

RIGHT TO KNOW ADVISORY COMMITTEE

Tuesday, October 13, 2026

1:00pm

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. Status of subcommittees
3. Discussion: public records exceptions reviewed by the Judiciary Committee during the Second Regular Session of the 132nd Legislature
4. Review and discussion of MCOPA's response to November 2025 letter regarding FOAA training for police chiefs
5. Review and discussion of legislative history of 1 MRSA §402, sub-§3, ¶O (personal contact information of public employees)
6. Review of 2025 discussions regarding the development of a FOAA mediation process
7. Adjourn

Right to Know Advisory Committee Subcommittee membership as of 10/7/2026

Exceptions

Cheryl (*chair*)

Julie

Betsy

Jon

Lynda

Public Employee Disciplinary Records

Rep. Henderson (*chair*)

Judy

Julie

Cheryl

Technology/AI/Burdensome Requests

Kevin (*chair*)

Amy

Julie

Eric

Jon

Tim

Connor

Proposed New Public Records Exception Reviews ~ Judiciary Committee
132nd Legislature, Second Regular Session

LD	Policy Committee	Subject	Statute	Request Date	Review Date	JUD Recommendation	Report Date	Final Disposition
2001	HHS	Records created during DHHS investigation of allegation of abuse or neglect at a licensed facility for children or adults	22 M.R.S. §7703(2)(B)	2/12/26	3/5/26	Approved	3/9/26	Enacted: P.L. 2025, ch. 594
2108	HHS	Records held by the Suicide Mortality Review Panel and the panel coordinator	22 M.R.S. §266(9)	2/10/26	3/5/26	Approved	3/9/26	Enacted: P.L. 2025, ch. 586
2149	HED	Sworn affirmation to the Maine State Housing Authority providing grounds for an exemption from a manufactured housing community or mobile home park transfer assessment fee	10 M.R.S. §9090-A(3-A) and §9094-B(3-A)	3/3/26	3/5/26	Recommended more narrow tailoring; specifically, applying exception only to proprietary information submitted by an applicant for an exemption on the basis that the entity, together with any affiliated or related entities, has a net worth of less than \$75,000,000. <i>Note: HED narrowed the exemption to apply only to proprietary information in the sworn affirmation.</i>	3/9/26	Enacted: P.L. 2025, ch. 688
474	ENR	Proprietary information submitted by a producer of covered batteries or covered battery-containing products to the Department of Environmental Protection as part of the primary and rechargeable battery product stewardship program	38 M.R.S. §1617(14)	3/6/26	3/12/26	Approved	3/18/26	Enacted: P.L. 2025, ch. 608

Proposed New Public Records Exception Reviews ~ Judiciary Committee
132nd Legislature, Second Regular Session

LD	Policy Committee	Subject	Statute	Request Date	Review Date	JUD Recommendation	Report Date	Final Disposition
1457	TRA	Personally identifiable information about the registrant of a motor vehicle that allegedly violated the speed restrictions in an active work zone on the Maine Turnpike as detected through an automated (camera-based) speed control system (This resolve authorizes a 3-year pilot project for such an automated speed control system.)	Section 10 of the amended resolve	3/11/26	3/12/26 and 3/17/26	Recommended more narrow tailoring; specifically, that the system not maintain personally identifiable information for alleged violations found not to be violations on appeal and that, after a civil penalty has been paid, the system maintain only the license plate number for purposes of determining whether a subsequent violation is committed. <i>Note: TRA adopted these recommendations.</i>	3/18/26	Not enacted
2103	HHS	The following records in the possession of the Department of Health and Human Services: a hospital cybersecurity plan and a high-level summary of the results of an audit of that cybersecurity plan	22 M.R.S. §1832(2)(H)	3/17/26	3/17/26	Recommended more narrow tailoring; suggested adopting language similar to 1 M.R.S. §402(3)(L) and (M) regarding limited confidentiality of government agency security plans and risk assessments. <i>Note: HHS adopted this recommendation.</i>	3/18/26	Enacted: P.L. 2025, ch. 668
2097	HED	Complaints of misconduct against a code enforcement officer, replies to the complaints and investigation materials if the complaint could result in suspension or revocation of the CEO's certificate; however, the final written decision is public	30-A M.R.S. §4451-H	3/18/26	3/24/26	Recommend more appropriate tailoring; suggested that the exception apply to all complaints and investigative materials but not to the final decisions issued on those complaints. <i>Note: HED adopted this recommendation.</i>	3/25/26	Enacted P.L. 2025, ch. 684

Proposed New Public Records Exception Reviews ~ Judiciary Committee
132nd Legislature, Second Regular Session

LD	Policy Committee	Subject	Statute	Request Date	Review Date	JUD Recommendation	Report Date	Final Disposition
2236	IFW	Personally identifiable information in harvest records and in license, registration and permit records and databases as well as personally identifiable information in snowmobile and ATV accident reports	12 M.R.S. §10111; §13106-E; and §13157-D	3/24/26	3/24/26	Approved, with recommendation to extend to 100 years the time the personally identifiable information in harvest, license, registration and permit records remain confidential for purposes of the archives law. <i>Note: This recommendation was adopted through a floor amendment.</i>	3/25/26	Enacted: P.L. 2025, ch. 692
2196	HHS	Proprietary information submitted by hospitals to the Office of Affordable Healthcare for purposes of monitoring the hospital's compliance with the affordability requirements of LD 2196	5 M.R.S. §3122(3)(F)	3/25/26	3/26/26	Recommended more narrow tailoring; specifically, suggested adopting a process for identifying the specific portions of records from hospitals and insurers that is proprietary. <i>Note: HHS adopted this recommend. by providing for consultation with the Attorney General to identify proprietary information.</i>	3/27/26	Not enacted
1893	HHS	Records held by the Office of the Child Advocate — including child welfare records from Department of Health and Human Services and juvenile records from Department of Corrections — which must be kept confidential to the same extent as they are confidential currently	5 M.R.S. §26205 and §26206	3/25/26	3/26/26	Approved, with recommendation to amend the bill to extend to 100 years the time records of the Office of the Child Advocate remain confidential for purposes of the archives law. <i>Note: HHS adopted this recommendation.</i>	3/27/26	Enacted: P.L. 2025, ch. 724

Proposed New Public Records Exception Reviews ~ Judiciary Committee
132nd Legislature, Second Regular Session

