

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2015 to December 31, 2015**  
*Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5*

**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 20-A MRS §13706  
**Chapter number/title:** Ch. 180, Performance Evaluation and Professional Growth Systems  
**Filing number:** 2015-040  
**Effective date:** 3/18/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** Yes

**Principal reason or purpose for rule:**  
*(See Basis statement / summary)*

**Basis statement / summary:**

The US Department of Education requires that statutory revisions to 20-A MRS §13704 and §13706 regarding educator effectiveness and corresponding amendments be made to Maine Department of Education rule Ch. 180 be in effect by March 30, 2015 in order to be in compliance with the federal *Elementary and Secondary Education Act*. Specifically, the rule language has been changed to reflect that school administrative units will use state assessment data for English language arts. And math as a measure of performance for teachers and as a measure of performance for principals. The rule clarifies the usage of summative effectiveness ratings for certain categories of performance rating. An additional component has been added to the rules regarding monitoring of the performance evaluation and professional growth systems.

**Fiscal impact of rule:**  
None.

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 20-A MRS §4801 sub-§1 ¶F  
**Chapter number/title:** Ch. 125, Basic Approval Standards: Public Schools and School Administrative Units  
**Filing number:** 2015-092  
**Effective date:** 5/14/2015  
**Type of rule:** Routine technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

Expedited amendment to Ch. 125 to address statutory revision regarding acceptable methods of rescheduling school days canceled due to weather or emergency closures.

**Basis statement / summary:**

Expedited amendment to Ch. 125 to address statutory revision regarding acceptable methods of rescheduling school days canceled due to weather or emergency closures.

**Fiscal impact of rule:**

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 20-A MRS §7005(1)  
**Chapter number/title:** Ch. 101, Maine Unified Special Education Regulation - Birth to Age Twenty  
**Filing number:** 2015-111  
**Effective date:** 7/19/2015  
**Type of rule:** Major Substantive  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The Department of Education amends Ch. 101 to: update rule to reflect current practice and comply with a recently enacted State Resolve; clarify provisions that require clarification; revise or remove outdated provisions; and make technical changes or corrections where needed.

**Basis statement / summary:**

The rule is a major substantive rule entitled "Chapter 101, Maine Unified Special Education Regulation Birth to Age Twenty". The purpose of the rule is to ensure that children with disabilities receive a free, appropriate public education consistent with federal law. The purposes of the amendments are to:

- Add provisions that define "regional special education program" and "service coordinator" (to replace "case manager" in favor of the federal terminology), provide clarity to the timeline for initial eligibility determinations, establish approval standards for regional special education programs, codify CDS's approval of private pre-school programs, establish parameters for special education monitoring in communities without schools (per Ch. 70, *Resolves*, June 26, 2013), establish parameters for provision of educational records electronically, and extend the option of complaint investigation as an enforcement mechanism for stand-alone mediation agreements
- Clarify responsibility for transition to IDEA, Part B (from Part C) programming, responsibilities of the receiving school administrative unit in cases of out-of-district placements, the scope and nature of "early intervention services", the scope of "consultation" as a special education service, approval standards for special purpose private schools, and the computation of public school special education tuition and private school special education tuition
- Revise procedures for out-of-district placements to reflect a change in practice
- Clarify the Department's ability to provide guidance to the field
- Remove the restriction on enforcement of mediation or resolution session agreements containing attorney's fees
- Correct a certification category and add/clarify contracted provider categories in the Finance section of the rule
- Make other technical changes (move a provision to another section; reflect a change described above in a related section of the rule; correct a typographical error; improve some wording; and outside the text of the rule, update the citation to the statutory authority for the rule-making

**Fiscal impact of rule:**

None.

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 20-A MRS §§ 13031 - 13038, 13035-A  
**Chapter number/title:** Ch. 13, Qualifying Examinations by Teachers, Educational Specialists and Administrators  
**Filing number:** 2015-115  
**Effective date:** 6/23/2015  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement / summary:**

The testing requirements changes to Ch. 13 stem from the regular regeneration (revision) process employed by the Educational Testing Service (ETS). Each Praxis exam undergoes regeneration every five years. ETS conducts a multi-state standard setting study designed to assemble two separate groups of current practitioners for two to three days to review the validity and reliability of the test being regenerated. The end result is a recommended cut off score that is deemed appropriate for the just qualified candidate (JQC). Several of the tests required by the Maine Department of Education were recently regenerated, so the current Ch. 13 must be updated to reflect these changes.

Changes in Ch. 13 include new test codes, new test titles, recommended cut off scores, and language to allow old tests no longer being administered to be used for up to five years after which time only the new tests will be accepted.

With respect to Section 3.10 of the rule, the proposed revision came to mind during the running of the first comment period. The inequity of the provision was recognized as of sufficient importance to address during this rule-making process.

