

**Subcommittee of the
RIGHT TO KNOW ADVISORY COMMITTEE
Public Employee Disciplinary Records Subcommittee**

Friday, October 16, 1 pm

Location: Cross State Office Building, Room 214 (Hybrid Meeting)
Public access also available through the Maine Legislature's livestream:
<https://legislature.maine.gov/Audio/#214>

1. Introductions
2. Review of topics considered by the subcommittee in 2025
3. Discuss recommendations/status of requests for the 2026 subcommittee's consideration
4. Review materials received since the last subcommittee meeting in 2025
5. Vote on issues/topics for the subcommittee to discuss in 2026
6. Discussion of the 2026 subcommittee issues/topics
7. Confirm future meeting dates
8. Adjourn



Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS
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TO: Members, Right to Know Advisory Committee Subcommittee on Public Employee
Disciplinary Records
FROM: Kristin K. Bishop, Legislative Analyst
DATE: October 16, 2026
RE: Public Employee Disciplinary Records Subcommittee - 2026

Since 2022, the Right to Know Advisory Committee has convened a subcommittee dedicated to examining issues or topics related to access to public employee disciplinary records. This memo provides a brief overview of the issues and topics considered by the 2025 Public Employee Disciplinary Records Subcommittee and the formal recommendations related to the topic of access to public employee disciplinary records issued by the 2025 Right to Know Advisory Committee in the Twentieth Annual Report.

I. Issues/Topics Considered by the 2025 Subcommittee

In 2025, the subcommittee focused on three specific recommendations from the 2024 Advisory Committee report specific to public employee disciplinary records and took up two additional requests for consideration presented to the 2025 Right to Know Advisory Committee. A brief summary of the committee's discussion and actions taken can be found below.

❖ **Request that the State Archivist Convene a Working Group to Make Recommendations Regarding a Tiered System of Retention for Public Employee Disciplinary Records**

The 2024 Advisory Committee recommended that the State Archivist convene a working group in 2025 to develop recommendations for a tiered system of retention of public employee disciplinary records based on the "seriousness" of the misconduct. In response to this recommendation, the State Archivist worked in partnership with the New England First Amendment Coalition to convene a working group on June 12, 2025 and produced a report for the 2025 Advisory Committee's review.

The 2025 subcommittee reviewed the report of the Working Group and invited the State Archivist to attend a subcommittee meeting to share additional information and perspectives. The subcommittee reflected on recurring themes and ongoing issues revisited by the subcommittee this year, including concerns around public access to public employee disciplinary records, the development of tiers for the retention of disciplinary records, and exploring opportunities for uniformity in defining key terms; members expressed agreement that these issues warrant further review and consideration in 2026 and formulated a formal recommendation found in the Twentieth Annual Report (see in following section).

❖ **Request for Guidance from the Criminal Law Advisory Commission (CLAC)**

The 2024 Advisory Committee submitted a request for additional guidance from the Criminal Law Advisory Commission (CLAC) related to records that could be used to impeach a witness in a criminal case (specifically Brady/Giglio materials).

The 2025 subcommittee learned that CLAC looked at this matter briefly during the first legislative session of the 132nd Legislature in response to the 2024 Advisory Committee's letter but did not develop any guidance at that time, concluding that the matter is largely outside of the Commission's purview. In response to a

follow up inquiry from the 2025 subcommittee to CLAC on the status of any guidance, CLAC offered to revisit the initial request at its November 2025 meeting to confirm whether the Commission would be able to offer any guidance. A letter in response to this request was submitted to Advisory Committee in December of 2025 and has been appended (appendix A).

In addition, the 2025 subcommittee learned that LD 1671, *An Act to Establish Disclosure Requirements Regarding Law Enforcement Officer Credibility Information*, would be considered in the Second Regular Session of the 132nd Legislature. LD 1671, sponsored by Representative Adam Lee, would establish uniformity around what conduct needs to be reported to prosecutors that may implicate Brady/Giglio materials. Therefore, the 2025 subcommittee expressed an interest in revisiting this topic again in 2026 when the subcommittee can engage in a meaningful conversation following the outcome of the Legislature's consideration of LD 1671 in the Second Regular Session and review any guidance that may be submitted by CLAC following their November 2025 meeting. During the Second Regular Session of the 132nd Legislature, LD 1671 was considered by the Joint Standing Committee on Criminal Justice and Public Safety and was reported out of committee unanimously ought not to pass.

❖ **Provisions of Law Related to State, County and Municipal Employee Personnel Records**

The 2024 Advisory Committee recommended examination of provisions of law relating to state, county and municipal employee personnel records to consider whether establishing consistency among provisions is appropriate. Specifically, the 2024 Advisory Committee recommended that, in 2025, the Advisory Committee review Title 5, section 7070, relating to state personnel records; Title 30-A, section 503, relating to county personnel records; and Title 30-A, section 2702, relating to municipal personnel records. The recommendation stipulated that such review should include a full review of the legislative histories of each statute and consideration of whether legislative action is appropriate to create consistency between the provisions.

The 2025 subcommittee reviewed the legislative history of each statutory provision identified and reviewed the changes enacted in PL 2023, c. 159 which added language in the state and county personnel records statutes to align with the language found in the municipal personnel statute. The law requires that a final written decision imposing disciplinary action must state the conduct or other facts based on which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. The subcommittee additionally researched and reviewed record retention schedules governing disciplinary records for state government, local government and public safety employees and reviewed provisions governing disciplinary record retention in select collective bargaining agreements.

