or financial statements, balance sheets or authorized delegate information, are confidential and are not subject to disclosure under Title 1, chapter 13 except as provided in this section.

2. Authorized disclosure. The administrator may disclose confidential information ~~not otherwise subject to disclosure under subsection 1~~ to representatives of state or federal agencies who certify in a record that they will maintain the confidentiality of the information or if the administrator finds that the release is reasonably necessary for the protection and interest of the public.

3. Licensees. This section does not prohibit the administrator from disclosing to the public a list of all licensees or the aggregated financial or transactional data concerning those licensees.

4. Public information. Information contained in the records of the bureau that is not confidential and may be made available to the public either on the bureau's publicly accessible website, upon receipt by the bureau of a written request, or in NMLS includes:

- A. The name, business address, telephone number and unique identifier of a licensee;
- B. The business address of a licensee's registered agent for service;
- C. The name, business address and telephone number of each authorized delegate;
- D. The terms of or a copy of a bond filed by a licensee, as long as confidential information, including but not limited to prices and fees for that bond, is redacted;
- E. Copies of nonconfidential final orders of the bureau relating to a violation of this Act or rules implementing this Act; and
- F. Imposition of an administrative fine or penalty under this Act.

Reference #37 (95)

32 MRSA §16808

§16808. Records

A broker-dealer or investment adviser shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to the Department of Health and Human Services and to a law enforcement agency as part of a referral to the department or to a law enforcement agency or upon request of the department or a law enforcement agency pursuant to an investigation. The records may include historical records and records relating to recent transactions that may constitute financial exploitation of an eligible adult. All records made available to agencies under this section are ~~not public records for purposes of Title 1, chapter 13, subchapter 1~~ confidential. Nothing in this section limits or otherwise impedes the authority of the administrator to access or examine the books and records of broker-dealers and investment advisers as otherwise provided by law.

Potential Recommendations – 20th Right to Know Advisory Committee

Recommendations – Exceptions Subcommittee

1. **Recommendation:** Amend certain provisions of law in Titles 25, 26, 27, 28-B, 29-A, and 32 relating to previously enacted public record exceptions

The subcommittee on exceptions recommends that the following public records exceptions reviewed in 2025 be amended:

- Title 25, section 1577, subsection 1, relating to the state DNA data base and DNA data bank;
 - Title 26, section 685, subsection 3, relating to substance abuse testing by an employer (the subcommittee additionally recommends that this item not be included in future exceptions reviewed, as it is not a true public records exception);
 - Title 27, section 10, subsection 6, relating to personally identifiable information relating to parents and children participating in the Imagination Library of Maine Program;
 - Title 28-B, section 114, relating to personal contact information of applicants for adult use cannabis establishment license and employees of those establishments;
 - Title 29-A, section 253, relating to motor vehicle records of certain nongovernmental vehicles;
 - Title 29-A, section 1301, subsection 6-A, relating to the social security number of an applicant for a driver license or nondriver identification card;
 - Title 29-A, section 2251, subsection 7-A, relating to personally identifying accident report data contained in the state police accident database;
 - Title 32, section 2600-A, relating to personal contact information for osteopathic physician applicants and licensees;
 - Title 32, section 2600-E, relating to the Board of Osteopathic Licensure's ability to redact applicant or licensee records for potential risks to personal safety;
 - Title 32, section 6080 relating to information held by the Bureau of Consumer Credit Protection about an applicant or licensee related to investigations under the Maine Money Transmission Modernization Act; and
 - Title 32, section 16808, relating to records provided by a broker-dealer or investment advisor to the Department of Health and Human Services and law enforcement agencies relating financial exploitation of eligible adults.
2. **Recommendation:** Maintain certain provisions of law in Titles 25, 26, 29-A, and 32 relating to previously enacted public record exceptions
 - Title 25, section 2806-A, subsection 10, relating to complaints, charges or accusations of misconduct at the Maine Criminal Justice Academy

