**State of Maine Compendium Notebook**

 **Kelly Donato**

 **EDU 702 School Law**

 **The University of New England**

 **State of Maine Compendium Notebook**

**Module 1, Legal Framework of Education**

1. The State of Maine Legislature is responsible for developing and enacting laws relating to and impacting Maine’s schools. The Senate (35 members elected every two years) and the House of Representatives (151 members elected every two years) make up the legislative body. The Constitution of the State of Maine (<http://www.maine.gov/legis/const/>), arranged into ten Articles, makes reference to education in Article VIII, Part First, Sections 1 and 2.

**Section 1: The Legislature shall require towns to support public schools.** The advantages of education being essential to the preservation of the rights and liberties of the people; the legislature are authorized to require towns to make suitable provision at their own expense for the support and maintenance of public schools. It shall further be the duty of the legislature to encourage and suitably endow, as the circumstances of the people may authorize, all academies, colleges and seminaries of learning within the State.

**Section 2: Authority to pledge the credit of the State and to issue bonds for loans to Maine students in higher education and their parents.** Funds loaned shall be on such terms and conditions as the Legislature shall authorize.

Under **Article IX, Section 3 School Districts:** The legislature shall have power to provide taxes, which it may authorize a School Administrative District or a community school district to levy, may be assessed or real, personal and intangible property in accordance with any cost-sharing formula which it may authorize.

**Article IX, Section 14-B** refers to the **Maine School Building Authority** and the Legislature’s assurance of assistance in the provision and construction of public school buildings through issuance of revenue bonds.

Retrieve the home page of the 126th Maine State Legislature @ <http://www.maine.gov/legis>. The page contains a calendar of legislative activities for the current session. View Maine’s Path of Legislation, or how a bill becomes a law, @ <http://www.maine.gov/legis/lawlib/billpath.htm>. Contact state representatives @ <http://www.maine.gov/legis/house/townlist.htm>.

1. Laws relating to education in Maine fall under Title 20-A of the Maine Revised Statutes. The statutes have been organized into ten categories. Each category is made up of several chapters and sub-chapters. The Maine Revised Statutes can be found @ <http://www.mainelegislature.org/legis/statutes/20-A-Ach0se0.html>
2. **Part One:** General Provisions contains six chapters pertaining to policy on public education, responsibilities of educational boards, and administrative procedures.
3. **Part Two:** School Organization contains sixteen chapters outlining the powers and duties of such organizations as school boards; provides the procedures for the selection of superintendents, and makes distinctions between the various school communities within the state such as school administrative districts and school unions.
4. **Part Three:** Elementary and Secondary Education has been divided into 23 chapters and includes information concerning student instruction, enrollment and attendance requirements, as well as the maintenance of school records.
5. **Part Four:** Specific Education Programs contains three subparts: Special Education, Applied Technology Education, and Other Programs. Special Education contains ten chapters addressing all aspects of the education of the special needs child including gifted and talented provisions. Applied Technology Education addresses the issue of making students ready for a technology driven-world and Other Programs provides information on funding and availability of such programs as adult education, summer school, and after-school programs which serve to increase student achievement.
6. **Part Five:** Post-Secondary Education contains 49 chapters providing an in-depth view of educational opportunities and scholarships at the college and vocational school level.
7. **Part Six:** Teachers contains 13 chapters from Certification and Registration of Teachers to Educator Effectiveness. This section also provides information on salaries and recognition grants.
8. **Part Seven:** School Finance contains 13 chapters with information on school finance acts and federal aid which impacts programs and services provided by schools.
9. **Part Eight:** Rehabilitation Services.
10. **Part Nine:** Learning Technology.
11. **Part Ten:** Interstate Compact on Educational Opportunity for Military Children.

**3.** The **Maine State Board of Education** is made up of nine members appointed by the Governor. Four members must live in Maine’s First Congressional District when appointed, four must live in the Second Congressional District, and one can live in either district. Board members serve five-year terms. The head of the State Board of Education is Steven M. Pound, Ph.D. (Chair) of Greenville. The State Board also has two non-voting student members appointed by the Governor. <http://www.maine.gov/sbe/>. The Maine State Board of Education works with the Commissioner of Education and his Leadership Team to make recommendations to the legislature about effective school policy. The **Commissioner of Education is Stephen Bowen** who was sworn in on March 4, 2011. Commissioner Bowen and the Leadership Team at the Maine Department of Education work to ensure that students in Maine will leave schools prepared to handle the rigors of college, civic life, and careers in the future. <http://www.maine.gov/doe/inside/leadership/html>