Letter from the Judiciary Committee re: public access to public employee disciplinary records

The 2025 Advisory Committee received two communications concerning public employee disciplinary records. The first was a letter dated June 18, 2025 from the Joint Standing Committee on the Judiciary. The Judiciary Committee requested that the 2025 Advisory Committee examine the proposals outlined in LD 1484, *An Act Related to Public Access of Records of Certain Disciplinary Actions of Public Employees*. Under current law, complaints and accusations of misconduct involving state, county and municipal employees are confidential unless and until discipline is imposed, at which time the final written decision becomes a public record. LD 1484 proposed that a final written decision imposing discipline would only be publicly accessible if the discipline “is of a nature that imposes or results in financial disadvantage, including, but not limited to, termination, demotion or suspension without pay.” The letter explained that, given the complex and competing considerations presented during the consideration of this bill, the Judiciary Committee voted that LD 1484 ought not to pass and requested that the Right to Know Advisory Committee consider the bill's proposal as it continues to examine the issues surrounding public access to public employee disciplinary records in 2025.

The 2025 subcommittee took this request under advisement as it considered the topic of public employee disciplinary records in 2025.

Letter from Senator Rotundo re: school employee investigations

In 2025, the subcommittee reviewed a letter from Senator Peggy Rotundo that relayed concerns about incomplete investigations into school employee misconduct and the subject(s) of those investigations moving from district to district despite repeated accusations of misconduct. In her letter, Senator Rotundo included legislative proposals that would strengthen and formalize certain school employment processes and ensure that schools, employees, and the Maine Department of Education (MDOE) are appropriately sharing information to ensure both student and employee safety.

The subcommittee considered this issue both in the broader context of public employee disciplinary records/employee investigations as well as the school-specific procedures described in Title 20-A, section 13025. Information related to employee investigations was solicited from the MDOE, the Maine State Police and questionnaires were sent to numerous stakeholders, both education-related and others. A copy of the questions and responses is appended (appendix B).

At the subcommittee's final meeting, members reviewed the written responses received and noted that there appeared to be a lack of consensus among respondents. Subcommittee members reflected that more time may be needed to hear from the respondents who were unable to submit a response within the timeframe provided in 2025 and expressed an interest in revisiting this topic again in 2026 when more feedback can be collected. However, members noted that two specific suggestions submitted by the Maine School Management Association (MSMA) were worth exploring further:

- First, MSMA suggested a statutory change to Title 20-A, section 13025 to require a school entity to notify MDOE immediately if a credential holder who is facing allegations that could be the subject of a covered investigation leaves the school entity's employment for any reason prior to the conclusion of the covered investigation. The subcommittee unanimously recommended this suggested statutory change.
- MSMA also noted that many districts already include a question on hiring forms asking if a potential employee has ever resigned or otherwise left employment over allegations of or an investigation into misconduct and offered to work with the Right to Know Advisory Committee to encourage more districts to adopt such a question. The subcommittee unanimously recommended sending a letter to MSMA to formally accept their offer to work with school districts to adopt language on their hiring forms that asks if a potential employee has ever resigned over allegations of misconduct or an investigation into misconduct from a previous employer.

The full RTKAC formally adopted both of the above recommendations in the Twentieth Annual Report (see in following section).

II. Twentieth Annual Report Recommendations of the Right to Know Advisory Committee Specific to Public Employee Disciplinary Records

Recommendation:

Continue discussions regarding public employee disciplinary records by looking specifically at the interaction between tiered systems of record retention; defining different levels of discipline in terms of severity; and examining whether consistency among definitions should be established at the entity level, at the statutory level, or at the state agency level.

Subcommittee members reflected that efforts to examine these issues to date have focused primarily on developing or establishing appropriate terminology. The subcommittee discussed that future consideration of this topic could also include an examination of how other states define different levels of discipline and what mechanisms could be in place among state agencies to develop uniformity in a definition for serious discipline. The subcommittee unanimously recommended that, in 2026, the Right to Know Advisory Committee continue a discussion on the topic of public access to public employee disciplinary records by examining the issue from a structural perspective rather than focus on the development of specific language. This new framework may instead allow the Advisory Committee to examine the interaction between tiered systems of record retention, defining different levels of discipline in terms of severity and examining whether consistency among definitions should be established at the entity level, at the statutory level or at the state agency level.

Recommendation:

Amend Title 20-A, section 13025 to require a school entity to notify the Department of Education immediately if a credential holder who is facing allegations that are the subject of, or would have triggered a covered investigation, leaves the school entity's employment for any reason prior to the conclusion of the covered investigation.

Status/Updates: During the Second Regular Session of the 132nd Legislature, Senator Peggy Rotundo introduced LD 2192, “*An Act to Protect Students by Ensuring Schools Have Complete Information About School Employees and Applicants for Employment*” (later amended to “*An Act Regarding School Employee Investigations*”). The bill was ultimately enacted as Public Law 2025, chapter 697, a copy of which is appended (appendix C).

In summary, PL 2025, ch. 697 does the following:

- It requires superintendents to initiate an investigation upon receipt of a complaint of alleged misconduct by a school employee and requires that the investigation must be completed, even if the subject of the investigation resigns;
- It requires the Maine Department of Education to enter a notation on a school employee's educator credential upon notification of an investigation into that employee's conduct. The notation must be visible to other school administrators that may review the employee's credentials and must be updated upon conclusion of the investigation;
- It requires schools to review an applicant's credential prior to hiring; and
- It requires that, if an employee is found to have committed misconduct, information related to the investigation must be disclosed to the department and to any school that requests it.

