

MAINE STATE LEGISLATURE

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STATE OF MAINE

ONE HUNDRED AND TWENTIETH LEGISLATURE

COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS

March 12, 2002

The Honorable Richard A. Bennett, President
The Honorable Michael V. Saxl, Speaker
120th Maine Legislature
State House
Augusta, ME 04333

Dear President Bennett and Speaker Saxl:

Pursuant to Title 3 Maine Revised Statutes, chapter 35, we are pleased to submit the findings and recommendations of the Joint Standing Committee on Education and Cultural Affairs from the review and evaluation of the Educational Leave Advisory Board under the State Government Evaluation Act. In its review, the committee finds that the Educational Leave Advisory Board is operating within its statutory authority.

Sincerely,

Sen. Betty Lou Mitchell
Senate Chair

Rep. Shirley Richard
House Chair

cc: Senator Michael H. Michaud, President Pro Tempore
Don Wills, Director, Bureau of Human Resources
Philip Schlegel, Bureau of Human Resources

JOINT STANDING COMMITTEE ON EDUCATION AND CULTURAL AFFAIRS

Review of the Education Leave Advisory Board under the Government Evaluation Act

The Government Evaluation Act

The Government Evaluation Act (“Act”) provides for a system of periodic review of the efficacy and performance of state government agencies. The review of an agency’s finances and programs must include a review of agency management and organization, program delivery, goals and objectives, statutory mandates and fiscal accountability (3 MRSA § 951 et seq). The law was enacted in the 117th Legislature to replace the old Government Audit and Program Review Program and substituted a legislative audit of each agency on a rotating basis with an agency self assessment. The first reviews under the Act will be completed at the end of the 118th Legislature.

The focus of the Act is the agency program evaluation report that consists of a number of components required by the statute. Essentially, the report is an agency self-assessment that the committee of jurisdiction uses as a starting point for its evaluation of the agency’s effectiveness, efficiency and performance. The components that must be included in the report are: the agency’s enabling state and federal legislation; program descriptions; organizational structure, position count and job classifications; compliance with federal and state health and safety laws; ten-year financial summaries; regulatory agenda; coordinated efforts with other state agencies; constituencies served by the agency; alternative delivery systems; and emerging issues for the agency.

Review Process

In May of 2001, the Joint Standing Committee on Education and Cultural Affairs notified the Educational Leave Advisory Board (ELAB) of its intent to review the board pursuant to the schedule established in section 959 of Title 3. The ELAB submitted its program evaluation report on November 1, 2001.

On January 9, 2002, the ELAB presented its Program Evaluation Report to the committee. At this meeting, the committee reviewed enabling legislation, the organizational structure of the Board, and emerging issues for the Board. During the presentation, the ELAB Chair recommended that the Board be terminated.

Findings of Review

The Educational Leave Advisory Board was created in 1973; its sole purpose is to review applications for educational leave of 30 days or more. The Board consists of 5 members including the following: Director of the Bureau of Human Resources (Chair), Commissioner of Education, the manager of human resource development within the

Bureau of Human Resources, and 2 state employees appointed by the Governor. The Board has reviewed between 3 and 10 requests annually since 1994. Decisions by the Board have been consistent with the State agency initiating the request.

The Joint Standing Committee on Education and Cultural Affairs finds that the ELAB is operating within its statutory authority. After hearing the presentation of the Board, the Committee further recommends that the ELAB be terminated and that legislation be introduced to the 120th Legislature to abolish the Board. The committee heard testimony that points to the duplicative nature of their work and a decreasing trend in the number of requests for educational leave reviews. The committee has already acted on this recommendation by creating L.D. 2115, "An Act to Abolish the Educational Leave Advisory Board."

BRIEFING BY PHILIP J. SCHLEGEL
MERIT SYSTEM COORDINATOR, BUREAU OF HUMAN RESOURCES
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

BEFORE THE JOINT STANDING COMMITTEE ON EDUCATION AND
CULTURAL AFFAIRS

SENATOR BETTY LOU MITCHELL, SENATE CHAIR
REPRESENTATIVE SHIRLEY K. RICHARD, HOUSE CHAIR
APRIL 24, 2001

REGARDING THE EDUCATIONAL LEAVE ADVISORY BOARD

Senator Mitchell, Representative Richard, members of the Committee, my name is Philip Schlegel. I am a Merit System Coordinator with the Bureau of Human Resources, Department of Administrative and Financial Services. In that capacity I function as Clerk to the Educational Leave Advisory Board. I have been in my current position since September 1998. I sit before you at the request of the Committee to provide an overview of the Board and its activities.