LD	Policy Committee	Subject	Statute	Request Date	Review Date	JUD Recommendation	Report Date	Final Disposition
2025	MAR	Results of sample testing from facilities of aquaculture license or lease holders conducted by Department of Marine Resources unless results indicate risk to public health, will be used by Marine Patrol or will be used to deny or revoke/suspend a license	12 M.R.S. §6085-C	3/26/26	3/31/26	<i>Majority JUD report:</i> JUD lacks sufficient expertise to recommend appropriate tailoring but suggests also making complaints and sample testing notices confidential unless the testing results show a risk to public health. <i>Minority JUD report:</i> suggests not making any sample testing records or notices confidential. <i>Note:</i> MAR did not make any changes in response.	4/1/26	Enacted: P.L. 2025, ch. 672
2202	HCIFS	Information in a premerger report from a health care entity (as required by the federal Hart-Scott-Rodino Act) when submitted to the Office of the Attorney General of Maine, with certain exceptions permitting disclosure for antitrust enforcement activities	10 M.R.S. §1102-B(3)	3/26/26	3/31/26	Approved	4/1/26	Enacted: P.L. 2025, ch. 661
2201	HCIFS	Proprietary information submitted to Department of Health and Human Services or Office of Affordable Health Care for review of a material change transaction regarding a health care entity; also social security numbers and business identification numbers submitted to Maine Health Data Organization in a health care entity ownership report	22 M.R.S. §372(1)(C) & §372(3)(D) 22 M.R.S. §8710-A (4)(A)	3/31/26	3/31/26	Approved	4/1/26	Enacted: P.L. 2025, ch. 690

Bishop, Kristin

From: Michael Tracy <mcopa@mainechiefs.org>
Sent: Tuesday, September 29, 2026 5:33 PM
To: Bishop, Kristin
Subject: RE: Right to Know Advisory Committee Request for Comment

This message originates from outside the Maine Legislature.

Good afternoon,

Senator Carney and Members of the Committee,

Thank you for the opportunity to comment on the proposal to require all municipal police chiefs to complete Freedom of Access Act training. I support ensuring that law enforcement agencies respond to public records requests properly and promptly. However, I do not believe an additional statutory training requirement directed specifically at police chiefs is necessary.

In many departments, FOAA requests are processed by designated staff rather than the chief personally. Those employees handle the records searches, review, coordination, and responses associated with requests. Training should focus on the personnel assigned those responsibilities.

Existing law already addresses this issue. Under 25 M.R.S. §2803-B(1)(M), the chief administrative officer must annually certify that the agency has adopted a written FOAA policy and designated a person trained to respond to requests. This establishes both an operational requirement and accountability for the chief to ensure that a trained person is in place.

The chief remains responsible for the department's compliance, but that responsibility does not require the chief to personally perform every administrative function. Requiring the chief to complete additional training solely because of their title would duplicate training within departments where another employee already performs this work, without establishing how that duplication would improve public access.

Where the chief also serves as the designated public access officer, the existing training requirements apply. Where those duties are assigned to another employee, the department should retain the flexibility to train and use that employee.

I recommend retaining the existing framework and focusing on compliance with the requirements already in place. Providing practical guidance and training opportunities for those who actually process FOAA requests would be a more useful approach than imposing a blanket requirement on every police chief.

Thank you,

Mike

From: Bishop, Kristin <Kristin.Bishop@legislature.maine.gov>
Sent: Tuesday, September 29, 2026 8:55 AM
To: Michael Tracy <mcpa@mainechiefs.org>
Subject: Right to Know Advisory Committee Request for Comment

Good morning 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.

Last year, a concern was raised for the 2025 Committee's consideration 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 sent the **attached letter** to the Maine Chiefs of Police Association requesting any comments for the committee to consider on this matter and did not receive a response at that time. The 2026 Right to Know Advisory Committee has requested that this letter be resent to ask if the Maine Chiefs of Police Association may have any comments to share on this matter.

Thank you so much for your time and consideration.

Sincerely,
Kristin

Kristin K. Bishop
Legislative Analyst
Maine State Legislature
Office of Policy and Legal Analysis
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

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)

Right to Know Advisory Committee

Legislative History of Public Records Exceptions related to Personal Information October 2026

1 MRSA §402, sub-§3, ¶O

Title 1 of the Maine Revised Statutes, section 402, subsection 3, paragraph O provides that personal contact information concerning public employees is *not* a public record. This exception was originally enacted in 2005 (LD 467) as a result of recommendations from the Committee to Study Compliance with Maine’s Freedom of Access Laws, a limited-period study committee that met in 2003.

The committee’s final report, published in January of 2004, briefly describes a review of LD 1727, An Act to Amend the Freedom of Access Laws to Exclude Public Employees’ Home Addresses, a bill before the Judiciary Committee in the 121st Legislature. LD 1727 only specified public employees’ home addresses would be exempt; the Committee to Study Compliance with Maine’s Freedom of Access Laws recommended expanding the legislation to include home phone numbers and email addresses.

The Committee to Study Compliance with Maine’s Freedom of Access Laws does not appear to have considered personal contact information of members of the public.

1 MRSA §402, sub-§3, ¶N

Title 1, section 402, subsection 3, paragraph N provides that all social security numbers (SSNs) are *not* public records. This provision was originally enacted in 2003 and, until 2011, was more narrowly tailored to social security numbers *in the possession of the Department of Inland Fisheries and Wildlife*.¹ As a result of a recommendation from the Right to Know Advisory Committee’s fifth annual report, the law was amended in 2011 to provide that all SSNs are not public records.

According to the fifth annual report of the RTKAC, published in January 2011, treatment of SSNs in the FOAA statutes had been a longstanding discussion that, prior to 2011, had not materialized into a final recommendation.² The issue was reviewed by two subcommittees – one subcommittee brought the recommendation forward to the full RTKAC, while the other declined to move forward with the recommendation without additional input from agencies.

1 MRSA §402, sub-§3, ¶C-1

Title 1, section 402, subsection 3, paragraph C-1 relates to information that is “of a personal nature” contained in a communication between a constituent and an elected official. The Right to Know Advisory Committee was directed by the Legislature in 2011 to examine this issue. After several rounds of review of the issue, a majority of a subcommittee supported a proposal that reflects the current statute. The fifth annual report does not indicate that the subcommittee

¹ Public Law 2003, chapter 614 (LD 1743, 121st Legislature)

² Fifth Annual Report of the Right to Know Advisory Committee, page 8

nor the full Right to Know Advisory Committee discussed the confidentiality of personal information outside the context of constituent communications with elected officials at that time.

Additional information

The fifth annual report of the Right to Know Advisory Committee (2011) describes discussions related to whether email addresses of “persons engaging in transactions with the government” should remain public records.³ The Legislative Subcommittee had a lengthy discussion but ultimately declined to make a recommendation. However, one member of the subcommittee, “concerned that such a conclusion is not consistent with the public's expectations when they transact business with the State or otherwise communicate with public officials online, would recommend protecting e-mail addresses from release to the public,” questioning “whether a person's e-mail address is really part of the government's process of conducting business, which is what the freedom of access laws are intended to make transparent and accessible.”⁴

³ Fifth Annual Report, page 7

⁴ Fifth Annual Report, page 26

Proposal: Establish a Formal FOAA Mediation Program Within the Office of the Public Access Ombudsman

I. EXECUTIVE SUMMARY

The Legislature should adopt a statutory framework creating a formal, confidential, structured mediation process for Freedom of Access Act (FOAA) disputes, housed within the Office of the Public Access Ombudsman. The program will allow requesters and agencies to resolve disagreements before they escalate to litigation, in a manner that is faster, less costly, and more collaborative while preserving all existing rights to judicial review.