1. The **State of Maine Judicial Branch** consists of three levels: District Court, Superior Court, and Supreme Court.
2. **District Court:** The court has 36 judges who hear cases in 13 districts throughout Maine. This court hears civil, criminal, and family matters and always sits without a jury. Established within the District Court is a Family Division that has jurisdiction over family matters in the District Court. There are eight Family Law Magistrates who work in the Family Division. In Maine, the small claims court is a special session of the District Court held in each district on certain days determined by the Chief Judge of the District Court.
3. **Superior Court:** The court is Maine’s trial court of general jurisdiction and is the only level of court where jury trials are available. The Superior Court has 17 justices who hold court in each of Maine’s 16 counties. One Superior Court is located in each county, except Aroostook County which has two Superior Courts. The court hears civil and criminal cases, except for family matters, juvenile cases, and civil violations. The Superior Court hears all murder and Class A, B, and C criminal cases and Class D and E cases in which the defendant asks for a jury trial. The Superior Court also hears appeals from state and local administrative agencies. Appeals from Superior Court may be taken to the Supreme Judicial Court.
4. **Supreme Court:** This is the governing body of the judicial branch. Sitting as the Law Court, it is the court of final appeal. Maine’s highest court has seven justices, presided over by the Chief Justice. The court’s primary job is to decide appeals on questions of law that arise in civil actions and criminal trials. Questions of law are presented to the Court when a case is appealed from a trial court. Other jobs of the court:
5. An appellate division of the Court hears appeals from criminal sentences when the penalty is one year or more of incarceration.
6. The justices may issue advisory opinions to the Governor or Legislature on legal issues of public importance.
7. The Court oversees admission to the Bar and the conduct and discipline of lawyers and judges.
8. The Court is the procedural rule-making authority for all of the state’s courts.
9. The State of Maine Judicial Branch homepage is:

<http://www.courts.state.me.us/>

1. The **United State Court of Appeals for the First Circuit** is a federal court with appellate jurisdiction over the District of Maine. The official site is <http://www.ca1.uscourts.gov/> States included in the First District are Maine, Massachusetts, New Hampshire, Rhode Island, , and the unincorporated U.S. territory of Puerto Rico. The United States Court of Appeals for the First Circuit was established June 16, 1891.

**Module 2, Tort Liability**

**Corporal Punishment, Seclusion, and Restraint:** The State of Maine banned corporal punishment in 1975. Statute 05-071 Chapter 33 titled “Rule Governing Physical Restraint and Seclusion”, as of July 2012, established new standards and procedures for the use of restraint and seclusion. Under the ruling, the use of restraint and seclusion may only be used as an “emergency intervention” when the behavior of a student presents an “imminent risk” of injury or harm. Further, the ruling outlines ‘aversive procedures, positive alternatives, notification to parents and documentation procedures. The site for this ruling is <https://www.maine.gov/doe/school-safety/restraints/index.html>

The State of Maine’s **concussion** law (Sec. 2 20-A MRSA, subchapter 19) called “Model Policy for management of concussive and other head injuries” requires Maine school boards to implement the policy beginning January 1, 2013.Under the law a student who has suffered a head injury is unable to return to a sport, an extra-curricular activity, or the classroom until cleared by a licensed health care provider trained in concussion management. The law further requires that school boards develop policies for concussion management, athletic directors, coaches, and other school personnel be trained in the identification and management of concussion, and parents must sign consent forms acknowledging that injured students cannot return to the field or the classroom until they have been cleared by health professionals. The Maine law covers all students not just student athletes. <http://www.maine.gov/education/sh/concussion/model-policy.html>

In May of 2012, the Maine State Legislature passed a revised **bullying prevention law**: An Act to Prohibit Bullying and Cyber Bullying in Schools – Sec.1 20-A MRSA 1001 subchapter 15. The Maine Department of Education also created a model policy for bullying and cyber bullying for use by schools to aid them in revising current school bullying policies. <http://www.maine.gov/doe/bullying/>

The State of Maine has **Comparative Negligence** as a defense. Maine statute Title 14, part1 chapter 7 : “when any person suffers death or damage as a result of that person’s own fault and partly of the fault of any other person(s), a claim in respect of that death or damage may not be defeated by reason of the fault of the person suffering the damage but the damages recoverable in respect thereof must be reduced to such extent as the jury thinks just and equitable having regard to the claimant’s share in the responsibility for the damage.” <http://www.mainelegislature.org/legis/statutes/14/title14sec156.html> **Immunity Safeguards** for school personnel are provided under Title 20-A, chapter 201, part 3. The statute states that school personnel entrusted with the care of students may not be held civilly liable for the use of a reasonable degree of force against the person who creates a disturbance if the teacher believes it necessary to control the behavior or remove the person from the room.