The law also requires the department and stakeholders to form a working group to continue examining the process and submit a report to the Joint Standing Committee on Education with data on investigations and additional recommendations

Recommendation:

Request that the Maine School Management Association work with school districts to encourage the adoption of a question in their hiring forms asking if a potential employee has ever resigned over allegations of misconduct or an investigation into misconduct from a previous employer.

Status/Updates: A letter was sent to the Maine School Management Association.

Appendix A

**Criminal Law Advisory Commission
c/o Office of the Attorney General
6 State House Station
Augusta, Maine 04333-0006**

December 16, 2025

Senator Anne Carney, Chair
Right to Know Advisory Committee
c/o Kristin K. Bishop, Legislative Analyst, OPLA
Via Email to kristin.bishop@legislature.maine.gov

Dear Senator Carney:

I am responding to the request of the Right to Know Advisory Committee that the Criminal Law Advisory Commission consider the issue of retention of public employee disciplinary records, as well as what types of records might be considered "Brady Gigilio materials." I had previously advised Legislative Analyst Kristin Bishop that when CLAC considered the matter on receipt of your correspondence, the members had concluded that it was largely outside our purview, but that I would respond more formally.

The issue of record retention should be considered by the agencies that generate or have custody of the records, using guidelines established by the Secretary of State, informed by the knowledge that personnel records that might be considered exculpatory evidence or potentially be used to impeach the credibility of a witness in criminal prosecutions are of unquestionable value to the criminal justice system. Even assuming that a violation occurred and discipline was in fact imposed, CLAC cannot predict the many factors that might determine whether a particular disciplinary record will ultimately be considered exculpatory or potential impeachment material. Such determinations will vary depending on the nature of the misconduct and the discipline imposed, as well as the type of criminal prosecution and any contested issues in the prosecution. Nor could we determine all the factors that would affect relevance and admissibility with the type of certainty that would enable us to recommend retention of a particular record for a definitive period of years.

Although we do not attempt to offer an exclusive list, several obvious factors each agency should consider when establishing retention periods include the seriousness of any alleged employee misconduct, including the employee's intent; whether the misconduct occurred in the context of an employment duty that bears a direct relationship to the employee's role in the prosecution at hand; whether the

misconduct relates to credibility; whether the misconduct involved serious allegations directly related to law enforcement duties, such as deliberately withholding or tampering with evidence; whether the misconduct involved mistreatment of victims, witnesses or suspects; whether the misconduct represents a pattern, and the discipline imposed, if any.

Please let me know if you have further questions.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'LYustak', is written over a light blue horizontal line.

Laura Yustak, AAG

Chair, Criminal Law Advisory Commission

Appendix B

Public Employee Disciplinary Records Subcommittee
Request for Written Comment

Sent Friday, November 7, 2025

Good afternoon _____,

I am writing on behalf of the Right to Know Advisory Committee, an on-going advisory council, created by [Public Law 2005, chapter 631](#), with oversight authority and responsibility for a broad range of activities associated with the purposes and principles underlying Maine's Freedom of Access laws. The Right to Know Advisory Committee was created to serve as a resource and advisor about Maine's Freedom of Access laws and may make recommendations for changes in statutes to improve public access to records and proceedings and to maintain the integrity of the Freedom of Access laws. Each year, the Committee assembles a select group of subcommittees dedicated to further examination of topics requested of the Advisory Committee for consideration.

This year, the Right to Know Advisory Committee has reconvened a subcommittee dedicated to further exploration of issues related to public access to disciplinary records of public employees. As part of its work this interim, the subcommittee has asked me to contact the [\[name of organization\]](#) to see if you would be willing to share your perspective and the perspective of the public employees your organization serves on the following topics presented for consideration this year.

REQUESTED PERSPECTIVE

At the subcommittee's November 6, 2025 meeting ([recording here](#)), members heard from a representative of the Maine State Police to learn about the Maine State Police's Office of Professional Standards policy requiring the completion of any misconduct investigation of an employee to the point of completion, even if an employee who is the subject of the investigation has departed from their employment with the Maine State Police prior to the conclusion of the investigation (such as a resignation or a retirement).

QUESTION 1: From the perspective of your organization and the public employees your organization represents, please share some thoughts about this policy. How would your organization or its members feel about a policy requiring the completion of any misconduct investigations of the employees that your organization represents even if an employee who is the subject of the investigation has left their position?

QUESTION 2: From the perspective of your organization and the public employees your organization represents, would it be beneficial for state law to establish uniform definitions for the following terms: "discipline," "suspension," and "final agency action?"

QUESTION 3: From the perspective of your organization and the public employees your organization represents, is employee misconduct best handled through credentialing regulations (e.g., a governing body issuing a suspension of an employee's certification after findings of misconduct) or between an employee and their direct supervisor(s)?

If your organization may be willing to provide any written comments or feedback in response to these questions, please submit any written comments via email to Advisory Committee staff at XXXX@legislature.maine.gov by **Friday, November 14, 2025 at 5:00PM**. If you have any questions, please do not hesitate to contact Advisory Committee staff via email or call 207-287-1670.

Thank you for your time and consideration of this request.

Public Employee Disciplinary Records Subcommittee
Compilation of Written Responses

Response Received from the Maine School Management Association (p. 1 of 2)
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QUESTION 1: From the perspective of your organization and the public employees your organization represents, please share some thoughts about this policy. How would your organization or its members feel about a policy requiring the completion of any misconduct investigations of the employees that your organization represents even if an employee who is the subject of the investigation has left their position?

