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Date: (Filing No. H-)

EDUCATION AND CULTURAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1366, L.D. 1924, Bill, “An Act To Improve Information Sharing Relating to Investigations of Educators”

Amend the bill by striking out everything after the title and before the summary and inserting the following:

'Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 20-A MRSA §13025, as amended by PL 2017, c. 235, §29 and affected by §41, is repealed and the following enacted in its place:

§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 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 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.

COMMITTEE AMENDMENT

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

4 **3. Duties of school entities.** A school entity shall notify the department within 15
5 business days of the school entity's initiating a covered investigation. The school entity
6 shall notify the department immediately if the credential holder is put on administrative
7 leave, suspended or terminated as part of a covered investigation. The notification must
8 include the matter being investigated. Within 5 business days after completion of a
9 covered investigation, the school entity shall notify the department in writing of the final
10 outcome of the investigation, including, but not limited to, any actions taken, and shall
11 provide to the department any final report produced.

12 **4. Duties of department.** The department shall notify school entities in accordance
13 with this subsection.

14 A. The department shall notify the superintendent or chief administrative officer of a
15 school entity within 15 business days of the department's initiating an investigation
16 into a holder of a credential who works for the school entity and shall notify the
17 school entity immediately if the department takes action on that credential. Within 5
18 business days after completion of an investigation, the department shall notify each
19 school entity for which the credential holder works of the final outcome of the
20 investigation, including, but not limited to, any actions taken, and shall provide to the
21 school entity any final written decision.

22 B. Immediately upon receipt from a school entity of notification pursuant to
23 subsection 3 of a covered investigation or administrative leave, suspension or
24 termination, the department shall notify the superintendent or chief administrative
25 officer of all other school entities for which the credential holder works, as reported
26 to the department under section 13026, that the credential holder is being investigated
27 or has been placed on administrative leave, suspended or terminated as part of a
28 covered investigation. The department shall notify the superintendent or chief
29 administrative officer of each school entity for which the credential holder works of
30 the final outcome of the covered investigation, including, but not limited to, any
31 actions taken and any final report produced, upon receipt of that information from the
32 investigating school entity.

33 **5. Confidentiality.** The department may share information that is confidential
34 pursuant to section 6101 or 13004 with a school entity in accordance with subsection 4. A
35 school entity that receives confidential information shall maintain the confidentiality of
36 that information in accordance with rules adopted by the department pursuant to
37 subsection 6.

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

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SUMMARY

This amendment is the unanimous report of the committee. The amendment strikes and replaces the bill to make the following substantive changes:

1. It adds a mandate preamble;
2. It adds a definition section to define "boundaries," "covered investigation" and "school entity";
3. It specifies that a school entity must notify the Department of Education and the department must notify a school entity of an investigation within 15 business days, instead of 15 days, and clarifies that the department must notify the superintendent or chief administrative officer of the school entity;
4. It clarifies that the department may share information pertaining to credentialing and employee records that is confidential with a school entity and requires that a school entity that receives that information ensure the confidentiality of that information; and
5. It directs the Commissioner of Education to adopt major substantive rules to develop guidelines for school entities on the types of conduct of which the school entity must notify the department and to ensure confidentiality.

FISCAL NOTE REQUIRED

(See attached)