Module 3, Church – State

1. Article I, Section 3 of the State of Maine Constitution mentions religious freedom in the following manner: “ All individuals have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences, and no person shall be hurt, molested or restrained in that person’s liberty or estate for worshipping God in the manner and season most agreeable to the dictates of that person’s own conscience, nor for that person’s religious professions or sentiments, provided that that person does not disturb the public peace, nor obstruct others in their religious worship;--and all persons demeaning themselves peaceably, as good members of the State, shall be equally under the protection of the laws”. <http://www.maine.gov/legis/const/#a1>
2. MRS Title20-A Chapter 209: School Days, Holidays, Special Observances, Section 4805 – Other Special Observances, item #2, **Period of Silence:** “The school board of a school may require, at the commencement of the first class each day in all grades in all public schools in their unit, that the teacher in charge of the room in which each class is held shall announce that a period of silence shall be observed for **reflection or meditation** and during that period silence shall be maintained and no activities engaged in.” **Prayer in schools** is best understood by viewing the 2007 letter from then Department of Education Commissioner Gendron which states that in order for the DOE to be in compliance with NCLB laws, the department must prove that it has a policy which supports constitutionally protected prayer in public schools. <http://www.mainelegislature.org/legis/statutes/20-A/title20-Ach209sec0.html>

 (<https://www.maine.gov/education/edletrs/2007/ilet/07ilet013.htm>)

1. Section 4805 item#9 addresses **Religious Holidays** as follows “A public school may acknowledge religious holidays by conveying a message of pluralism and freedom of belief in some manner or form that **does not endorse religion.** In determining whether an acknowledgement endorses religion, school officials shall consider the context in which the acknowledgement appears or occurs.
2. Other state statutes relating to religion: Maine Revised Statutes Title 5: Administrative Procedures and Services, Part 12: Human Rights, Chpt.337, Human Rights Act Section 4552: The policy statement of the Human Rights Act declares to: “protect the public health, safety and welfare, to prevent discrimination in employment, housing access to public accommodations on account of race, color, sex, sexual orientation, physical or mental disability, **religion,** ancestry, or national origin.” <http://www.mainelegislature.org/legis/statutes/title5sec4552.html>
3. Title 20, Part 2, Chapter111: **Religion and Morals**: section 1221 **The Teaching of Virtue and Morality.** This statute requires educators to “impress upon children” the principles of morality, justice, truth, love of country and humanity, and kindness. <http://www.mainelegislature.org/legis/statutes/20/title20sec1221.html>
4. **Release time for religious observance** is addressed under Title 20, Part2. Chpt.111: **Religion and Morals.** The law states that “public school students who participate in a course of moral instruction or a religious observance at their place of worship or other suitable place may be granted release time for the period actually spent on that instruction or observance.” The law allows a maximum of one hour per week and the granting of release time is up to the discretion of local school units and may not result in additional cost to the school. <http://www.mainelegislature.org/legis/statutes/20/title20sec1224-A.html>.
5. Maine Revised Statutes, Title 20-A, chapter 117, sections 2951-2955 address the availability of **tax vouchers for use at public and private schools.** The statute states that a private school may be eligible for receiving public funds for tuition purposes if it is a **nonsectarian school (note: Gov. LePage has proposed a $530,000 school voucher program for low income students to pay some of the transportation, tuition and residential costs of non-religious private school or a public school in another district. This is part of the LePage administration’s budget proposal as reported in the Kennebec Journal 2/26/13).** <http://www.mainelegislature.org/legis/statutes/20-A/title20-Asec2951.html>
6. In October of 2004, the First Circuit Court of Appeals ruled that Maine did not have to provide publicly funded vouchers to parent of students who attend religious schools. (see <http://www.dsea.org/greatschools/vouchers.html>)

The court upheld Maine’s state law which limits participation in the state’s “tuition out” program to public and nonsectarian schools. In Maine, school districts in 145 small towns provide tuition for approximately 17,000 students to attend schools of their choice, public or private, in-state or out of state. Maine’s tuition law follows the intent of the **Blaine Amendment** that never became a law Introduced by Congressman James G. Blaine (the man from Maine) the proposed text of the amendment included the statement: “no money raised by taxation in any State for the support of public schools, or derived from any public fund therefore, nor any public land devoted thereto, shall ever be under the control of any religious sect”.