The Maine School Management Association appreciates the intent of the Maine State Police policy and its desire for accountability and transparency throughout the hiring process. However, we believe that it could pose some unique challenges for schools.

While schools are fully supportive of any effort to prevent employee misconduct and protect students, districts face significant challenges in ensuring a comprehensive, fair investigation in situations when an employee resigns before an investigation has begun or is completed. First, a district cannot force an employee who has left the district to comply with an investigation and respond to questions or requests for information. Districts also do not have any power in these situations to discipline a former employee for not cooperating. This could result in a due process issue, with a district ultimately completing an investigation without being able to be truly fair to all sides.

With the district having little authority in these situations, we believe that these kinds of misconduct investigations may be best completed at the state level. Currently, we feel that 20-A MRSA §13025 contemplates these challenges and largely addresses these issues. It requires that a “school entity shall notify the department immediately if a credential holder who is the subject of a covered investigation leaves the school entity's employment for any reason prior to the conclusion of the covered investigation. A school entity shall notify the department immediately if a credential holder is disciplined, suspended or terminated as a result of a covered investigation in which the school entity determined that a student's health, safety or welfare was endangered.”

The DOE must notify school districts of any investigations that it takes up, and, if receiving a notice of a covered investigation by a local school district, “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 was disciplined, suspended or terminated as a result of a covered investigation, or that the credential holder left employment prior to completion of a covered investigation. 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.”

We believe that for the vast majority of cases, this process, if appropriately followed, will provide enough safeguards against any employee misconduct. However, we would advocate for two solutions that we believe would strengthen this process:

- We understand, based on Sen. Rotundo’s letter, that in some situations (such as if a credential holder leaves before an investigation begins), this process may not be sufficient. We suggest that the legislature could amend §13025 to instead require a school entity to notify the department immediately if a credential holder **who is facing allegations that could be subject of a**

Public Employee Disciplinary Records Subcommittee
Compilation of Written Responses

Response Received from the Maine School Management Association (p. 2 of 2)
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covered investigation leaves the school entity’s employment for any reason prior to the conclusion of the covered investigation. This would ensure that in any case of potential misconduct – even if an investigation had not yet begun before an employee left the district – the department would be notified.

- In addition, many districts already include a question on their hiring forms asking if a potential employee has ever resigned over allegations and/or an investigation over misconduct from a previous employer. An example from one school district reads: *“Have you ever failed to be rehired, been asked to resign a position, resigned to avoid termination or investigation, or been terminated from employment? If yes, explain.”*

We believe that including this language (or language similar to it) universally on hiring forms would provide another level of safeguard. As an association, MSMA would be happy to work with your committee to ensure all districts adopt such language on their hiring forms.

We believe that these two steps would protect students, ensure accountability, and strengthen the investigation process outlined in Maine statute.

QUESTION 2: From the perspective of your organization and the public employees your organization represents, would it be beneficial for state law to establish uniform definitions for the following terms: “discipline,” “suspension,” and “final agency action?”

Our only concern regarding this question would be how “discipline” would be defined in state law. In many local collective bargaining agreements, “discipline” is defined in a particular manner, and a definition in state law contradictory to that could create ambiguity and confusion in particular districts.

QUESTION 3: From the perspective of your organization and the public employees your organization represents, is employee misconduct best handled through credentialing regulations (e.g., a governing body issuing a suspension of an employee’s certification after findings of misconduct) or between an employee and their direct supervisor(s)?

We believe that for the overwhelming majority of disciplinary issues, discipline is best handled at the local level. One example would be tardiness: if an employee is repeatedly late to work, this kind of situation is clearly best handled at the local district level, instead of through credentialing regulations. Collective bargaining agreements contemplate these types of cases and what discipline should be administered.

However, we fully believe that if an issue involves allegations of severe employee misconduct (such as those described in 20-A MRSA §13025), it is clearly serious enough that other potential employers should be aware, and the Maine Department of Education should be looking at whether the credential holder maintains their certification. We think the investigation process outlined in §13025 largely ensures that the state is made aware of such situations, and we offer suggestions to strengthen that process in our response to Question 1.

Public Employee Disciplinary Records Subcommittee
Compilation of Written Responses

Response Received from the Maine Municipal Association (p. 1 of 1)
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Thank you so much for the opportunity to provide MMA's perspective and the data requested by the subcommittee to make informed policy decisions.

MMA is happy to collaborate on a survey to our members to get their perspective. However, the short timeline indicated with this request would make it difficult to get the type of qualitative data needed for the broad perspective questions being asked.

Since this data is part of the committee's ongoing work efforts, it would be ideal if our Legislative Policy Committee could weigh in on this request during their next scheduled meeting on January 15, 2026. If that timeline doesn't work for the committee, we're happy to work with you to come up with some sort of compromise that can fit the needs of the committee and the provide the desired qualitative results.

Thank you again for reaching out with your request.

Public Employee Disciplinary Records Subcommittee
Compilation of Written Responses

Response Received from the Maine Education Association (p. 1 of 1)
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QUESTION 1: From the perspective of your organization and the public employees your organization represents, please share some thoughts about this policy. How would your organization or its members feel about a policy requiring the completion of any misconduct investigations of the employees that your organization represents even if an employee who is the subject of the investigation has left their position?