Key features of the proposal include:

- Creation of a FOAA Mediation Program within the Ombudsman’s Office;
- A new Deputy Public Access Ombudsman – Mediation Program Director to manage proceedings;
- Clear and predictable timelines for mediation steps;
- Option for either the FOAA requester or the public agency to initiate mediation;
- Tolling of the § 409 appeal deadline beginning upon requestor consent;
- Public access to mediation outcomes, including party names, settlement agreements, and nonbinding recommendations;
- Retention of confidentiality protections for mediation communications and caucus discussions.

This proposal strengthens Maine’s commitment to open government while reducing unnecessary litigation and building a collaborative framework for FOAA compliance.

II. DEFINITIONS

1. Public Agency

“Public agency” has the same meaning as in 1 M.R.S. § 402(2). This includes state departments, municipal governments, counties, school administrative units, quasi-governmental entities, and any other governmental body subject to the Maine Freedom of Access Act.

2. FOAA Requester

“FOAA requester” means the person or entity who submitted the original request for public records under 1 M.R.S. § 408-A.

3. Mediation Initiating Party

“Mediation initiating party” means either the public agency or the FOAA requester who files a Request for Mediation with the Public Access Ombudsman.

4. Tolling

“Tolling” means the legal suspension of a statutory deadline, during which the time does not run. Under this program, tolling applies to the 30-day appeal deadline in § 409 beginning when the FOAA requester consents to mediation.

5. In Camera Review

“In camera review” means a confidential inspection of disputed records by the Public Access Ombudsman or Deputy Ombudsman for evaluating exemption claims or burdensomeness arguments. Records retain their original FOAA status.

III. FOAA MEDIATION PROCESS

1. Request for Mediation

1. A FOAA requester or a public agency may initiate mediation by submitting a Request for Mediation to the Public Access Ombudsman.
2. The mediation initiating party shall provide written notice of the filing to the non-initiating party at the time the Request for Mediation is submitted.
3. Tolling of the 30-day appeal period under Title 1, section 409 occurs as follows:
 - A. Tolling begins immediately upon filing when the Request for Mediation is submitted by the FOAA requester;
 - B. Tolling begins upon written consent of the FOAA requester when mediation is initiated by a public agency.

2. Notification to the Non-Initiating Party

1. The mediation initiating party shall provide written notice to the non-initiating party containing:
 - A. A copy of the Request for Mediation;
 - B. A brief description of the issues in dispute;
 - C. If the public agency is the requestor, a statement of the tolling consequences under Title 1, section 409.
2. Notification must be provided on the same day the Request for Mediation is filed with the Ombudsman.

3. Participation Decision (10 Business Days)

1. The non-initiating party shall, within 10 business days of receiving notice:
 - A. Consent to participate in mediation;
 - B. Decline to participate; or
 - C. Consent subject to clarifying statements of issues.
2. If the non-initiating party declines to participate, the Ombudsman shall issue a Notice of Completion, and tolling under Title 1, section 409 concludes on the date of that notice.

4. Intake & Screening (7 Business Days from Participation Decision)

The Deputy Ombudsman – Mediation Director determines:

1. Jurisdiction
2. Whether additional information is needed
3. Whether a constructive denial occurred
4. Whether the dispute involves:
 - A. Fee issues
 - B. Delay issues
 - C. Exemption disagreements
 - D. “Unduly burdensome” arguments
 - E. Electronic formatting issues
 - F. Scope disputes

All intake materials remain confidential.

5. Document Exchange (15 Business Days Before Mediation)

Both parties confidentially submit:

- A. Communications relevant to the FOAA request
- B. Any burden estimates, fee calculations, or exemption assertions
- C. Confidential records (if applicable) for in-camera review

Materials do not become public records.

6. Scheduling the Mediation Session

The mediation session is scheduled after intake and exchanges are complete. No statutory deadline is imposed; mediation must occur within a reasonable timeframe, considering party availability and case complexity.

7. Filing of Mediation Position Statements (5 Business Days Before Mediation)

Each party submits a refined, confidential, 1–5-page position statement outlining:

- A. Issues in dispute
- B. Statutory bases for their positions
- C. Proposed resolution options

8. Mediation Session

Mediation session facilitated by the Deputy Ombudsman or an appointed mediator. Structure:

Agenda typically includes:

1. Brief joint session outlining issues

2. Private caucuses for candid discussion with each party
3. Neutral evaluation of likely court outcomes
4. Negotiation of one or more solutions:
 - Narrowing scope
 - Staged/rolling productions
 - Fee adjustments
 - Production timelines
 - Agreement about redactions
 - Agreement about formats

9. Post-Mediation Outcomes

1. If the parties reach agreement:
 - A. The parties shall execute a Mediation Resolution Agreement;
 - B. The Agreement is a public record, unless specific provisions are confidential under another statute;
 - C. The Ombudsman shall issue a Notice of Completion, concluding tolling.
2. If the parties do not reach agreement:
 - A. Either party may request a nonbinding written recommendation;
 - B. A nonbinding recommendation is a public record;
 - C. The Ombudsman shall issue a Notice of Completion, concluding tolling.
3. Content of Notice of Completion:
 - A. Date mediation ended;
 - B. Whether a settlement was achieved;
 - C. Whether a recommendation was issued.

10. Record of Mediation Activity; Annual Reporting

1. The Ombudsman shall maintain a record of the following information for each mediation:
 - A. Identity of the public agency;
 - B. Identity of the FOAA requester, unless the requester requests redaction for safety or privacy and demonstrates the need for such credibly to the Deputy Ombudsman;
 - C. Whether settlement was reached;
 - D. Whether a recommendation was issued.
2. The Ombudsman shall annually publish aggregate data on FOAA mediation activity

III. STATUTORY AMENDMENTS REQUIRED

Below is a list of statutes requiring amendment, followed by the conceptual language for each.

1. 1 M.R.S. § 408-A – Agency Response to Requests

New provisions to add:

- Right to request mediation
- Mandatory inclusion of mediation notice in every denial or burdensome notice

- Confidentiality of mediation documents
- Safe harbor for agencies participating in mediation
- Clarification that ongoing mediation does not relieve agency of response duties unless the parties agree

§ 408-A(13). Mediation Option

A requester or a public agency may file a Request for Mediation with the Public Access Ombudsman within 30 days of receiving a denial, partial denial, fee determination, or notice under subsection 4-A, or after a failure to allow inspection within a reasonable time.