**Module 4, Student Classification**

**Equity of Opportunity:** The Maine Revised Statutes, Title 5, Chpt.337: Human Rights Act: 4601. Right to Freedom from discrimination in education states that “the opportunity for an individual at an educational institution to participate in all educational, counseling and vocational guidance programs and all apprenticeship and on-the-job training programs without discrimination because of sex, sexual orientation, a physical or mental disability, national origin or race is recognized and declared to be a civil right. <http://www.mainelegislature.org/legis/statutes/5/title5ch337sec0.html>.

**Maine Revised Statutes 20-A, part 7: School Finance. Chapter 801: Maine Learning and Technology Fund.** Certain funds are dedicated by the legislature and by other public and private sources for the advancement of learning technology for K-12 students in Maine. <http://www.mainelegislature.org/legis/statutes/20-A/title20-Ach801.sec0.html>.

**School Funding Formula** updates (preliminary subsidy amounts) can be viewed at <http://www.maine.gov/education/finances/index.html>

Working with **ESL children, illegal immigrants, homeless children, and gender in the state of Maine:** the Maine Department of Education provides a list of available ESL teachers on its website: <https://www1.maine.gov/education/esl/eslavailability.htm>

Federal and state policy and statutes can be viewed at [https://www1.maine.gov/education/esl/policy.htm Letter #56](https://www1.maine.gov/education/esl/policy.htm%20Letter%20#56) outlines the legal requirements to provide English as a Second Language to English learners: “Each school Administrative Unit must have as part of its enrollment packet a Home Language Survey to be given to all newly enrolled students, including pre-k to aid in the identification of possible English learners <http://www.maine.gov/education/esl/HomeLanguageSurveyforParents_000.html>.

Letter #39: **Serving Immigrants and foreign students**: “SAU’s are required under federal law to enroll children regardless of citizenship or immigration status”. Although the federal guidelines apply to immigrant students, the Department of Education says it also applies equally to foreign students attending a Maine public school as either an exchange or tuition student.

Maine does protect for sexual orientation.

The Maine Human Rights Acts penalizes discrimination in employment, housing, credit, public accommodations and educational opportunity on the basis of **sexual orientation or “actual or perceived’ gender identity or expression.** Maine Hate Crime Law specifically addresses **sexual orientation:** [**http://www.maine.gov/mhrc/laws/index.htm**](http://www.maine.gov/mhrc/laws/index.htm)**.** See Maine Revised Statutes Title 17: Crimes Title 5 4684-A. Also, view regulations at the Maine Human Rights Commission <http://www.maine.gov/mhrc/laws/index.htm>

**Homeless education** is addressed at <http://www.maine.gov/tools/whatsnew/index.php?topic=edu_letters&id=99011&v=article> where the definition of a homeless student is defined and where the Maine Department of Education Letter No: 128, explains the grants available to schools for providing education and related services to homeless students.

**McKinney-Vento Act prevents homeless students from being segregated in an educational setting:** <http://www.ed.gov/policy/elsec/leg/esea02/pg116.html>

**The Kennebec Journal, Friday, March 15, 2013:** *Single-sex classes draw ACLU Maine fire again:* The Kennebec Journal reports that the American Civil Liberties Union of Maine is opposed to L.D. 699, a bill sponsored by Senator John Tuttle, D-Sanford, which would give Maine public elementary and secondary schools the option of using single-gender classes under state education guidelines. The classes would need to be optional and schools would be required to offer equal co-ed opportunities and review courses every two years. The ACLU said that segregating classrooms is ‘unconstitutional sex discrimination’. In the same article, the KJ reported that the Augusta Board of Education passed a plan in 2010 to offer single-sex math classes and that Presque Isle had been offering an all girls’ math class since 1990. The Sanford School Department pulled its single-gender classes after pressure from the ACLU last year.