The section waives the PLT and Praxis I tests for "applicants who hold a current teaching certificate from another state who are seeking a teaching certificate in the same endorsement area." The practice has been to tell an applicant with a lapsed credential that if they renew their lapsed credential from out of state they can avoid taking the tests.

As can be seen, it is the fact of having held a full teaching credential, not whether the applicant has ever taken the PLT or the Praxis I that determines whether the applicant has the basic knowledge that is required to obtain a teaching credential. Accordingly, it is excessive to require PLT and Praxis I when the teaching credential is lapsed because passing the PLT and Praxis I test will not enable a teacher to renew the lapsed credential. The Praxis I test is to assess whether a person has sufficient high school level knowledge to be able to become a teacher, and PL T is a basic methods and pedagogy test to assess the knowledge of a beginning teacher. All teachers must pass a specific content methods course to have a full credential in a particular endorsement area.

By the same logic, an applicant who has held a full teaching credential in any endorsement area should not be required to take these basic tests since the tests do not show or advance the knowledge needed for any specific subject area teaching credential.

In-state applicants and out-of-state applicants have been treated equally regarding the need to take PLT and Praxis I. No rule made that explicit until this revision.

Not all Educational Specialists credential areas are required to take the PLT, such as School Nurse, Athletic Director, School Psychologists and Vocational Education Evaluator. The PLT will be required for these specialists when applying for a specialty area that requires the PLT.

**Fiscal impact of rule:** N/A

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** Agency reports that underlying statute was repealed  
**Chapter number/title:** Ch. 21, Secular Textbooks and Services to Private School Pupils  
**Filing number:** 2015-231  
**Effective date:** 11/28/15  
**Type of rule:** Routine technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement / summary:**  
This rule is being repealed since the statutory provisions have been repealed.

**Fiscal impact of rule:**  
N/A

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** Agency reports that underlying statute was repealed  
**Chapter number/title:** Ch. 25, Administration of Special Education Adjustments:  
Definition of Budgetary Hardship  
**Filing number:** 2015-232  
**Effective date:** 11/28/15  
**Type of rule:** Routine technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement / summary:**  
This rule is being repealed since the statutory provisions have been repealed.

**Fiscal impact of rule:**  
N/A

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** Agency reports that underlying statute was repealed  
**Chapter number/title:** Ch. 27, Rules for Determining Geographic Isolation Status  
**Filing number:** 2015-233  
**Effective date:** 11/28/15  
**Type of rule:** Routine technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement / summary:**  
This rule is being repealed since the statutory provisions have been repealed.

**Fiscal impact of rule:**  
N/A

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** Agency reports that underlying statute was repealed  
**Chapter number/title:** **Ch. 58**, Child Nutrition Programs in Child Care Centers and Recreational Center and Camps  
**Filing number:** **2015-234**  
**Effective date:** 11/28/15  
**Type of rule:** Routine technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement / summary:**  
This rule is being repealed since the statutory provisions have been repealed.

**Fiscal impact of rule:**  
N/A



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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** Agency reports that underlying statute was repealed  
**Chapter number/title:** Ch. 120, Innovative Education Grants  
**Filing number:** 2015-235  
**Effective date:** 11/28/15  
**Type of rule:** Routine technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

*(See Basis Statement)*

**Basis statement / summary:**

This rule is being repealed since the statutory provisions have been repealed.

**Fiscal impact of rule:**

N/A

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** Agency reports that underlying statute was repealed  
**Chapter number/title:** **Ch. 245**, Standards for Education Programming for Certified Nursing Assistants  
**Filing number:** **2015-236**  
**Effective date:** 11/28/15  
**Type of rule:** Routine technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

*(See Basis Statement)*

**Basis statement / summary:**

This rule is being repealed since the statutory provisions have been repealed.

**Fiscal impact of rule:**

N/A

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 20-A MRS §§ 6451-6455  
**Chapter number/title:** Ch. 45, Rule for Health Screening in Maine Public Schools  
**Filing number:** 2015-243  
**Effective date:** 12/13/15  
**Type of rule:** Routine technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement / summary:**

Revisions to the rule to include health screenings for Children in public preschool programs, which are reflected in the Ch. 124 *Basic School Approval Public Preschool Program Standards* regulations.

**Fiscal impact of rule:**  
None

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**Agency name:** Department of Education  
**Umbrella-Unit:** 05-071  
**Statutory authority:** 20-A MRS §§ 6451-6455  
**Chapter number/title:** Ch. 125, Basic School Approval Standards: Public Schools and School Administrative Units  
**Filing number:** 2015-248  
**Effective date:** 12/19/15  
**Type of rule:** Routine technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement / summary:**

LD 97, Resolve 2015 ch. 2 directed the Department of Education and State Board of Education to amend Joint Rule Ch. 125, *Basic School Approval Standards: Public Schools and School Administrative Units*, to include lockdown drills as well as emergency evacuation drills within the established required number of drills to be performed.

**Fiscal impact of rule:**  
None