

**§1223. Maine Developmental Services Oversight and Advisory Board**

**1. Composition.** The Maine Developmental Services Oversight and Advisory Board, as established by Title 5, section 12004-J, subsection 15 and referred to in this section as "the board," consists of 15 members appointed by the Governor from a list of nominees proposed by the board pursuant to procedures established in the rules of the board.

A. The board shall submit nominees to the Governor at least 90 days prior to the expected date of each vacancy. [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

B. In making nominations, the board shall endeavor to ensure adequate representation at all times from different service regions of the State and from interested stakeholder groups, including but not limited to:

- (1) The protection and advocacy agency designated pursuant to Title 5, section 19502;
- (2) A statewide coalition that works to support and facilitate the ability of local and statewide self-advocacy organizations to network with each other and with national organizations;
- (3) A nonprofit organization that serves teens and young adults in the State with emotional and intellectual disabilities;
- (4) A statewide coalition that works to support and facilitate the ability of local and statewide self-advocacy organizations to network with each other and with national organizations; and
- (5) The Maine Developmental Disabilities Council. [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

C. In making the nominations and appointments, the board and the Governor shall endeavor to ensure that at least 8 of the members of the board are persons with intellectual disabilities or autism or family members, guardians or allies of persons with intellectual disabilities or autism who receive services funded by the Department of Health and Human Services. Of these members, at least 4 must be persons with intellectual disabilities or autism, referred to in this section as "self-advocates." [PL 2011, c. 542, Pt. A, §66 (AMD).]

Members of the board must include stakeholders involved in services and supports for persons with intellectual disabilities or autism in the State and other individuals interested in issues affecting persons with intellectual disabilities or autism. Employees of the Department of Health and Human Services may not be appointed as members of the board.  
[PL 2011, c. 542, Pt. A, §66 (AMD).]

**2. Terms.** Members of the board serve 3-year terms. A member serves until a successor is appointed. A vacancy must be filled as soon as practicable by appointment for the unexpired term.  
[PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

**3. Chair.** The board shall elect a chair from among its members.  
[PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

**4. Compensation.** Members of the board are entitled to reimbursement of reasonable expenses incurred in order to serve on the board as provided in Title 5, section 12004-J, subsection 15. Members not otherwise compensated by their employers or other entities whom they represent are entitled to receive a per diem as established by rule or policy adopted by the board for their attendance at authorized meetings of the board.  
[PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

**5. Staff.** The board may hire an executive director and clerical support staff.  
[PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

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**6. Budget.** The board shall provide to the commissioner a proposed budget in accordance with a schedule agreed to by the chair and the commissioner. The department shall include in its estimate of expenditure and appropriation requirements filed pursuant to Title 5, section 1665 sufficient funds, listed in a separate account as a separate line item, to enable the board to perform its duties. [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

**7. Maine Tort Claims Act.** The board members and staff act as employees of the State, as defined in Title 14, section 8102, subsection 1, when engaged in official duties specified in this section or assigned by the board.

[PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

**8. Oversight and advisory functions.** The board shall:

A. Provide independent oversight over programs and services for adults with intellectual disabilities or autism that are provided, authorized, funded or supported by the department or any other agency or department of State Government. The board shall focus on systemic concerns affecting the rights of persons with intellectual disabilities or autism, including but not limited to issues surrounding health and safety, inclusion, identification of needs and desires of persons eligible for services by the department, the timely meeting of the identified needs and effective and efficient delivery of services and supports; and [PL 2011, c. 542, Pt. A, §66 (AMD).]

B. Provide advice and systemic recommendations to the commissioner, the Governor and the Legislature regarding policies, priorities, budgets and legislation affecting the rights and interests of persons with intellectual disabilities or autism. [PL 2011, c. 542, Pt. A, §66 (AMD).]  
[PL 2011, c. 542, Pt. A, §66 (AMD).]

**9. Powers and duties of the board.** In order to carry out its oversight and advisory functions, the board has the following powers and duties.

A. The board shall hold at least one hearing or other forum each year that is open to the public in order to gather information about the availability, accessibility and quality of services available to persons with intellectual disabilities or autism and their families. [PL 2011, c. 542, Pt. A, §67 (AMD).]