Answer: The MEA would vigorously oppose any such requirement. First, very often the incentive for a member to separate employment is to bring an investigatory process to a close. Many people facing a disciplinary process would rather leave just to avoid going through the time and toll it takes to complete. Others simply want to avoid the perceived embarrassment of having uncomfortable issues aired in front of others, even if they feel they are in the right. Frequently, in such cases, the separation comes in the form of (1) a resignation, (2) some severance payment, and (3) removal of the relevant records from the personnel file. The process envisioned here would thus make settlements much harder to achieve, since the member would have to go through the investigatory process anyway. Second, from an organizational standpoint, we would likely be compelled to expend considerable resources pursuing a process with no immediate, practical benefit. Third, it is hard to envision what legal status such a completed investigation would maintain in these scenarios. Could the person's new employer discover it and then threaten their new position? The questions alike this are bottomless. Finally, this body will struggle to define what a "misconduct" investigation is, as a threshold matter. It is easy to envision conflict with Employers over the characterization of the action – and who would resolve that dispute?

QUESTION 2: From the perspective of your organization and the public employees your organization represents, would it be beneficial for state law to establish uniform definitions for the following terms: "discipline," "suspension," and "final agency action?"

Answer: No. Every situation that enters the disciplinary process is inherently different, and thus those definitions are better set by adjudicators in decisional law based on the facts of each case. For this reason, it is highly likely that this body – or the Legislature – will struggle to reach agreement over these definitions, because by their very nature they are meant to encompass an incredibly vast range of conduct. And, when the Legislature cannot reach agreement it very often reduces definitions to very broad concepts – which will have to be interpreted by adjudicators anyway.

QUESTION 3: From the perspective of your organization and the public employees your organization represents, is employee misconduct best handled through credentialing regulations (e.g., a governing body issuing a suspension of an employee's certification after findings of misconduct) or between an employee and their direct supervisor(s)?

Answer: Allegations of employee misconduct in an organized workplace should be resolved, as they have for nearly 100 years, through the collective bargaining agreement. The parties to the CBA make the mutual decision to have disputes resolved in this way and there is no reason for the State to impose itself in this process.

Public Employee Disciplinary Records Subcommittee
Compilation of Written Responses

Response Received from the Maine Sheriffs Association (10 pages total)
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Please see responses from county sheriffs in the following attachment,
compiled by the Maine Sheriffs Association.

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Monday, November 10, 2025 8:26:07 PM
Last Modified: Monday, November 10, 2025 8:42:56 PM
Time Spent: 00:16:48
IP Address: 104.28.39.138

Page 1: Right To Know Advisory Committee (RTKAC)

Q1

Name of person completing this survey:

Sheriff Troy Morton

Q2

From the perspective of your organization and the public employees your organization represents, please share some thoughts about this policy. How would your organization or its members feel about a policy requiring the completion of any misconduct investigations of the employees that your organization represents even if an employee who is the subject of the investigation has left their position?

Our office currently completes all investigations started , however union CBAs and uncooperative witnesses leaving may impact the completion and outcome.

Q3

From the perspective of your organization and the public employees your organization represents, would it be beneficial for state law to establish uniform definitions for the following terms: “discipline,” “suspension,” and “final agency action?”

Currently union CBAs describe these definitions. I don't believe our profession needs a law to define these terms.

Q4

From the perspective of your organization and the public employees your organization represents, is employee misconduct best handled through credentialing regulations (e.g., a governing body issuing a suspension of an employee's certification after findings of misconduct) or between an employee and their direct supervisor(s)?

Completely removing an agency or agency head's ability to manage its stuff is a ridiculous mindset.

Utilizing a restrictive model does not account for the various circumstances that may arise in any situation.

I do believe that in cases of termination or criminal conduct certifications should be examined.

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, November 11, 2025 5:01:12 AM
Last Modified: Tuesday, November 11, 2025 5:25:33 AM
Time Spent: 00:24:21
IP Address: 76.179.17.243

Page 1: Right To Know Advisory Committee (RTKAC)

Q1

Name of person completing this survey:

Bill King

Q2

From the perspective of your organization and the public employees your organization represents, please share some thoughts about this policy. How would your organization or its members feel about a policy requiring the completion of any misconduct investigations of the employees that your organization represents even if an employee who is the subject of the investigation has left their position?

I think it is overreach. If an employee leaves an organization in the midst of an administrative investigation, I question if the organization even has the authority to continue an investigation.

It is incumbent upon other agencies to conduct a thorough background investigation and by doing so, they should discover that the employee left under the cloud of an administrative investigation. This will require the organization to have an iron clad disclosure form that the prospective employee must fill out.

I would recommend this committee craft legislation that protects an agency when they disclose something about a former employee. Our county policy is to provide the date of hire and the date when they left. Normally, a background investigator will ascertain if the employee was not good when they ask the question, "is Johnny eligible for re-hire?"

Q3

From the perspective of your organization and the public employees your organization represents, would it be beneficial for state law to establish uniform definitions for the following terms: "discipline," "suspension," and "final agency action?"

Absolutely! At present, agencies may only report the "final discipline" to requesting media or other agencies. And usually, the final discipline" is crafted so not many details are revealed.

I have disciplined deputies, and they have appealed the decision, which is usually a suspension. My legal counsel related that I cannot disclose anything during the appeal process, which includes an arbitration hearing. In other words, it could take months if not years to get a final disposition on a disciplinary matter.

I currently have a non-law enforcement staffer that is appealing a suspension because of the "wording" of the suspension letter!

Q4

From the perspective of your organization and the public employees your organization represents, is employee misconduct best handled through credentialing regulations (e.g., a governing body issuing a suspension of an employee's certification after findings of misconduct) or between an employee and their direct supervisor(s)?