§ 408-A(14). Notice Requirement

Every denial, partial denial, or burdensome request notice must include:

“You may request nonbinding mediation through the Public Access Ombudsman pursuant to section 200-I. Filing such a request tolls the time for filing an appeal under section 409.”

§ 408-A(15). Confidentiality of Mediation

Except for except for a Mediation Resolution Agreement, a Nonbinding written recommendation, and a Notice of Completion, all documents, statements, records, notes, communications, and materials submitted for or created during mediation are confidential.

§ 408-A(16). Impact on Agency Obligations

Agency response obligations continue unless the parties mutually agree in writing to suspend production during mediation, with notice to the Ombudsman.

§ 408-A(17). Safe Harbor

Good-faith participation in mediation may be considered by a court when determining attorney’s fees under § 409(4).

2. 1 M.R.S. § 409 – Appeal to Superior Court

Add tolling provision:

- Filing a Request for Mediation tolls the 30-day appeal period.
- Tolling continues until the Ombudsman issues a Notice of Completion.
- Requester receives at least 10 days of remaining appeal time after mediation.

§ 409(1-A). Tolling for Mediation

The time for filing an appeal under § 408-A is tolled when the requester files a Request for Mediation with the Public Access Ombudsman or, if mediation is initiated by a public agency,

when the requester consents to participate. Tolling begins on the date the Ombudsman receives the request and continues until the Ombudsman issues a Notice of Completion. The FOAA requester retains the greater of:

(A) the number of days remaining at the time tolling began, or

(B) 10 days from the date of the Notice of Completion.

3. 1 M.R.S. § 411 – Right to Know Advisory Committee

Add oversight authority:

- Committee must receive annual mediation program statistics and make recommendations for improvements.

1 M.R.S. § 411, sub-§6 is amended to read:

§411. Right to Know Advisory Committee

G-1. Oversight of FOAA Mediation Program.

The committee shall receive and review the annual report of the Public Access Ombudsman regarding the FOAA Mediation Program established pursuant to Title 5, section 200-I, subsection 2, paragraph G. The committee may make recommendations to the Legislature concerning statutory changes to improve the effectiveness, accessibility and efficiency of the mediation program or to enhance compliance with this chapter.

4. 5 M.R.S. § 200-I – Public Access Ombudsman

Add:

- Creation of the FOAA Mediation Program
- Authority for confidential in-camera record review for mediation
- Creation of a Deputy Public Access Ombudsman – Mediation Program Director
- Authority to adopt rules (routine technical rules)
- Confidentiality provisions protecting mediation materials
- Nonbinding recommendation authority (with party consent)

5 M.R.S. § 200-I, sub-§2 is amended to read:

G. FOAA Mediation Program.

The Public Access Ombudsman shall administer a mediation program for the resolution of disputes arising under the Maine Freedom of Access Act. The purpose of the mediation program is to provide a voluntary, confidential, timely and cost-effective alternative to litigation for requesters and agencies. The Ombudsman shall, upon receipt of a Request for Mediation filed pursuant to

Title 1, section 408-A, subsection 13, conduct intake review, facilitate the exchange of information, schedule and conduct mediation sessions and issue notices of completion as required by this section and by Title 1, chapter 13, subchapter 1.

Participation in mediation is voluntary for the agency and requester. Mediation conducted under this subsection does not limit or affect any right of appeal under Title 1, section 409.

5 M.R.S. § 200-I, sub-§2 is enacted to read:

H. Rulemaking.

The Ombudsman shall adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A governing:

- A. Procedures for filing Requests for Mediation;
- B. Forms and timelines used in the mediation program;
- C. Confidential handling and secure destruction of mediation materials; and
- D. Procedures for issuing and delivering notices of completion and nonbinding recommendations.

5 M.R.S. § 200-I, sub-§2 is enacted to read:

I. Nonbinding recommendations.

Upon request of either party, the Ombudsman or the Deputy Ombudsman may issue a nonbinding written recommendation following the completion of mediation in which a resolution was not reached. The recommendation may include:

- A. A summary of the issues in dispute;
- B. Identification of the relevant statutory provisions under the Freedom of Access Act;
- C. A neutral evaluation of the parties' respective positions; and
- D. A nonbinding recommendation for resolving the dispute.

5 M.R.S. § 200-I, sub-§3-A is enacted to read:

3-A. Deputy Public Access Ombudsman; Mediation Program Director.

The position of Deputy Public Access Ombudsman – Mediation Program Director is established within the Office of the Attorney General to assist the Public Access Ombudsman in the administration of the FOAA Mediation Program. The Deputy Ombudsman shall:

- A. Conduct mediations and facilitate the resolution of disputes under the Freedom of Access Act;
- B. Review confidential records submitted for in camera inspection during mediation;
- C. Prepare notices, recommendations and communications for the parties; and
- D. Perform other duties assigned by the Public Access Ombudsman to ensure the efficient operation of the mediation program.

5 M.R.S. § 200-I, sub-§4-A is enacted to read:

4-A. Confidentiality; mediator privilege.

A. Confidentiality of mediation documents. Except for a Mediation Resolution Agreement, a Nonbinding written recommendation, and a Notice of Completion, all mediation communications, documents, notes, statements, draft agreements, records submitted for in camera review and all other materials prepared for or used in or created during the course of mediation pursuant to this section or Title 1, section 408-A, subsection 13 are confidential.