- Title 28-B, section 204, subsection 7, relating to criminal history record check information for cannabis license applicants
- Title 28-B, section 511, subsection 4, relating to record keeping, inspection of records, and audits of cannabis establishment licensee documents;
- Title 29-A, section 152, subsection 3, relating to the Secretary of State's data processing information files concerning motor vehicles;
- Title 29-A, section 251, subsection 4, relating to an email address submitted as part of the application process for a license or registration under Title 29-A;
- Title 29-A, section 255, subsection 1, relating to motor vehicle records when a protection order is in effect;
- Title 29-A, section 517, subsection 4, relating to motor vehicle records concerning unmarked law enforcement vehicles;
- Title 29-A, section 1258, subsection 7, relating to the competency of a person to operate a motor vehicle;
- Title 29-A, section 1401, subsection 6, relating to driver's license digital images;
- Title 29-A, section 1410, subsection 5, relating to nondriver identification card digital images;
- Title 29-A, section 2117, subsection 1, relating to recorded images or audio produced by traffic surveillance cameras on a school bus;
- Title 29-A, section 2601, subsection 3-A, relating to personally identifiable information in the Department of Public Safety's electronic citation and warning database;
- Title 30-A, section 503, subsection 1, relating to county personnel records;
- Title 30-A, section 503, subsection 1-A, relating to county personnel records concerning the use of force;
- Title 32, section 85, subsection 3, relating to criminal history record information for an applicant seeking initial licensure by the Emergency Medical Services Board
- Title 32, section 91-B, subsection 1, relating to quality assurance activities of an emergency medical services quality assurance committee;
- Title 32, section 91-B, subsection 1, paragraph A, relating to personal contact information and personal health information of applicant for credentialing by Emergency Medical Services Board;
- Title 32, section 91-B, subsection 1, paragraph B, relating to confidential information as part of application for credentialing by Emergency Medical Services Board;
- Title 32, section 91-B, subsection 1, paragraph D, relating to examination questions used for credentialing by Emergency Medical Services Board;
- Title 32, section 91-B, subsection 1, paragraphs E and F, relating to health care information or records provided to the Emergency Medical Services Board;
- Title 32, section 2111, subsection 1, paragraph F relating to background check results received by the State Board of Nursing;
- Title 32, section 2571-A, subsection 1, paragraph relating to background check results received by the Board of Osteopathic Licensure for licensing through the Interstate Medical Licensure Compact; and

- Title 32, section 2599, relating to medical staff reviews and hospital reviews - osteopathic physicians

3. **Recommendation:** Recommend that, should the Judiciary Committee move forward in implementing a public records exception to make confidential the identities of railroad employees who are involved in an accident, that the committee narrowly tailor the exception to apply to personally identifiable information.

The RTKAC was asked by the Judiciary Committee to review the public records exception proposed by LD 1824, which proposed to make confidential all records of communication between the law enforcement agency and a railroad company employee involved in that accident, with certain exceptions. In its communication to the RTKAC, the Judiciary Committee expressed concerns that the public records exception proposed by the legislation may not meet the statutory balancing test required by 1 MRS §434. The exceptions subcommittee reviewed LD 1824 and, while acknowledging the importance of the public policy behind the bill, agrees that as drafted, the language appears more broadly written than is necessary to meet its purpose. The bill appears to make confidential the entirety of law enforcement reports regarding a railroad accident during the course of an investigation, not just information identifying railroad employees. The subcommittee expressed reservations about an industry specific exception and noted that there is existing statute at Title 16, chapter 9 (the Intelligence and Investigative Record Information Act) that allows law enforcement entities to keep confidential investigation records under a number of circumstances, including to prevent an “unwarranted invasion of personal privacy.” The subcommittee believes that this statute could be applied to protect the identities of railroad workers involved in an accident, at least in regards to law enforcement records. The subcommittee also noted that this existing statute is modeled after an exception in the federal Freedom of Information Act and that there is a body of caselaw interpreting it and its federal counterpart, and that therefore any changes should be considered carefully. The subcommittee recommends that should the Judiciary Committee choose to move forward with legislation similar to LD 1824, it carefully consider the necessity of such legislation in the state, including by examining whether railroad employees have been subject to harassment following an accident in the state, and consider simple, narrowly tailored language that makes confidential personally identifiable information contained in law enforcement records and/or the accident reports required by Title 23, section 7311.

4. **Recommendation:** Continue examination of the exception found at 1 MRS §434, sub-§3, ¶H, which provides that medical records and reports of municipal ambulance and rescue units and other emergency medical service units are confidential.

The RTKAC was asked to review this exception by the Maine Management Association, which noted that it was unclear if the exception makes confidential the entire report of an EMS run, or if only personally identifiable medical information is included. The subcommittee researched the legislative history of this exception and found that the language predates state law regarding the treatment of confidential health information, which appears at 22 MRS §1711-C, and which

aligns and references federal HIPAA requirements. The subcommittee considered recommending that the exception be amended by adding a cross reference to 22 MRS §1711-C, but wanted to better understand what is included in EMS reports, and whether information is included in those reports that is not otherwise considered confidential. The subcommittee recommends contacting Maine EMS, the Fire Marshals office and the Fire Chief's Association for feedback prior to next interim.

Recommendations- Public Employee Records Subcommittee

1. **Recommendation:** Continue discussions regarding public employee disciplinary records by looking specifically at the interaction between tiered systems of record retention, defining different levels of discipline in terms of severity, and examining whether consistency among definitions should be established at the entity level, at the statutory level, or at the state agency level.