The challenge of leaving discipline up to a credentialing agency (like the MCJA) is that the credentialing agency assumes a role of 'above' the individual agency.

In the past, I thought for sure the MCJA would take some definitive action against an employee only to be disappointed. Discipline should remain with the individual agency.

#3

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, November 11, 2025 10:44:38 AM
Last Modified: Tuesday, November 11, 2025 11:29:59 AM
Time Spent: 00:45:20
IP Address: 216.195.133.2

Page 1: Right To Know Advisory Committee (RTKAC)

Q1

Name of person completing this survey:

Sheriff Todd Brackett, Lincoln County

Q2

From the perspective of your organization and the public employees your organization represents, please share some thoughts about this policy. How would your organization or its members feel about a policy requiring the completion of any misconduct investigations of the employees that your organization represents even if an employee who is the subject of the investigation has left their position?

If I understand the question? We currently have policy in place that requires the completion of misconduct investigations of our employees. The policy currently doesn't change if the subject of the investigation leaves the agency during the investigation. The investigation would be completed.

Q3

From the perspective of your organization and the public employees your organization represents, would it be beneficial for state law to establish uniform definitions for the following terms: "discipline," "suspension," and "final agency action?"

I see no immediate benefit to defining these terms in statute, Webster has done a pretty good job, for the first two. Final agency action was clarified in recent legislation appropriately requiring more detail regarding the circumstance leading to discipline. That seem to be working pretty well thus far.

Q4

From the perspective of your organization and the public employees your organization represents, is employee misconduct best handled through credentialing regulations (e.g., a governing body issuing a suspension of an employee's certification after findings of misconduct) or between an employee and their direct supervisor(s)?

No, in general disciplinary matters should be left between the employee and management. There is ample law and case law guidance in the the application of just cause discipline including well established appeals processes outlined by collective bargaining agreement and the Maine Labor Relations Board. Credentialing regulations should be left to criminal and serious ethical matters as presented in each individual situation. One size fits all through an outside credentialing body in all cases is unnecessary.

#4

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, November 12, 2025 7:55:33 AM
Last Modified: Wednesday, November 12, 2025 8:07:14 AM
Time Spent: 00:11:41
IP Address: 72.73.127.90

Page 1: Right To Know Advisory Committee (RTKAC)

Q1

Name of person completing this survey:

Eric Samson

Q2

From the perspective of your organization and the public employees your organization represents, please share some thoughts about this policy. How would your organization or its members feel about a policy requiring the completion of any misconduct investigations of the employees that your organization represents even if an employee who is the subject of the investigation has left their position?

All misconduct or internal investigations should be completed but we need to recognize due process. If an employee leaves employment they are not subject to Garity which may affect your ability to complete or through investigate the misconduct.

Q3

From the perspective of your organization and the public employees your organization represents, would it be beneficial for state law to establish uniform definitions for the following terms: "discipline," "suspension," and "final agency action?"

Yes

Q4

From the perspective of your organization and the public employees your organization represents, is employee misconduct best handled through credentialing regulations (e.g., a governing body issuing a suspension of an employee's certification after findings of misconduct) or between an employee and their direct supervisor(s)?

Each incident would be based on the severity, some issues are appropriately addressed by supervisory staff and others call for administrative oversight or action.

#5

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, November 12, 2025 12:37:31 PM
Last Modified: Wednesday, November 12, 2025 1:01:03 PM
Time Spent: 00:23:31
IP Address: 71.254.110.178

Page 1: Right To Know Advisory Committee (RTKAC)

Q1

Name of person completing this survey:

Sheriff Dale P. Lancaster

Q2

From the perspective of your organization and the public employees your organization represents, please share some thoughts about this policy. How would your organization or its members feel about a policy requiring the completion of any misconduct investigations of the employees that your organization represents even if an employee who is the subject of the investigation has left their position?

It places the organization in a precarious position. You are asking for an investigation when the agency has no leverage over the employee. And the employee has no obligation to answer any questions, or meet with the employer

Q3

From the perspective of your organization and the public employees your organization represents, would it be beneficial for state law to establish uniform definitions for the following terms: "discipline," "suspension," and "final agency action?"

On the face of the question, defining those terms universally would be helpful. Without the Union at the table for the discussion, the definitions become adversarial.

Q4

From the perspective of your organization and the public employees your organization represents, is employee misconduct best handled through credentialing regulations (e.g., a governing body issuing a suspension of an employee's certification after findings of misconduct) or between an employee and their direct supervisor(s)?

employee and direct supervisor. You first have to define misconduct. I also do not believe that credentialing regulations would capture all of the nuances of the final decision an administrator has to consider.

#6

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, November 13, 2025 9:06:46 AM
Last Modified: Thursday, November 13, 2025 9:09:35 AM
Time Spent: 00:02:48
IP Address: 107.115.108.58

Page 1: Right To Know Advisory Committee (RTKAC)

Q1

Name of person completing this survey:

Kevin Joyce

Q2

From the perspective of your organization and the public employees your organization represents, please share some thoughts about this policy. How would your organization or its members feel about a policy requiring the completion of any misconduct investigations of the employees that your organization represents even if an employee who is the subject of the investigation has left their position?

I have no opinion at this time. I believe that there are some advantages and some disadvantages.

Q3

From the perspective of your organization and the public employees your organization represents, would it be beneficial for state law to establish uniform definitions for the following terms: “discipline,” “suspension,” and “final agency action?”

