



**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A. [Repealed, 2019]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.

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