**Module 5: Children with Exceptionalities**

**State of Maine Statutes** which provide guidelines for working with students of exceptionalities and disabilities as identified by state law are addressed in the **Maine Revised Statutes Title 20-A Education Part 4: Specific Education Programs; Subpart 1: Special Education.** A special education program in Maine is a full-time or part-time educational program designed to provide an equal educational opportunity to children with disabilities through the delivery of special education services by qualified individuals. Special education means specially designed instruction at no cost to parents, to meet the unique needs of children with disabilities, as defined by the commissioner, including: instruction in the classroom, in the home, in hospitals and institutions and in other settings. <http://www.mainelegislature.org/legis/statutes/20-A/title20-Ach0sec0.html>

**The Maine Revised Statutes Title 20-A, Part 4: Specific Education Programs, Subpart 1, chpt. 311: Gifted and Talented Students.** The commissioner may adopt or amend rules to implement this chapter, including the identification of students, needs and resource assessment and program planning, development and implementation. **Chapter 104 Educational Programs for Gifted and Talented Children:** Chapter 104 is the rule under which gifted programs in Maine are developed and evaluated. <http://www.maine.gov/sos/cec/rules/05/071/071c104.doc>

**Title 20-A Education Chapter 312 Maine School of Science and Mathematics 8201-8207.** Chapter 312 establishes the Maine School of Science and Mathematics and includes funding, the responsibilities of the board of trustees, and program and operations information. <http://www.mainelegislature.org/legis/statutes/20-A/title20-Ach312sec0.html>

Further information concerning gifted and talented programs in Maine can be retrieved at the Department of Education’s Special Services website <http://www.maine.gov/education/speced/gt/index.shtml>

**HOUSSE** standards for special education teachers outlined on the Maine House Rubric #1 Elementary Special Education (k-8) and Maine House Rubric Secondary Education (9-12) indicate that special education teachers who provide direct instruction in one or more of the content areas *must be highly qualified.* [www.maine.gov/education/hqtp/forms/housse\_rubricsoct08.doc](http://www.maine.gov/education/hqtp/forms/housse_rubricsoct08.doc)

**The Maine Department of Education Office of Special Services** is responsible for the oversight and support for the delivery of all special services provided in Maine under IDEA. The office is also responsible for meeting regulations under IDEA. This includes early intervention birth to age 3 (IDEA Part C) and FAPE age 3 to 20 (IDEA Part B). <https://www.maine.gov/doe/specialed/>

**The Maine Department of Education Regulation 180: Early Intervention and Special Education for Children Age Birth to under Age Six.**  This document contains information governing the administration of the Childfind system for children age birth to under age 6, the provision of early intervention services to eligible children birth through two with disabilities and their families, and the provision of special education and related services to eligible children age 3 to under age 6 with disabilities and their families living in Maine. <http://www.maine.gov/doe/rule/changes/> (chapter 180).

*Gayle Fitzpatrick et al v. Town of Falmouth et al*, Maine Supreme Court, 2005. The case garnered national attention. The Maine Supreme Court ruled in favor of the school department rejecting all claims that Falmouth discriminated against a homeschooled student with Asperger’s Syndrome in the use of the school playground during school hours. The court rejected the family’s public accommodation claim because the school perceived the child, through the child’s actions of aggressive physical contact, use of offensive and threatening language, rock throwing, and defiance of school personnel assigned to care for the child, posed a significant risk to himself and others, and that the school recognized it needed further modifications of its policies and procedures, or further modification of the child’s services plan in order to address those risks. The ruling presented a significant decision on the nature of the direct threat exception of Maine’s public accommodations law. (<http://tinyurl.com/cfp9fxr>)

*Maroni v. Pemi-Baker Regional School District* (First Circuit, 2003) the court ruled that parents can pursue IDEA claims in federal court without an attorney (<http://www.wrightslaw.com/law/caselaw/2003/1st.maroni.pemi.baker.htm>).

**Module 6: Students’ Rights**

**Compulsory Attendance** is explained under the **Maine Revised Statutes Title 20-A: Education Chapter 211: Attendance, 5001-A Compulsory attendance.** According to the statute, students who are at least age 7 and under 17 years old are required to attend school, either public or an approved private school, when school is in session. The statute explains that attendance at school **shall not be required** of the following: a person who graduates from high school before that person’s 17th birthday, a person who has reached the age of 15 years or completed the 9th grade, a person who has permission to leave school from that person’s parent, a person who has been approved by the principal for a suitable program of work and study or training, a person who has permission to leave school from the school board or its designee and it is agreed in writing with that person’s parent and the school board or its designee to meet annually until that person’s 17th birthday to review that person’s educational needs, a person who has matriculated and is attending accredited post-secondary, degree-granting institution as a full-time student, a person enrolled in an **on line learning course.** <http://www.mainelegislature.org/legis/statutes/20-A/title20-asec5001-A.html>

