

From: [Laxon, Lindsay](#)
To: [Amy Beveridge](#); [Carney, Anne](#); [Cheryl Saniuk-Heinig](#); [Chief Gahagan](#); [Finn, Julia](#); [Harnett, Thomas](#); [Judy Meyer](#); [Lynda Clancy](#); [Stout, Eric](#)
Cc: [McCarthyReid, Colleen](#)
Subject: FW: Right to Know Advisory Committee Question
Date: Wednesday, November 16, 2022 4:40:00 PM

Good afternoon!

Please see the information below from Brian MacMaster in response to one of the questions raised at yesterday's subcommittee meeting.

Sincerely,

Lindsay

Lindsay J. Laxon, Esq.
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(207) 287-1670

From: MacMaster, Brian <Brian.MacMaster@maine.gov>
Sent: Wednesday, November 16, 2022 1:37 PM
To: Laxon, Lindsay <Lindsay.Laxon@legislature.maine.gov>
Subject: RE: Right to Know Advisory Committee Question

This message originates from outside the Maine Legislature.

The simple answer is it was and continues to be the function of unions to continuously strive to purge past discipline for purposes of progressive discipline, the rationale being that past discipline should not be considered in present or future discipline if an adequate period of time has passed with a clean record. While that may be laudable on the part of the unions, my view is that these past actions should not be beyond the grasp of public dissemination to comply with the spirit of the law in declaring that final disciplinary actions are a matter of public consumption.

On a related note, take a look at the sections of law in Title 5 (state employees) and Title 30-A (different sections for county and municipal employees):

5 M.R.S. section 7070(2)(E) – State employees

If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline.

30-A M.R.S. section 503(2)(B)(5) – County employees

If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline.

30-A M.R.S. section 2702(1)(5) – Municipal employees

If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. **The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action.**

I believe that the three sections should be consistent. It's been a source of considerable criticism that publicly-accessible disciplinary records at the state and county level are not required to "state the conduct or other facts on the basis of which disciplinary action" was imposed and "the conclusions of the acting authority as to the reasons for that action."

I hope this is helpful. Feel free to contact me if I can be of further assistance.

From: Laxon, Lindsay <Lindsay.Laxon@legislature.maine.gov>

Sent: Wednesday, November 16, 2022 1:02 PM

To: MacMaster, Brian <Brian.MacMaster@maine.gov>

Subject: Right to Know Advisory Committee Question

Good afternoon, Brian,

I am the legislative analyst staffing the Right to Know Advisory Committee's Access to Disciplinary Records of Public Employees Subcommittee. The subcommittee has been discussing the role of collective bargaining agreements in the retention of public employee disciplinary records, specifically language that calls for the removal or destruction of disciplinary records at the request of the employee after a given period of time.

A question came up at yesterday's meeting about what precipitated the inclusion of this type of language in collective bargaining agreements (e.g., an increase in disciplinary actions or litigation using these records). One of the members suggested that you might have some insights from a law enforcement perspective. Do you have any thoughts on this question that you would like me to share with the subcommittee? Their next meeting is tomorrow morning.

Thank you for your time and please don't hesitate to reach out if you have any questions!

Sincerely,

Lindsay

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