



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1820

H.P. 1297

House of Representatives, June 3, 2019

An Act To Amend the Laws Governing Investigations by School Entities into Holders of Credentials

(AFTER DEADLINE)

Submitted by the Department of Education and approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative KORNFIELD of Bangor.

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

2 **Sec. 1. 20-A MRSA §13025**, as repealed and replaced by PL 2017, c. 477, §1, is
3 amended to read:

4 **§13025. Investigations**

5 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
6 following terms have the following meanings.

7 A. "Boundaries" means the physical, emotional and social structures that ensure that
8 interactions with a student have a legitimate academic purpose.

9 B. "Covered investigation" means an investigation by a school entity into the
10 conduct of a holder of a credential that a school entity has a reasonable expectation
11 would affect the credential holder's employment or contracted service because the
12 ~~alleged~~ conduct involves alcohol, illegal drugs, physical abuse, emotional abuse,
13 ~~violating boundaries, inappropriate contact between a credential holder and a student,~~
14 ~~stalking, or similar behavior that~~ may endanger the health, safety or welfare of a
15 student.

16 C. "School entity" means an approved private school, school administrative unit,
17 public charter school, school management and leadership center, school in the
18 unorganized territory or school operated by the State.

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

22 **3. Duties of school entities.** A school entity shall notify the department ~~within 15~~
23 ~~business days of the~~ immediately if a credential holder who is the subject of a covered
24 investigation leaves the school entity's initiating a employment for any reason prior to the
25 conclusion of the covered investigation. ~~The~~ A school entity shall notify the department
26 immediately if the a credential holder is ~~put on administrative leave~~ disciplined,
27 suspended or terminated as part a result of a covered investigation in which the school
28 entity determined that a student's health, safety or welfare was endangered. ~~The~~
29 ~~notification must include the matter being investigated.~~ ~~Within 5 business days after~~
30 ~~completion of a covered investigation, the school entity shall notify the department in~~
31 ~~writing of the final outcome of the investigation, including, but not limited to, any actions~~
32 ~~taken, and shall provide to the department any final report produced in support of the~~
33 ~~school entity's decision to discipline, suspend or terminate the credential holder.~~

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

36 A. The department shall notify the superintendent or chief administrative officer of a
37 school entity within 15 business days of the department's initiating an investigation
38 into a holder of a credential who works for the school entity and shall notify the
39 school entity immediately if the department takes action on that credential. Within 5
40 business days after completion of an investigation, the department shall notify each

1 school entity for which the credential holder works of the final outcome of the
2 investigation, including, but not limited to, any actions taken, and shall provide to the
3 school entity any final written decision.

4 B. Immediately upon receipt from a school entity of notification pursuant to
5 subsection 3 of ~~a covered investigation or administrative leave~~ the discipline,
6 suspension or termination of a credential holder, or the leaving of employment by a
7 credential holder prior to the completion of a covered investigation of that credential
8 holder, the department shall notify the superintendent or chief administrative officer
9 of all other school entities for which the credential holder works, as reported to the
10 department under section 13026, that the credential holder ~~is being investigated or~~
11 ~~has been placed on administrative leave~~ was disciplined, suspended or terminated as
12 ~~part of a result of a covered investigation, or that the credential holder left~~
13 ~~employment prior to completion of a covered investigation.~~ The department shall
14 notify the superintendent or chief administrative officer of each school entity for
15 which the credential holder works of the final outcome of the covered investigation,
16 including, but not limited to, any actions taken and any final report produced, upon
17 receipt of that information from the investigating school entity If a credential holder
18 provides consent as part of that credential holder's application for employment with a
19 school entity, the department shall notify the superintendent or the chief
20 administrative officer of that school entity that the credential holder left employment
21 with a school entity prior to the completion of a covered investigation of that
22 credential holder.

23 **5. Confidentiality.** The department may share information that is confidential
24 pursuant to section 6101 or 13004 with a school entity in accordance with subsection 4.
25 A school entity that receives confidential information shall maintain the confidentiality of
26 that information ~~in accordance with rules adopted by the department pursuant to~~
27 ~~subsection 6.~~

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

34 SUMMARY

35 This bill amends the laws governing investigations by school entities, which includes
36 approved private schools, school administrative units, public charter schools, school
37 management and leadership centers, schools in the unorganized territory and schools
38 operated by the State, of credential holders. This bill:

39 1. Removes language requiring a school entity to notify the Department of Education
40 within 15 business days of the initiation of a covered investigation by that school entity;

1 2. Requires a school entity to immediately notify the Department of Education if a
2 credential holder who is the subject of a covered investigation leaves the school entity's
3 employment for any reason prior to the conclusion of the covered investigation;

4 3. Eliminates the requirement that the school entity notify the department in writing
5 of the final outcome of the investigation within 5 days of its completion and provide to
6 the department a copy of any final report and instead requires that the school entity
7 provide to the department a copy of any final report produced in support of the school
8 entity's decision to discipline, suspend or terminate the credential holder;

9 4. If a credential holder left employment prior to the completion of a covered
10 investigation and provides consent as part of that credential holder's application for
11 employment with a school entity, directs the department to notify the superintendent or
12 the chief administrative officer of that school entity of the fact that the credential holder
13 left employment with a school entity prior to the completion of a covered investigation of
14 that credential holder; and

15 5. Repeals language requiring the commissioner to adopt rules governing
16 confidentiality of information received under the provisions concerning covered
17 investigations.