Yes

Q4

From the perspective of your organization and the public employees your organization represents, is employee misconduct best handled through credentialing regulations (e.g., a governing body issuing a suspension of an employee's certification after findings of misconduct) or between an employee and their direct supervisor(s)?

Yes

#7

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Thursday, November 13, 2025 9:49:01 AM
Last Modified: Thursday, November 13, 2025 10:03:43 AM
Time Spent: 00:14:42
IP Address: 64.222.64.202

Page 1: Right To Know Advisory Committee (RTKAC)

Q1

Name of person completing this survey:

Scott Nichols

Q2

From the perspective of your organization and the public employees your organization represents, please share some thoughts about this policy. How would your organization or its members feel about a policy requiring the completion of any misconduct investigations of the employees that your organization represents even if an employee who is the subject of the investigation has left their position?

If you have an employee resign in the middle of an investigation of misconduct. You should finish the investigation and submit the findings to the academy board.

Q3

From the perspective of your organization and the public employees your organization represents, would it be beneficial for state law to establish uniform definitions for the following terms: “discipline,” “suspension,” and “final agency action?”

Yes, on the surface, this sounds okay; however, I am concerned about unintended consequences regarding minor violations of policy, which should be considered training issues, not discipline.

Q4

From the perspective of your organization and the public employees your organization represents, is employee misconduct best handled through credentialing regulations (e.g., a governing body issuing a suspension of an employee’s certification after findings of misconduct) or between an employee and their direct supervisor(s)?

It depends on the level of misconduct. If it is a criminal act, that should be forwarded to the academy for credentials. However, non-criminal misconduct should be handled within the agency.

#8

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, November 14, 2025 11:04:35 AM
Last Modified: Friday, November 14, 2025 11:08:00 AM
Time Spent: 00:03:25
IP Address: 209.222.212.50

Page 1: Right To Know Advisory Committee (RTKAC)

Q1

Name of person completing this survey:

Scott A. Kane

Q2

From the perspective of your organization and the public employees your organization represents, please share some thoughts about this policy. How would your organization or its members feel about a policy requiring the completion of any misconduct investigations of the employees that your organization represents even if an employee who is the subject of the investigation has left their position?

I feel once they have left an organization, that should end the investigation unless the misconduct is a crime

Q3

From the perspective of your organization and the public employees your organization represents, would it be beneficial for state law to establish uniform definitions for the following terms: "discipline," "suspension," and "final agency action?"

Yes

Q4

From the perspective of your organization and the public employees your organization represents, is employee misconduct best handled through credentialing regulations (e.g., a governing body issuing a suspension of an employee's certification after findings of misconduct) or between an employee and their direct supervisor(s)?

Between the employee and the direct supervisors

#9

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, November 14, 2025 10:20:47 AM
Last Modified: Friday, November 14, 2025 3:19:27 PM
Time Spent: 04:58:40
IP Address: 107.161.158.133

Page 1: Right To Know Advisory Committee (RTKAC)

Q1

Name of person completing this survey:

Anonymous

Q2

From the perspective of your organization and the public employees your organization represents, please share some thoughts about this policy. How would your organization or its members feel about a policy requiring the completion of any misconduct investigations of the employees that your organization represents even if an employee who is the subject of the investigation has left their position?

Completion of an investigation without any leverage to require the employee to cooperate or answer questions would be difficult if not impossible, depending on the specific incident. It seems to be to make more sense for there to be some repercussion for an employee that leaves employment mid-investigation. Maybe there is a requirement for an agency to report when this happens, and an employee's certificate is suspended.

Q3

From the perspective of your organization and the public employees your organization represents, would it be beneficial for state law to establish uniform definitions for the following terms: "discipline," "suspension," and "final agency action?"

No, I don't see a need for this.

Q4

From the perspective of your organization and the public employees your organization represents, is employee misconduct best handled through credentialing regulations (e.g., a governing body issuing a suspension of an employee's certification after findings of misconduct) or between an employee and their direct supervisor(s)?

The answer to this question depends on the conduct being alleged. If the conduct is serious in nature, the ability to pull an employee's certificate is important to restrict someone's ability to simply move to another agency. If the conduct is minor in nature, it should remain within the organization.

Appendix C

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-SIX

—
S.P. 893 - L.D. 2192

An Act Regarding School Employee Investigations

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation directs the Department of Education to convene a working group to further examine the issue of investigations into the conduct of school employees and determine whether additional procedures are necessary; and

Whereas, the working group must begin its work before the 90-day period expires in order that the work may be completed and a report submitted in time for submission to the next legislative session; and

Whereas, schools will benefit from timely receipt of information related to procedures for employee investigations; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 20-A MRSA §13025, as amended by PL 2023, c. 643, Pt. Z, §2, is further amended to read:

§13025. Investigations

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

B. "Covered investigation" means an investigation by a school entity into the conduct of a ~~holder of a credential~~ school employee that a school entity has a reasonable expectation would affect the ~~credential holder's~~ school employee's employment or contracted service because the alleged conduct involves alcohol; illegal drugs; physical abuse; emotional abuse; inappropriate contact between a ~~credential holder~~ school employee and a student; or a school employee and another school employee; harassment as described in Title 5, chapter 337-A; sexual assault as described in Title

17-A, chapter 11; stalking as described in Title 17-A, section 210-A; sexual exploitation of a minor as described in Title 17-A, chapter 12; or similar behavior that endangers the health, safety or welfare of a student or another school employee.

B-1. "School employee" means any person employed by a school, including, but not limited to, a credential holder, who is subject to the requirements of section 6103.

