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TO: Senator Anne Carney
Representative Amy Kuhn
Joint Standing Committee on Judiciary

FROM: Becky Smith, Director of Government and Community Relations,
Maine Community College System

RE: L.D. 2106, *An Act to Prohibit the Disclosure of Nonpublic Records
Without Proper Judicial Review*

DATE: January 29, 2026

Senator Carney, Representative Kuhn, and Members of the Joint Standing Committee on Judiciary, please accept this memorandum on behalf of the Maine Community College System (“MCCS”) regarding L.D. 2106, *An Act to Prohibit the Disclosure of Nonpublic Records Without Proper Judicial Review*. MCCS offers this input neither in support of nor in opposition to the bill, but to share legal, compliance, and operational considerations relevant to the colleges of MCCS.

As a public post-secondary education entity, consisting of seven colleges and nine campuses, we appreciate the well-intentioned nature of this bill, seeking to provide clarity for those working in education, health care, and childcare considering recent federal immigration enforcement activities in Maine. As noted below, if this bill moves forward, it will be important to have detailed guidance, including definitions of key terms, before the law takes effect.

Existing Federal Laws

The colleges of MCCS already operate under a robust federal framework governing records and access, most notably the Family Educational Rights and Privacy Act of 1974 (“FERPA”). FERPA generally prohibits disclosure of personally identifiable student information without student consent, subject to specific limited exceptions, including compliance with lawfully issued subpoenas or court orders.

L.D. 2106 appears intended to complement - not displace - federal requirements and is largely consistent with MCCS’s current guidance and practice. However, MCCS would request guidance on definitional aspects of the bill, such as what falls within the exception for a “search of student records or compliance under exigent circumstances” (emphasis added), as well as how to address conflicts that may arise given the detailed federal laws and regulatory framework already in place.

As an example, addressing “exigent circumstances” in the moment will likely be one of the most challenging areas for institutions to apply in practice. MCCS, and we suspect others subject to the bill, would benefit from additional clarity either in statute or through model policies, regarding how the law should be implemented, including how to properly assess, document, and review frontline requests.

Operational and Training Implications

If enacted, L.D. 2106 would require MCCS to refine our existing protocols; further train campus security, frontline staff, including registrars and administrators, on appropriate responses to access to ensure consistent implementation across the college campuses and locations; and coordinate closely with internal and external legal counsel in time-sensitive situations, particularly in the context of “exigent circumstances”. Given recent immigration enforcement activity in Maine, much of this work is currently being done and the bill appears generally consistent with our guidance to date. However, the bill’s provision directing the Attorney General’s Office to issue model policies is especially important in this regard and would be necessary before the law takes effect. Currently, the proposed emergency legislation does not address the potential gap between enactment and the January 1, 2027, deadline for model policies.

Conclusion

In summary, MCCS does not take a position for or against L.D. 2106. We respectfully offer these observations to highlight the importance of alignment with federal law and the need for clear definitions and practical guidance before the law takes effect.

Thank you for your consideration. Should you have any questions, please contact me at bsmith@mainecc.edu or (207) 629-4015.