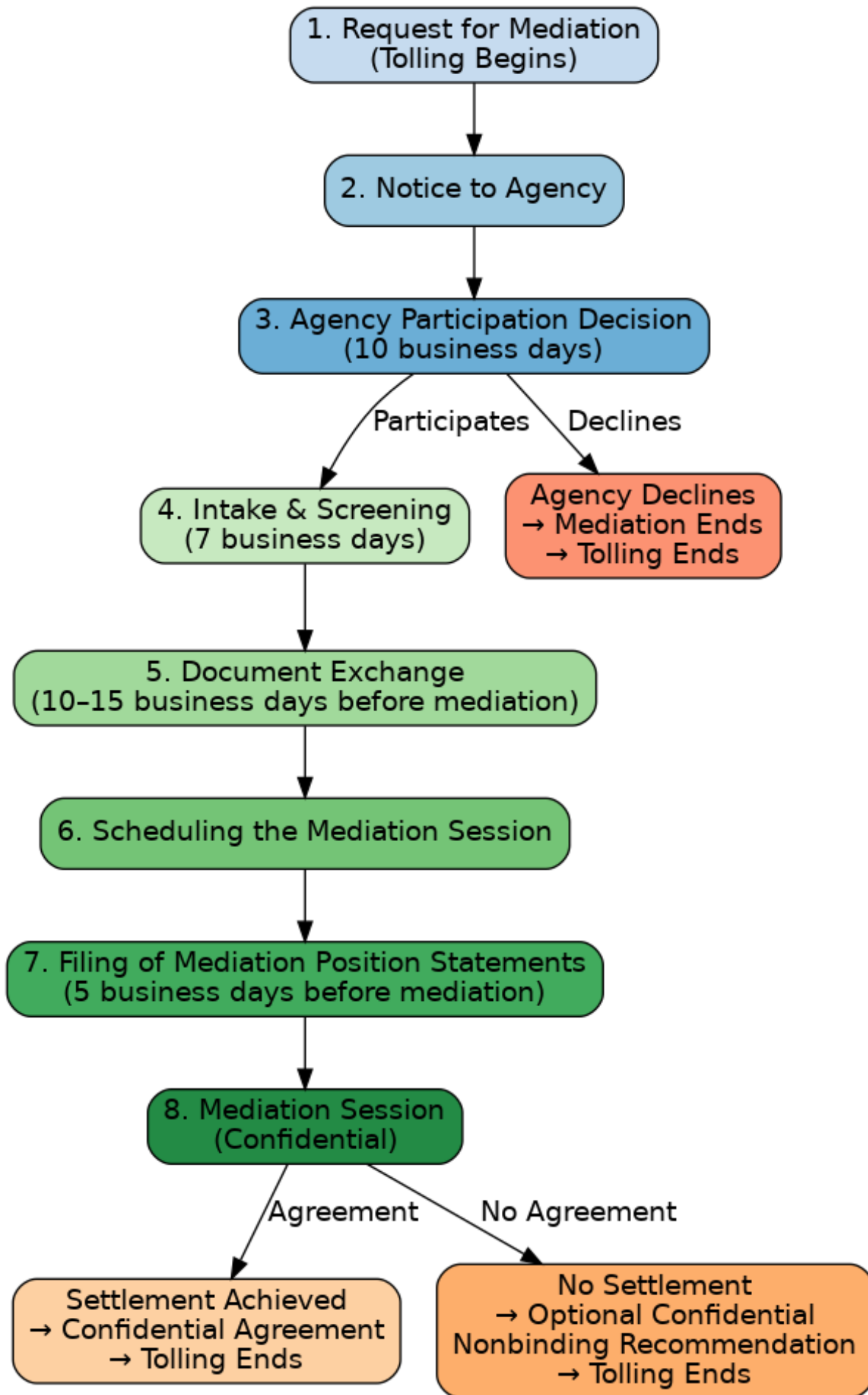
B. Admissibility. Nonbinding recommendations prepared with the consent of both parties may be submitted to and considered by the Court. This recommendation has no legal force and does not bind the Superior Court. Parties retain all rights under 1 M.R.S. § 409. All other mediation communications and documents described in paragraph A are inadmissible in any judicial, administrative or other proceeding, except to enforce the terms of a written Mediation Resolution Agreement executed by both parties.

C. Mediator privilege. The Public Access Ombudsman, the Deputy Public Access Ombudsman and any employee or contractor acting as a mediator may not be required to testify in any judicial, administrative or other proceeding concerning any matter arising from mediation, and may not be compelled to disclose any mediation communication or document. This privilege may not be waived except by the express written consent of all parties to the mediation.

D. Retention and destruction. The Ombudsman shall adopt rules establishing procedures for the retention and destruction of mediation materials. Such rules must ensure the protection of confidential information and the secure destruction of mediator notes at the conclusion of mediation.

APPENDIX U

FOAA Mediation Process Proposal Flowchart



*This flow chart was formatted with the use of artificial intelligence

§412. Public records and proceedings training for certain officials, board members and public access officers

1. Training required. A public access officer, a board member and an official subject to this section shall complete a course of training on the requirements of this chapter relating to public records and proceedings. The official, board member or public access officer shall complete the training not later than the 120th day after the date the official or board member assumes the person's duties as an official or board member or the person is designated as a public access officer pursuant to section 413, subsection 1.

[PL 2025, c. 187, §1 (AMD).]

2. Training course; minimum requirements. The training course under subsection 1 must be designed to be completed by an official, a board member or a public access officer in less than 2 hours. At a minimum, the training must include instruction in:

A. The general legal requirements of this chapter regarding public records and public proceedings;

[PL 2007, c. 349, §1 (NEW).]

B. Procedures and requirements regarding complying with a request for a public record under this chapter; and [PL 2007, c. 349, §1 (NEW).]

C. Penalties and other consequences for failure to comply with this chapter. [PL 2007, c. 349, §1 (NEW).]

An official, a board member or a public access officer meets the training requirements of this section by conducting a thorough review of all the information made available by the State on a publicly accessible website pursuant to section 411, subsection 6, paragraph C regarding specific guidance on how a member of the public can use the law to be a better informed and active participant in open government. To meet the requirements of this subsection, any other training course must include all of this information and may include additional information.

[PL 2025, c. 187, §1 (AMD).]

3. Certification of completion. Upon completion of the training course required under subsection 1, the official, board member or public access officer shall make a written or an electronic record attesting to the fact that the training has been completed. The record must identify the training completed and the date of completion. The official or board member shall keep the record or file it with the public entity to which the official or board member was elected or appointed. A public access officer shall file the record with the agency or official that designated the public access officer.

[PL 2025, c. 187, §1 (AMD).]

4. Application. This section applies to a public access officer and the following officials:

A. The Governor; [PL 2007, c. 349, §1 (NEW).]

B. The Attorney General, Secretary of State, Treasurer of State and State Auditor; [PL 2007, c. 349, §1 (NEW).]

C. Members of the Legislature elected after November 1, 2008; [PL 2007, c. 576, §2 (AMD).]

D. [PL 2007, c. 576, §2 (RP).]

E. Commissioners, treasurers, district attorneys, sheriffs, registers of deeds, registers of probate and budget committee members of county governments; [PL 2007, c. 576, §2 (NEW).]

F. Municipal officers; municipal clerks, treasurers, managers or administrators, assessors and code enforcement officers and deputies for those positions; and planning board members and budget committee members of municipal governments; [PL 2021, c. 313, §6 (AMD).]

G. Superintendents, assistant superintendents and school board members of school administrative units; [PL 2025, c. 187, §1 (AMD).]

H. Officials of a regional or other political subdivision who, as part of the duties of their offices, exercise executive or legislative powers. For the purposes of this paragraph, "regional or other political subdivision" means an administrative entity or instrumentality created pursuant to Title 30-A, chapter 115 or 119 or a quasi-municipal corporation or special purpose district, including, but not limited to, a water district, sanitary district, hospital district, school district of any type, transit district as defined in Title 30-A, section 3501, subsection 1 or regional transportation corporation as defined in Title 30-A, section 3501, subsection 2; and [PL 2025, c. 187, §1 (AMD).]

I. Members of a board or commission established under Title 5, chapter 379, referred to in this section as "board members." [PL 2025, c. 187, §1 (NEW).]
[PL 2025, c. 187, §1 (AMD).]