**Maine Revised Statutes Title 20-A, Chapter 802: Maine Online Learning Program.** An online learning program or course means an interactive course or program that is taught by a certified teacher and is delivered primarily electronically using the Internet or other computer-based method and may be delivered to students at school as part of the regularly scheduled school day or may be delivered to students independently from the regular classroom schedule. The online program or course should be combined with other traditional delivery methods that include frequent student assessment and may include actual teacher contact time. Further, the Maine Online Learning Program was established to provide high-quality educational options for kindergarten to grade 12 students. Goals of the program include: close the achievement gap, create opportunity for learning and to provide educational options. <http://www.maine.gov/education/technology/molp/index.html>

**Oversight of home schooling** belongs to the Maine Department of Education. <http://www.maine.gov/doe/homeinstruction/requirements/index.html>

Maine parents may choose to educate their children at home by taking full responsibility for their child’s learning. Parents choose the curriculum, determine academic needs, and facilitate the learning process. Home schooling is fully funded by the parent.The **Home School Access Law** allows public school access to home schooled students for classes and extracurricular activities that are available at the school, as space and resources allow. To view all home school regulations click on link above.

The Maine Department of Education defines **charter schools** as “publicly funded schools governed and operated independently of the traditional public school system’. Charter schools may have flexibility over decisions concerning curriculum and instruction, however, they are held accountable to the terms of their charters that authorize their existence. Charter schools may not set admission standards for their students. A charter school must accept any Maine resident unless the school or grade level has reached capacity. **The Maine Charter School Commission** is one of two entities permitted to authorize public charter schools in Maine. The commission can authorized ten charter schools during the next ten years. <http://www.maine.gov/doe/charterschools/index.html>

Summary of the Charter School Law, Public Law 2011, Chapter 414 (LD 1553) <http://www.maine.gov/doe/charterschools/summary.pdf>

All children in Maine have a right to a free and suitable educational program in the most appropriate setting. Decisions concerning the most appropriate setting for students with **HIV** should be based upon the child’s behavior, neurological development of the student as well as the physical condition of the child and anticipated interaction with others. A team should work together to make decisions on a case by case basis. The team should be comprised of school personnel, nurse, physician, parents, and a consultation with the Maine Bureau of Health. **HIV Testing and Privacy** in Maine only requires that a patient be informed that an HIV test will be performed unless the patient declines, but Maine has a statute that requires written consent for the release of HIV related medical information 5 M.R.S.A. 19201-19208. <http://www.maine.gov/ag/health_issues/medical_privacy.shtml>

Students in Maine are required to receive certain immunizations and their parents are required to provide proof of immunizations. Exceptions to this requirement include a written statement from a doctor or a school health provider that immunization may be medically inadvisable, or if there exists a sincere religious belief against immunization. <http://www.mainelegislature.org/legis/statutes/20-A/title20-Ach223sec0.html>

For a complete listing of immunization requirements see <http://www.immunizationinfo.org/vaccines/state-requirements/maine>

The Family Educational Rights and Privacy Act (FERPA) established privacy guidelines for **student records.** <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html> FERPA laws apply to all schools that receive funds under an applicable program of the U.S. Department of Education. Parents or eligible students have the right to inspect and review records maintained by the school. Schools are not required to provide copies of educational records, but may do so and can charge a **fee.** Parents and eligible students have the right to request that a school correct any inaccurate or misleading statements. If a school refuses to do so, parents are entitled to a hearing under Due Process laws. If, after the hearing, the school is still not required to amend statements, parents can place a letter in the record indicating that they do not agree with certain statements.

Maine laws applying to the transition of educational records can be retrieved at <http://www.mainelegislature.org/legis/statutes/20-Atitle20-Asec20104.html>

Educational records must follow a student when the student transfers to another school district. **Disciplinary, attendance, health, and special education records** can follow the student. **Confidential health records** can be transferred if the superintendent of the former school receives consent. A receiving school may deny admission if the transferring student has been **expelled or suspended and can continue to deny the student’s enrollment until the student has satisfactorily met the conditions of the suspension or expulsion.** <http://www.mainelegislature.org/legis/statutes/20-A/title20-Asec6001-B.html>

**School Curriculum requirements** for GED Testing Policies & Techniques can be found @ <http://www.maine.gov/doe/adulted/hs-ged/policies/>

Students in grades 3-8 are required to take the NECAP assessment in reading, writing, and math. Guidelines for students testing can be accessed by clicking <http://www.maine.gov/education/lsalt>. For high school diploma information (LD2174) visit <http://www.maine.gov/education/diploma>