C. "School entity" means an approved private school, school administrative unit, public charter school, education service 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.

2-A. Duties of superintendents. Upon receipt of a complaint related to alleged misconduct by a school employee, a superintendent of a school entity shall conduct a covered investigation. The superintendent shall notify the department immediately upon initiating a covered investigation. For the purposes of this subsection, misconduct means any conduct described in subsection 1, paragraph B.

3. Duties of school entities. A school entity shall immediately place on paid leave a school employee who is the subject of a covered investigation. A school entity shall notify the department immediately if a ~~credential holder~~ school employee who is the subject of a covered investigation leaves the school entity's employment for any reason prior to the conclusion of the covered investigation. A school entity shall complete a covered investigation, even if the subject of the investigation resigns, is terminated or otherwise leaves employment with the school entity prior to the conclusion of the investigation. A school entity shall notify the department immediately of the findings and final outcome of any covered investigation, including, but not limited to, if the school entity determines that the allegations of misconduct were false or unsubstantiated or if a ~~credential holder~~ school employee is disciplined, suspended or terminated as a result of a covered investigation in which the school entity determined that a student's or another school employee's health, safety or welfare was endangered. The school entity 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~~ school employee. The ~~credential holder~~ school employee 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.

Prior to offering employment to an applicant, a school entity shall review the applicant's educator credentialing records or other school employee records maintained by the department to determine whether the applicant holds a valid and active certification appropriate for the position or is otherwise eligible for employment and whether any notation has been entered on the applicant's records pursuant to subsection 4, paragraphs D and E, and, if so, the current status of that notation.

4. Duties of department. The department shall 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~~ school employee who works for the school entity and shall notify the school entity immediately if the department takes action ~~on that credential~~

against the school employee. Within 5 business days after completion of an investigation, the department shall notify each school entity for which the ~~credential holder~~ school employee 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 the discipline, suspension or termination of a ~~credential holder~~ school employee, or the leaving of employment by a ~~credential holder~~ school employee prior to the completion of a covered investigation of that ~~credential holder~~ school employee, the department shall notify the superintendent or chief administrative officer of all other school entities for which the ~~credential holder~~ school employee works, as reported to the department under section 13026, that the ~~credential holder~~ school employee was disciplined, suspended or terminated as a result of a covered investigation, or that the ~~credential holder~~ school employee left employment prior to completion of a covered investigation. ~~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~~ school employee if the finding resulting in that discipline, suspension or termination is reversed upon appeal at the school entity level.

D. Upon receipt of notification from a school entity pursuant to subsection 3 of the initiation of a covered investigation, the department shall enter a notation on the educator credentialing records or other school employee records maintained by the department for that school employee indicating that a covered investigation is pending. The notation must be visible to superintendents and other authorized school administrators reviewing school employee records maintained by the department. For the purposes of this paragraph, "authorized school administrator" means a superintendent or any individual the superintendent designates to have superintendent-level capabilities in the department's online credentialing system.

E. Upon receipt from a school entity of the outcome of a covered investigation, the department shall:

(1) If the investigation concludes with a finding that by a preponderance of the evidence the school employee committed misconduct, update the notation entered pursuant to paragraph D to reflect that finding; or

(2) If the investigation concludes, after all appeal rights are exhausted, with a finding that the school employee did not commit misconduct, remove the notation entered pursuant to paragraph D.

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.

7. Certification hearing officers; immunity. The commissioner shall appoint a certification hearing officer for covered investigations. For the purposes of this section, while carrying out their official duties, certification hearing officers appointed pursuant to this subsection are considered state employees and are entitled to the immunity provided state employees under the Maine Tort Claims Act.

8. Required disclosure of substantiated investigation regardless of agreement. Notwithstanding any confidentiality clause or any agreement between the school entity and a school employee, if, by a preponderance of the evidence, a school entity determines through its covered investigation pursuant to subsection 3 that a school employee committed misconduct, the information pertaining to that covered investigation and findings of misconduct must be disclosed to the department and to any school entity that requests that information.

Sec. 2. Department of Education to convene working group; report. The Department of Education shall convene a working group to review the procedures for investigations of credential holders in schools in accordance with this section.

1. The working group shall review how the investigation procedures established in the Maine Revised Statutes, Title 20-A, section 13025 are being used in approved private schools, school administrative units, public charter schools, education service centers, schools in the unorganized territory and schools operated by the State. The working group shall make recommendations to improve reporting requirements and the process by which investigations are conducted.

2. The working group must include, but is not limited to, the following members:

- A. A member representing the Maine School Management Association;
- B. A member representing the Maine Education Association;
- C. A member who is a licensed attorney in the State and has expertise in employment law;
- D. A member representing the Maine Children's Alliance;
- E. A member representing the Maine Coalition Against Sexual Assault; and
- F. Any other stakeholders the department considers appropriate.

3. The department shall submit a report to the joint standing committee of the Legislature having jurisdiction over education matters by January 15, 2027. The report must include the number of investigations reported to the department, the outcomes of those investigations, the number of preliminary and covered investigations, a summary of how mandated reporting requirements impact covered investigations, whether consequences for not reporting should be established, a summary of how the department identifies individuals during the employment process who have been subjects of covered investigations, a summary and recommendations on training for school employees to conduct investigations, a summary of findings related to current practices for investigations of credential holders and recommendations of the working group, including any suggested legislation, to improve those practices. The joint standing committee may report out a bill related to the report to the 133rd Legislature in 2027.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.