The public employee disciplinary records subcommittee recommends that, in 2026, the Right to Know Advisory Committee continue a discussion on the topic of public access to employee disciplinary records by examining the issue from a structural perspective rather than focus on the development of specific language. The subcommittee noted that efforts to examine this issue to date have focused primarily on developing or establishing appropriate terminology. The subcommittee discussed that future consideration of this topic could also include an examination of how other states define different levels of discipline and what mechanisms could be in place among state agencies to develop uniformity in a definition for serious discipline. The public employee disciplinary records subcommittee recommends approaching continued discussion on this issue with a new framework that instead examines the interaction between tiered systems of record retention, defining different levels of discipline in terms of severity, and examining whether consistency among definitions should be established at the entity level, at the statutory level, or at the state agency level.

2. **Recommendation:** Amend Title 20-A, section 13025 to require a school entity to notify the Department of Education immediately if a credential holder who is facing allegations that could be the subject of a covered investigation leaves the school entity's employment for any reason prior to the conclusion of the covered investigation.

The public employee disciplinary records subcommittee recommends amending Title 20-A, section 13025 of the Maine Revised Statutes which currently directs a school entity to notify the Department of Education 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 concern was raised to the subcommittee this interim that this process may not be sufficient to identify and make available to future employers information about a credential holder who is facing allegations that could be the subject of a covered investigation and leaves the school entity's employment for any reason prior to the conclusion of the covered investigation. The subcommittee recommends amending Title 20-A, section 13025 to address this concern.

3. **Recommendation:** Request that the Maine School Management Association work with school districts to encourage the adoption of a question in their hiring forms asking if a potential employee has ever resigned over allegations of misconduct or an investigation into misconduct from a previous employer.

The public employee disciplinary records subcommittee was asked to consider how educators and schools share information about educator investigations involving allegations related to

sexual misconduct, including investigations into allegations of sexual misconduct that are never completed. In its work this year, the subcommittee took on a request to 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 response to the subcommittee's request for feedback on possible policy changes regarding public access to public employee disciplinary records, the Maine School Management Association offered to work with (the Right to Know Advisory Committee and) school districts to encourage the adoption of a question about past allegations or investigations into misconduct from a former employer in district hiring forms. The subcommittee recommends sending a letter to the Maine School Management Association to formally accept their offer to work with school districts to adopt language on their hiring forms that asks if a potential employee has ever resigned over allegations of misconduct or an investigation into misconduct from a previous employer.

Recommendations – Technology Subcommittee

1. **Recommendation:** Request that the Maine Municipal Association and Maine County Commissioners Association distribute surveys regarding use of technology, including AI, in responding to FOAA requests.
2. **Recommendation:** Request that the Maine School Management Association distribute surveys regarding use of technology, including AI, in responding to school district FOAA requests, and that they include in that distribution district technology directors.
3. **Recommendation:** Based on results of surveys received, develop a best practices document to guide public entities in responding to FOAA requests, and work with the Ombudsman to update the Maine FOAA website to include resources regarding best practices for state agency employees in responding to FOAA requests.
4. **Recommendation:** Referencing the public sector recommendations from the Maine Artificial Intelligence Task Force’s report, published October 2025, continue to monitor the rapid development of AI, particularly in its use by public entities and the intersection of AI and FOAA.
5. **Recommendation:** Continue the technology subcommittee in the 21st Right to Know Advisory Committee in 2026.
6. **Recommendation:** Arrange a presentation, during the 21st Right to Know Advisory Committee, in which a vendor provides overview of the technology available to states for public records, exploring how other states use technology, including but not limited to AI, to assist in retaining, searching and distributing public records (e.g., Indiana).

Recommendations – Full Committee

1. **Recommendation:** Amend 1 MRSA §405 to include language making confidential any information discussed exclusively in an executive session.
2. **Recommendation:** (Recommendation related to DHHS dependency hearings – to be discussed at final meeting).
3. **Recommendation:** Request information from police chiefs regarding possible amendment of 1 MRSA §412, sub-§4 to require Chiefs of Police to complete FOAA training, for consideration by the Advisory Committee next year.

The Advisory Committee received an inquiry regarding whether current law requires that police chiefs receive FOAA training. The Committee reviewed existing law and determined that the language regarding FOAA training requirements found at 1 MRSA §412, sub-§4 does not include police chiefs. However, there is language at 25 MRSA §2803-B requiring that a “chief administrative officer” has designated a person who is trained to respond to FOAA requests. The Advisory Committee discussed whether a clarification of training requirements should be made to Title 1, and determined that it needed additional information from law enforcement regarding the current interpretation of training requirements. The Committee sent a letter to the Maine Chiefs of Police Association seeking input, and plans to revisit this topic next year.

Recommendations – Burdensome Subcommittee – *to be discussed*