

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

H.P. 1297 - L.D. 1820

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

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

Sec. 1. 20-A MRSA §13025, as repealed and replaced by PL 2017, c. 477, §1, is amended to read:

§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 alleged 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~~ endangers 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.

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 ~~within 15 business days of the~~ immediately if a credential holder who is the subject of a covered investigation leaves the school entity's ~~initiating a~~ employment for any reason prior to the conclusion of the covered investigation. ~~The~~ A school entity shall notify the department

~~immediately if the a credential holder is put on administrative leave disciplined, suspended or terminated as part a result of a covered investigation in which the school entity determined that a student's health, safety or welfare was endangered. The notification must include the matter being investigated. Within 5 business days after completion of a covered investigation, the school entity shall notify the department in writing of the final outcome of the investigation, including, but not limited to, any actions taken, and 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 ~~notify school entities~~ 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 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 ~~a covered investigation or administrative leave~~ 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 ~~is being investigated or has been placed on administrative leave~~ was disciplined, suspended or terminated as part of a result of a covered investigation, or that the credential holder left employment prior to completion of a covered investigation. ~~The department shall notify the superintendent or chief administrative officer of each school entity for which the credential holder works of the final outcome of the covered investigation, including, but not limited to, any actions taken and any final report produced, upon receipt of that information from the investigating school entity~~ 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 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 ~~in accordance with rules adopted by the department pursuant to subsection 6.~~

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

Sec. 2. Work group; report. The Department of Education shall convene a work group of stakeholders, including but not limited to the Maine School Management Association, the Maine Education Association and the Office of the Attorney General, to study and report to the Joint Standing Committee on Education and Cultural Affairs, no later than February 1, 2020 on recommendations and suggested legislation to improve the law regarding investigations into educator credential holders. The Joint Standing Committee on Education and Cultural Affairs may report out a bill to the Second Regular Session of the 129th Legislature on the subject matter of the report.