SECTION HISTORY

PL 2007, c. 349, §1 (NEW). PL 2007, c. 576, §2 (AMD). PL 2011, c. 662, §7 (AMD). PL 2019, c. 300, §1 (AMD). PL 2021, c. 313, §§5-7 (AMD). PL 2025, c. 187, §1 (AMD).

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

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 132nd Maine Legislature and is current through October 1, 2026. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

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

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

§402. Definitions

1. Conditional approval. Approval of an application or granting of a license, certificate or any other type of permit upon conditions not otherwise specifically required by the statute, ordinance or regulation pursuant to which the approval or granting is issued.

[PL 1975, c. 758 (NEW).]

1-A. Legislative subcommittee. "Legislative subcommittee" means 3 or more Legislators from a legislative committee appointed for the purpose of conducting legislative business on behalf of the committee.

[PL 1991, c. 773, §1 (NEW).]

2. Public proceedings. The term "public proceedings" as used in this subchapter means the transactions of any functions affecting any or all citizens of the State by any of the following:

A. The Legislature of Maine and its committees and subcommittees; [PL 1975, c. 758 (NEW).]

B. Any board or commission of any state agency or authority, the Board of Trustees of the University of Maine System and any of its committees and subcommittees, the Board of Trustees of the Maine Maritime Academy and any of its committees and subcommittees, the Board of Trustees of the Maine Community College System and any of its committees and subcommittees; [PL 1989, c. 878, Pt. A, §1 (RPR); PL 2003, c. 20, Pt. OO, §2 (AMD); PL 2003, c. 20, Pt. OO, §4 (AFF).]

C. Any board, commission, agency or authority of any county, municipality, school district or any regional or other political or administrative subdivision; [PL 1991, c. 848, §1 (AMD).]

D. The full membership meetings of any association, the membership of which is composed exclusively of counties, municipalities, school administrative units or other political or administrative subdivisions; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [PL 1995, c. 608, §1 (AMD).]

E. The board of directors of a nonprofit, nonstock private corporation that provides statewide noncommercial public broadcasting services and any of its committees and subcommittees; [PL 2009, c. 334, §1 (AMD).]

F. Any advisory organization, including any authority, board, commission, committee, council, task force or similar organization of an advisory nature, established, authorized or organized by law or resolve or by Executive Order issued by the Governor and not otherwise covered by this subsection, unless the law, resolve or Executive Order establishing, authorizing or organizing the advisory organization specifically exempts the organization from the application of this subchapter; and [PL 2009, c. 334, §2 (AMD).]

G. The committee meetings, subcommittee meetings and full membership meetings of any association that:

(1) Promotes, organizes or regulates statewide interscholastic activities in public schools or in both public and private schools; and

(2) Receives its funding from the public and private school members, either through membership dues or fees collected from those schools based on the number of participants of those schools in interscholastic activities.

This paragraph applies to only those meetings pertaining to interscholastic sports and does not apply to any meeting or any portion of any meeting the subject of which is limited to personnel issues, allegations of interscholastic athletic rule violations by member schools, administrators, coaches or student athletes or the eligibility of an individual student athlete or coach. [PL 2009, c. 334, §3 (NEW).]

[PL 2009, c. 334, §§1-3 (AMD).]

3. Public records. The term "public records" means any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business, except:

A. Records that have been designated confidential by statute; [PL 1975, c. 758 (NEW).]

B. Records that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding; [PL 1975, c. 758 (NEW).]

C. Legislative papers and reports until signed and publicly distributed in accordance with legislative rules, and records, working papers, drafts and interoffice and intraoffice memoranda used or maintained by any Legislator, legislative agency or legislative employee to prepare proposed Senate or House papers or reports for consideration by the Legislature or any of its committees during the legislative session or sessions in which the papers or reports are prepared or considered or to which the paper or report is carried over; [PL 1991, c. 773, §2 (AMD).]

C-1. Information contained in a communication between a constituent and an elected official if the information:

(1) Is of a personal nature, consisting of:

(a) An individual's medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(b) Credit or financial information;

(c) Information pertaining to the personal history, general character or conduct of the constituent or any member of the constituent's immediate family; or

(d) Complaints, charges of misconduct, replies to complaints or charges of misconduct or memoranda or other materials pertaining to disciplinary action; or

(2) Would be confidential if it were in the possession of another public agency or official; [PL 2019, c. 667, Pt. A, §1 (AMD).]

D. Material prepared for and used specifically and exclusively in preparation for negotiations, including the development of bargaining proposals to be made and the analysis of proposals received, by a public employer in collective bargaining with its employees and their designated representatives; [PL 1989, c. 358, §4 (AMD).]

E. Records, working papers, interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System when the subject matter is confidential or otherwise protected from disclosure by statute, other law, legal precedent or privilege recognized by the courts of this State. The provisions of this paragraph do not apply to the boards of trustees and the committees and subcommittees of those boards, which are referred to in subsection 2, paragraph B; [PL 2019, c. 667, Pt. B, §1 (AMD).]

F. Records that would be confidential if they were in the possession or custody of an agency or public official of the State or any of its political or administrative subdivisions are confidential if those records are in the possession of an association, the membership of which is composed

exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [PL 1991, c. 448, §1 (AMD).]

G. Materials related to the development of positions on legislation or materials that are related to insurance or insurance-like protection or services which are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [PL 1991, c. 448, §1 (AMD).]

H. Medical records and reports of municipal ambulance and rescue units and other emergency medical service units, except that such records and reports must be available upon request to law enforcement officers investigating criminal conduct; [PL 1995, c. 608, §4 (AMD).]

I. Juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter; [PL 1999, c. 96, §1 (AMD).]

J. Working papers, including records, drafts and interoffice and intraoffice memoranda, used or maintained by any advisory organization covered by subsection 2, paragraph F, or any member or staff of that organization during the existence of the advisory organization. Working papers are public records if distributed in a public meeting of the advisory organization; [PL 2019, c. 667, Pt. B, §2 (AMD).]

K. Personally identifying information concerning minors that is obtained or maintained by a municipality in providing recreational or nonmandatory educational programs or services. This paragraph does not apply to records governed by Title 20-A, section 6001 and does not supersede Title 20-A, section 6001-A; [PL 2019, c. 667, Pt. A, §2 (AMD).]

L. Records describing security plans, security procedures or risk assessments prepared specifically for the purpose of preventing or preparing for acts of terrorism, but only to the extent that release of information contained in the record could reasonably be expected to jeopardize the physical safety of government personnel or the public. Information contained in records covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure. For purposes of this paragraph, "terrorism" has the same meaning as in Title 37-B, section 703, subsection 8; [PL 2025, c. 77, §1 (AMD).]

M. Records or information describing the architecture, design, access authentication, encryption or security of information technology infrastructure, systems and software, including records or information maintained to ensure government operations and technology continuity and to facilitate disaster recovery. Records or information covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure; [PL 2019, c. 667, Pt. A, §3 (AMD).]