B. The board may accept funds from the Federal Government, the State, a political subdivision of the State, individuals, foundations and corporations and may expend those funds for purposes consistent with the board's functions, powers and duties. [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

C. The board shall establish priorities for its oversight and systems advocacy work. In establishing priorities, the board shall consider the results of its work in addressing the priorities established in previous years. [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

D. The board shall report at least annually to the Governor and the Legislature on its activities and recommendations regarding policies, priorities, budgets and legislation affecting the rights and interests of persons with intellectual disabilities or autism. The board's annual report must include the board's assessment of its operations and progress in addressing the priorities established pursuant to paragraph C. The board's annual report must be made public and widely disseminated in a manner designed to inform interested stakeholders. [PL 2011, c. 542, Pt. A, §67 (AMD).]

E. The board may provide reports and recommendations to the commissioner on matters of systemic concern arising from the board's oversight role. The board may recommend that the department undertake the study of specific systemic issues as part of the department's annual quality assurance activities and strategies, and the board may collaborate and cooperate with the department in the conduct of any such studies, if feasible. The commissioner shall provide a written response no later than 30 days following receipt of the recommendations from the board. [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

F. The board may refer individual cases that require investigation or action to the department, the protection and advocacy agency designated pursuant to Title 5, section 19502 or other appropriate agency. [PL 2011, c. 657, Pt. EE, §2 (AMD).]

[PL 2011, c. 542, Pt. A, §67 (AMD); PL 2011, c. 657, Pt. EE, §2 (AMD).]

**10. Access to information.** The board is entitled to access to information from the department necessary to carry out its functions. Except as provided in paragraphs D and E, information provided pursuant to this subsection may not contain personally identifying information about a person with intellectual disabilities or autism.

A. The department shall provide the board, on a schedule to be agreed upon between the board and the department, reports on case management, reportable events, adult protective and rights investigations, unmet needs, crisis services, quality assurance, quality improvement, budgets and other reports that contain data about or report on the delivery of services to or for the benefit of persons with intellectual disabilities or autism, including reports developed by or on behalf of the department and reports prepared by others about the department. [PL 2011, c. 542, Pt. A, §68 (AMD).]

B. The department, when requested by the board or pursuant to a written agreement with the board, shall release to the board information pertaining to alleged abuse, exploitation or neglect or an alleged dehumanizing practice or violation of rights of a person with intellectual disabilities or autism. [PL 2013, c. 310, §1 (AMD).]

C. [PL 2013, c. 310, §1 (RP).]

D. The board may examine confidential information in individual records with written permission of the person or that person's guardian. If the person or that person's guardian provides the board with written permission to examine confidential information, the board must maintain the confidentiality of the information as required by section 1207. [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

E. The board or the board's staff may receive and examine confidential information when otherwise authorized to do so by law, including but not limited to when serving on a committee established by the department for which access to such information is necessary to perform the function of the committee. [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

[PL 2013, c. 310, §1 (AMD).]

**11. Rulemaking.** The board shall adopt rules governing its operations, including rules establishing its bylaws. Rules adopted pursuant to this subsection must address:

A. Procedures for nominating persons to fill vacancies on the board; [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

B. Procedures for holding annual hearings or other alternative means of receiving input from citizens throughout the State pursuant to subsection 9; [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

C. Procedures for exercising its powers pursuant to subsection 10, paragraph D in a manner that is respectful of the rights, interests and opinions of persons whose records are at issue; [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

D. Procedures concerning the hiring of an executive director, including the method for selection and the role of the executive director and procedures concerning the supervision, compensation and evaluation of the executive director; and [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

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E. The provision of per diem stipends for members not otherwise compensated by their employers or other entities whom they represent for their attendance at authorized meetings of the board. [PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2007, c. 356, §7 (NEW); PL 2007, c. 695, Pt. D, §3 (AFF).]

#### SECTION HISTORY

PL 2007, c. 356, §7 (NEW). PL 2007, c. 356, §31 (AFF). PL 2007, c. 695, Pt. D, §3 (AFF). PL 2011, c. 542, Pt. A, §§66-68 (AMD). PL 2011, c. 657, Pt. EE, §§2, 3 (AMD). PL 2013, c. 310, §1 (AMD).

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