Regarding **discipline of students**, due process standards for expulsion proceedings can be found in the Maine Revised Statutes Title 20: Duties of School Boards. Sections 8 A&B state “following a proper investigation of a student’s behavior a school board considering expulsion shall ensure due process provisions” such as including written notice of hearing and a description of the incident(s) that caused the expulsion hearing. After due process, if found necessary for the “peace and usefulness” of the school a board shall expel a student. Section 9 addressed procedures for expelling students who have brought a gun to school: students expelled or suspended under the requirement of the federal **Gun-Free Schools Act** may expel a student for one year and must refer the incident to the appropriate law enforcement agency. Section 9B outlines guidelines for disciplinary sanction for students with disabilities and those sanctions must following IDEA regulations. Section 9 C provides guidance for re-entry plans, stating that once a student has been expelled, there is nothing that “prevents the school board from providing an education in an alternative setting”. Finally, section15A states that school districts must adopt a **code of conduct** consistent with state standards and 15 B lays out school discipline policies which should “focus on positive interventions and expectations”. <http://www.mainelegislature.org/legis/statutes/20-A/title20-Asec1001.html>

The Maine Revised Statutes Chapter 211, Subchapter 2 addressed attendance and truancy policies. The procedure for handling truancy cases is to provide written notice to the family, make a referral to the school’s student assistant team and develop an intervention plan for the student. The procedure is the same for both elementary and secondary students. <http://www.mainelegislature.org/legis/statutes/20-A/title20-Asec5051-A.html>

In *Hazelwood School District v. Kuhlmeir,* school-sponsored publications can be **censored** if issues arise that are “reasonably related to legitimate pedagogical concerns”. Therefore, in Maine if a school can present reasonable educational justification for censorship the censorship will be allowed.

The Portland Press Herald, May 11, 2011, ran the story *Expelled kids find road back* in which a program at Windham High School had been developed to help expelled kids keep up with classes, work toward graduation, and avoid re-offending. The program, called **Restorative Learning,** is an alternative education program which also is utilized by students on the verge of dropping out or being expelled. Restorative Learning offers substance abuse rehabilitation services. The program’s development was in reaction to the school’s tough **zero tolerance** policies. The article also mentioned that State Senator Justin Alfond was preparing legislation that would include a proposal to establish a state fund that school superintendent’s could use to provide alternative education services for expelled students and those students at risk of dropping out.

 **Module 7 Teachers’ Substantive Rights**

**Tenure** is defined in Maine Revised Statute 20-A, Part 6. The probationary period is three years. Administrators must provide probationary teachers with mentors and a training program. Probationary teachers are not guaranteed due process as they are considered “at-will” employees. After the probationary period, the school board will decide to offer the teacher a professional continuing contract. <http://www.mainelegislature.org/legis/statutes/20-A/title20-Asec13201.html>

**The Whistleblower’s Protect Act** must be placed in a position in the workplace that will be easily seen by all employees. The Whistleblower’s Act protects employees who refuse to engage in or who report illegal acts. The law makes it illegal for employers to threaten or fire an employee who reports illegal activity or who reports something that could harm the health, safety, or welfare of employees. Access Maine law Title 26, SS, 839 @ <http://www.mainelegislature.org/legis/statutes/26/title26sec831.html>

**Selection of textbooks** is the responsibility of local school boards as the state has provided each district with this local control. Schools are charged with the task of purchasing textbooks which will enable students to meet curriculum requirements. <http://www.mainelegislature.org/legis/statutes/20-A/title20-Asec2.html>

Teachers, guidance counselors, school administrators, bus drivers, and other school personnel must report suspected or known incidences of **child abuse** or neglect. <http://www.mainelegislature.org/legis/statutes/22/title22sec4011-A.html> The law states that persons having reasonable cause of abuse or neglect are required to report. Children are protected by the Child and Family Services and Child protection Act. <http://www.mainelegislature.org/legis/statutes/22/title22sec4003.html>

Protection against **discrimination** is found under the Maine Human Rights Act, Title 5. This law protects persons from discrimination in housing, **employment**, education, etc…based on race, color, sexual orientation, physical or mental disability, religious beliefs, ancestry, or national origin. <http://www.mainelegislature.org/legis/statutes/5/title5sec4552.html> Maine Revised Statute 4553 states that all public schools not operated by religious groups and who do not receive state funding for education, must not discriminate based on sexual orientation of its employees. <http://www.mainelegislature.org/legis/statutes/5/title5sec4553.html>

In *Dunham v. Superintendent of the Belfast Public Schools (1970)* a Maine teacher was fired for introducing sexuality into a discussion of Romeo and Juliet. The case was first filed in federal court in 1969, dismissed, appealed to the First Circuit, sent back for trial, and finally won.