N. Social security numbers; [PL 2011, c. 320, Pt. E, §1 (AMD).]

O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For the purposes of this paragraph:

- (1) "Personal contact information" means personal address, telephone number, facsimile number, e-mail address, cellular telephone number, pager number and username, password and uniform resource locator for a personal social media account as defined in Title 26, section 615, subsection 4; and

(2) "Public employee" means an employee as defined in Title 14, section 8102, subsection 1, except that "public employee" does not include elected officials; [PL 2019, c. 667, Pt. B, §3 (AMD).]

P. Geographic information regarding recreational trails that are located on private land that are authorized voluntarily as such by the landowner with no public deed or guaranteed right of public access, unless the landowner authorizes the release of the information; [PL 2011, c. 149, §1 (AMD).]

REVISOR'S NOTE: (Paragraph P as enacted by PL 2009, c. 339, §3 is REALLOCATED TO TITLE 1, SECTION 402, SUBSECTION 3, PARAGRAPH Q)

Q. **(REALLOCATED FROM T. 1, §402, sub-§3, ¶P)** Security plans, staffing plans, security procedures, architectural drawings or risk assessments prepared for emergency events that are prepared for or by or kept in the custody of the Department of Corrections or a county jail if there is a reasonable possibility that public release or inspection of the records would endanger the life or physical safety of any individual or disclose security plans and procedures not generally known by the general public. Information contained in records covered by this paragraph may be disclosed to state and county officials if necessary to carry out the duties of the officials or the Department of Corrections under conditions that protect the information from further disclosure; [PL 2015, c. 335, §1 (AMD).]

R. [PL 2017, c. 163, §1 (RP).]

S. E-mail addresses obtained by a political subdivision of the State for the sole purpose of disseminating noninteractive notifications, updates and cancellations that are issued from the political subdivision or its elected officers to an individual or individuals that request or regularly accept these noninteractive communications; [PL 2015, c. 161, §1 (AMD).]

T. Records describing research for the development of processing techniques for fisheries, aquaculture and seafood processing or the design and operation of a depuration plant in the possession of the Department of Marine Resources; [PL 2017, c. 118, §1 (AMD).]

U. Records provided by a railroad company pursuant to Title 23, section 7311, subsection 5 and records describing hazardous materials transported by the railroad company in this State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those routes that are in the possession of a state or local emergency management entity or law enforcement agency, fire department or other first responder, except that records related to a train carrying hazardous materials that has derailed at any point from a main line train track or related to a discharge of hazardous materials transported by a railroad company that poses a threat to public health, safety and welfare are subject to public disclosure after that discharge. For the purposes of this paragraph, "hazardous material" has the same meaning as set forth in 49 Code of Federal Regulations, Section 105.5; [PL 2025, c. 99, §1 (AMD).]

V. Participant application materials and other personal information obtained or maintained by a municipality or other public entity in administering a community well-being check program, except that a participant's personal information, including health information, may be made available to first responders only as necessary to implement the program. For the purposes of this paragraph, "community well-being check program" means a voluntary program that involves daily, or regular, contact with a participant and, when contact cannot be established, sends first responders to the participant's residence to check on the participant's well-being; [PL 2025, c. 99, §2 (AMD).]

W. Information in the possession of a public utility, the Office of the Public Advocate or the Public Utilities Commission pertaining to an individual customer of a public utility as defined in Title 35-A, section 102, subsection 13 that is designated by rule as confidential by the Public Utilities Commission pursuant to Title 35-A, section 111; and [PL 2025, c. 99, §3 (NEW).]

X. Information in the possession of a public sewer system pertaining to an individual customer of a public utility as described in this paragraph. For purposes of this paragraph, "public sewer system" means a municipality, division of a municipality or quasi-municipal entity that is a municipal sewer department, a sewer district as defined in Title 38, section 1032, subsection 3 or 4, a system that collects stormwater or a sanitary district formed under Title 38, chapter 11.

(1) If the municipality, division of a municipality or quasi-municipal entity, referred to in this subparagraph as "the entity," is both a public sewer system and a water utility as defined in Title 35-A, section 102, subsection 22, information in the possession of the entity, the Office of the Public Advocate or the Public Utilities Commission pertaining to an individual customer of the public sewer system is confidential if that information would be confidential under paragraph W if the information pertained to an individual customer of a water utility.

(2) For all public sewer systems not described in subparagraph (1), information in the possession of the public sewer system pertaining to an individual customer of the public sewer system, including the customer's name, physical or mailing address, e-mail address, telephone number, utility usage, payment and credit history, financial condition or medical condition, or financial or medical condition of a member of the customer's family, is confidential and may not be disclosed by the public sewer system unless:

(a) The customer consents to the disclosure. For purposes of this division, the public sewer system may accept an oral certification from a social service agency that the customer has consented to the public sewer system's disclosure of the customer's information to the social service agency;

(b) The disclosure is made for the purpose of debt collection, credit reporting or usage reporting pursuant to state or federal law, except that the information may not be disclosed for purposes of debt collection or credit reporting purposes if the customer is currently protected by a protection from abuse order and the customer has disclosed the protection from abuse order to the public sewer system;

(c) The disclosure is made to a law enforcement officer or law enforcement agency pursuant to lawful process;

(d) The disclosure is made to state, county, tribal or local emergency management agency personnel when the information about the individual customer is requested while the agency is responding to an emergency situation;

(e) The disclosure is made to a public utility or public sewer system to the extent necessary to allow these entities to bill customers for services rendered; or

(f) The disclosure is otherwise required by state or federal law. [PL 2025, c. 99, §4 (NEW).]

[PL 2025, c. 77, §1 (AMD); PL 2025, c. 99, §§1-4 (AMD).]

3-A. Public records further defined. "Public records" also includes the following criminal justice agency records:

A. Records relating to prisoner furloughs to the extent they pertain to a prisoner's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, address of furlough and dates of furlough; [PL 2013, c. 267, Pt. B, §1 (AMD).]

B. Records relating to out-of-state adult probationer or parolee supervision to the extent they pertain to a probationer's or parolee's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, address of residence and dates of supervision; and [PL 2013, c. 267, Pt. B, §1 (AMD).]

C. Records to the extent they pertain to a prisoner's, adult probationer's or parolee's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, and current address or location, unless the Commissioner of Corrections determines that it would be detrimental to the welfare of a client to disclose the information. [PL 2013, c. 267, Pt. B, §1 (AMD).]

[PL 2013, c. 267, Pt. B, §1 (AMD).]

4. Public records of interscholastic athletic organizations. Any records or minutes of meetings under subsection 2, paragraph G are public records.

[PL 2009, c. 334, §4 (NEW).]

5. Public access officer. "Public access officer" means the person designated pursuant to section 413, subsection 1.

[PL 2011, c. 662, §3 (NEW).]

6. Reasonable office hours. "Reasonable office hours" includes all regular office hours of an agency or official.

[PL 2011, c. 662, §3 (NEW).]