**Module 8, Terms and Conditions of Employment**

The Maine Department of Education Certification office administers the rules of the Maine State Board of Education related to certification. Any person employed in or under contract with public and approved private schools requires certification or approval. The Certification office also evaluates the need for changes in legislation and regulations when necessary. The office implements rules established for denying, suspending, or revoking educational credentials. <http://www.maine.gov/doe/cert/index.html>

Initial credentialing instructions for teachers, administrators, education specialists, ed. tech authorization, and fingerprinting requirements can be accessed @ <http://www.maine.gov/doe/cert/initial/index.html>. Renewal information can be retrieved at <http://www.maine.gov/doe/cert/renewal/index.html>. There are four types of initial certificates: conditional, provisional, targeted need and transitional endorsement. A provisional teacher must attain minimum qualifying scores on the PRAXIS l and on appropriate content areas of the PRAXIS l l, and the PLT exam. Once a teacher receives a professional certification, the teacher will create a plan which includes professional development goals. Initial administrator’s certification may require taking the School Leaders Licensure Assessment or School Superintendent’s Assessment in lieu of course work. <http://www.mainelegislature.org/legis/statutes/20/title20ch0seco.html> (Maine Revised Statutes 20, part 3) The Maine Revised Statutes 20-A, part 6 includes information concerning certification, exams, professional standards, salaries. <http://www.mainelegislature.org/legis/statutes/20-A/title20-Ach0sec0.html> **Hiring regulations** are linked to certification requirements. During the first three years of employment, or the probationary period, The Maine Department of Education provides guidance for school districts in their **evaluations** of probationary staff members. Maine requires that every school district have a teacher supervisory and evaluation policy in place, but school districts have control over policies. During the probationary period, school administrators must train and mentor new teachers. <http://www.maine.gov/education/teacherinduction/induction.html> Teachers on continuing contracts are evaluated by their local school system. <http://www.mainelegislature.org/legis/statutes/20-A/title20-Asec13802.html>

School districts are charged with keeping accurate **personnel records** which should include certification of professional staff, evidence of highly qualified status, and evaluations.School boards are guided by the Maine Revised Statutes Title 20-A: Education, Part 6; Teachers Chapter 503: Teacher employment when dealing with matters of employment or dismissal. A school board, after investigation and due notice of hearing, shall **dismiss** any teacher who is unfit to teach or whose services the board deems unprofitable to the school. Reasons for termination can range from misconduct to ineffectiveness in the classroom. <http://www.mainelegislature.org/legis/statutes/20-A/title20-Asec13202.html>

**Collective bargaining** allows teachers and other school staff members to have a voice in their contracts to ensure fair wages, working hours and working conditions. Collective bargaining information pertaining to labor and industry can be found in the Maine Revised Statutes Title 26: <http://www.mainelegislature.org/legis/statutes/26/title26sec979-D.html>

**Maine Revised Statutes 20-A, Chapter 103-A outlines collective bargaining in schools:** <http://www.mainelegislature.org/legis/statutes/20-A/title20-Asec1464.html> After receiving a written notice from either the school district or the employee bargaining members, both groups must meet within ten days. <http://www.mainelegislature.org/legis/statutes/26/title26sec965.html> If an agreement is not reached, options to resolve issue include mediation, in which a mediator would hear both sides of the case, establishing a fact-finding committee (contact Maine Labor Relations Board) in which the committee would hear the facts from both sides, and another option is to participate in arbitration. <http://www.mainelegislature.org/legis/statutes/26/title26sec965.html>

Negotiated points can include salary and salary schedules, hours, working conditions, employment relations, policies, and practices, and health insurance, leave, grievance procedures. The topics that would not be negotiated are topics or issues controlled by public law.

**June 12, 2011, Maine DOE Newsroom**

Submitted by Commissioner Bowen

New teacher evaluation system means better educator training

Administrators and teachers at Farwell Elementary School in Lewiston have been using ipads to develop new educator rubrics. The tablet-based evaluation form has 17 areas of assessment, comment boxes for praise and for constructive feedback. Professional development flows from the results of the evaluations. The Farwell School is a Teacher Incentive Fund School.

<http://www.mainedoenews.net/2012/06/12/commissioner-tests-farwell-evals/>