SECTION HISTORY

PL 1973, c. 433, §1 (AMD). PL 1975, c. 243 (RPR). PL 1975, c. 483, §2 (AMD). PL 1975, c. 758 (RPR). PL 1977, c. 164, §§1,2 (AMD). PL 1977, c. 696, §9 (AMD). PL 1985, c. 695, §§1,2 (AMD). PL 1985, c. 779, §§1,2 (AMD). PL 1987, c. 20, §1 (AMD). PL 1987, c. 402, §A1 (AMD). PL 1987, c. 477, §1 (AMD). PL 1989, c. 358, §§1-4 (AMD). PL 1989, c. 443, §§1,2 (AMD). PL 1989, c. 878, §§A1,2 (AMD). PL 1991, c. 448, §§1,2 (AMD). PL 1991, c. 773, §§1,2 (AMD). PL 1991, c. 848, §1 (AMD). PL 1995, c. 608, §§1-5 (AMD). PL 1997, c. 714, §1 (AMD). PL 1999, c. 96, §§1-3 (AMD). PL 2001, c. 477, §1 (AMD). PL 2001, c. 675, §§1-3 (AMD). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF). PL 2003, c. 392, §§1-3 (AMD). PL 2003, c. 614, §§1-3 (AMD). PL 2005, c. 381, §§1-3 (AMD). PL 2007, c. 597, §1 (AMD). RR 2009, c. 1, §§1-3 (COR). PL 2009, c. 176, §§1-3 (AMD). PL 2009, c. 334, §§1-4 (AMD). PL 2009, c. 339, §§1-3 (AMD). PL 2011, c. 149, §§1-3 (AMD). PL 2011, c. 264, §1 (AMD). PL 2011, c. 320, Pt. E, §1 (AMD). PL 2011, c. 662, §§2, 3 (AMD). PL 2013, c. 267, Pt. B, §1 (AMD). PL 2013, c. 339, §§1-3 (AMD). PL 2013, c. 518, §§1-3 (AMD). PL 2015, c. 161, §§1-3 (AMD). PL 2015, c. 335, §1 (AMD). PL 2017, c. 118, §§1-3 (AMD). PL 2017, c. 163, §1 (AMD). PL 2019, c. 667, Pt. A, §§1-3 (AMD). PL 2019, c. 667, Pt. B, §§1-4 (AMD). PL 2023, c. 618, §1 (AMD). PL 2025, c. 77, §1 (AMD). PL 2025, c. 99, §§1-4 (AMD).

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

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Special Session of the 132nd Maine Legislature and is current through January 1, 2026. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

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

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

J. CHRISTOPHER PARR
LEWISTON, MAINE 04240

October 7, 2026

Right to Know Advisory Committee
c/o Office of Policy & Legal Analysis
13 State House Station
Augusta, ME 04333-0013

RE: BURDENSOME PUBLIC RECORD REQUESTS

Dear Chair Carney and Members of the Right to Know Advisory Committee:

Although I am an employee of the State of Maine, I send this correspondence to the committee solely in my personal capacity as a resident of Maine, to share a perspective of a member of the public.

For years, the problem of so-called 'burdensome public record requests' that State and local government agencies receive has been a topic of discussion for this committee. The committee's earnest consideration of the problem, however, has not mitigated the stress on agencies caused by such requests. Indeed, the problem seems to be only worsening.

A practical consequence of that stress is that the processes agencies have in place to respond to Freedom of Access Act ("FOAA"; "Act") requests become increasingly taxed and rendered less and less efficient. As a result of that adverse systemic impact, the availability of records and information to the public diminishes and, consequently, informed public discourse suffers.

In short, the public interest is directly harmed, and will continue to be harmed, if the problem of burdensome public record requests is not meaningfully addressed by policy makers.

To alleviate the stress State and local government agencies face due to such requests, the committee should take decisive action in its work on this issue. One way to do so would be to anchor the committee's work and recommendations to the policy declaration the Legislature set forth in Section 401 of the FOAA, captioned, "Declaration of public policy; rules of construction." In relevant part, that provision states,

The Legislature finds and declares that public proceedings exist to aid in the conduct of the people's business. It is the intent of the Legislature that their actions be taken openly and that the records of their actions be open to public inspection and their deliberations be conducted openly.

....

This subchapter shall be liberally construed and applied to promote its underlying purposes and policies as contained in the declaration of legislative intent.

[Emphasis added.] It appears clear that the Legislature intended for the FOAA to ensure that the People of Maine are able access public proceedings and records so that the actions and decisions of government officials can be known — and, when warranted, so that those officials can be held accountable. Notably absent from the Legislature’s policy declaration is any notion that the Act was meant to further commercial interests, to facilitate data mining, to serve as an alternate type of discovery in private litigation, or to ascertain Maine residents’ personal information that happens to be (often at times, involuntarily) in the custody of the government.

In its past work, this committee has considered various possible solutions to the problem of burdensome FOAA requests, but relatively few have been advanced. I therefore encourage the committee to re-visit at least some of those potential remedies (as well as to consider new ones¹) and then to recommend those to the Judiciary Committee that might provide some meaningful measure of relief to State and local government agencies.

¹ One such approach would be to repeal and replace 1 M.R.S. § 408-A, sub-§ 4-A (“Action for protection”) to make the process of responding to burdensome or nuisance FOAA requests like that set forth in Illinois Open Records Law at 5 I.L.C.S. § 140(3)(g), which provides as follows:

(g) Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden on the public body outweighs the public interest in the information. Before invoking this exemption, the public body shall extend to the person making the request an opportunity to confer with it in an attempt to reduce the request to manageable proportions. If any public body responds to a categorical request by stating that compliance would unduly burden its operation and the conditions described above are met, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the public body. Such a response shall be treated as a denial of the request for information.

Repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied under this Act shall be deemed unduly burdensome under this provision.

(Illinois’ Freedom of Information Act generally might be worth considering for possible ideas to improve the FOAA. See generally <https://law.justia.com/codes/illinois/chapter-5/act-5-ilcs-140/>.)

Other approaches might be to amend the FOAA (1) to permit only residents of the State of Maine and businesses having a presence in the State to file formal FOAA requests or, alternatively, to allow agencies to place a higher priority on processing such requests; (2) to allow agencies to unilaterally cease responding to FOAA requests thought or known to be made by Artificial Intelligence (AI) bots; (3) to permit agencies to respond to multiple, substantively similar FOAA requests with one comprehensive

Taking such action will directly benefit the public interest.

Thank you considering this letter. Please feel welcome to contact me if you have any questions about the thoughts I have shared.

Respectfully,



J. Christopher Parr
jchristopherparr@yahoo.com

response; and (4) to allow agencies to prioritize their responses to FOAA requests based on whether the requests are primarily made for purposes that further Legislature's intent, as expressed in Section 401.