The Educational Leave Advisory Board (hereinafter referred to as the ELAB) functions pursuant to 5 MRSA, Chapter 60, § 723 et. seq. (Attachment 1) The statute acknowledges the value of education to enhance job-related expertise and provides that the ELAB review and authorize educational leave requests of 30 or more days duration. The 30-day threshold has been interpreted to mean either consecutive or non-consecutive days, but virtually all requests are consecutive in nature.

It is important to emphasize that while agency application procedures vary somewhat, each request is considered on a case-by-case basis, focusing on three fundamental criteria: that the request has agency (generally Commissioner) approval prior to consideration by the ELAB, that there has been an agency determination that the educational program will benefit the State as an employer, and that any necessary funds are available. These aspects are critical with respect to the statutory requirement for agency advice concerning review and approval.

P.S. - may want to collect agency policies

Although the ELAB does not meet collectively, it remains active. The ELAB has adopted a strategy that permits each member to review and act upon requests individually. It is my understanding that this method evolved to accommodate scheduling difficulties, in recognition that timely action on leave requests was critical.

Under this procedure, the ELAB clerk forwards each request, as a package, to each ELAB member with a synopsis. The synopsis includes a recommendation and/or special concerns of the employee's appointing authority with respect to

3 CRITERIA
(1) Agency - per-
(2) Agency determined
ed. program
benefit to
state
(3) Necessary
funds
available

the requested leave. Each ELAB member reviews each request and indicates approval or disapproval on a transmittal sheet. If the Board members unanimously approve, the Board clerk notifies the agency of the decision in writing. In the event there was disagreement among ELAB members, a formal meeting would be convened to resolve the situation. Consensus has been reached for virtually all educational leave requests. A redacted sample of an educational leave package from DHS is included for your reference. (Attachment 2)

As you can see from Attachment 3, very few educational leave requests require ELAB action. Recent requests are as follows:

- 2000 - 3
- 1999 - 4
- 1998 - 4
- 1997 - 4
- 1996 - 10
- 1995 - 9
- 1994 - 4

DHS > primary
DOL > agencies
that use
≥ 30 day
Ed. leave

Attachment 3 also illustrates the details of the requests listed above. Although the report has been compressed to accommodate copying, it provides important information with respect to the records of educational leave.

5 MRSA, Chapter, 60, § 723 et. seq. was last amended in PL 1991, Chapter 376. (Attachment 4) Having reviewed the ELAB records maintained by the Bureau of Human Resources, it appears that the changes enacted in PL 1991, Chapter 376 came about in response to a series of reviews, initiated by the Legislature's Joint Standing Committee on Audit and Program Review for 1988-1989. (Attachment 5)

The Committee on Audit and Program Review extended the original January 1, 1990 deadline for the ELAB report to October 1, 1990. The ELAB's report was forwarded to the Committee on September 26, 1990. (Attachment 6) As is pointed out in Donald Wills' September 26 letter to the Committee, the report included input from the Bureau of Human Resources Policy Review Board and the Labor-Management Committee on Educational Leave, which are included as Attachments 7 and 8 respectively.

Subsequent to the enactment of PL 1991, Chapter 376, the Bureau of Human Resources issued Civil Service Bulletin 11.15, announcing the changes. It

appears that the bulletin included a copy of the existing (1974) guidelines (Attachment 9) and referenced the development of new guidelines.

Pursuant to PL 1991, Chapter 844, § 8, the ELAB was one of many advisory boards being considered for repeal. In February 1993, the Bureau of Human Resources was advised that the Legislative Council required that each committee consider eleven questions to evaluate each of the boards, including the ELAB. It is not clear who responded to the questions posed by the Legislative Council with respect to the ELAB, but a full response was prepared. (Attachment 10)

On April 14, 1993, then Bureau of Human Resources Director Nancy J. Kenniston urged the Joint Standing Committee on State and Local Government to re-authorize the ELAB.¹ (Attachment 11)

The registration of guidelines has been a matter of continuing discussion. Our records indicate that the matter of the guidelines was raised in December 1990 and again in January 1995. It is my understanding that there had been some discussion about guideline revisions prior to my tenure, but it does not appear that revisions to the 1974 guidelines have been filed date; the potential impact being the possibility of a challenge to an unfavorable decision by the Board.

Although an educational leave scholarship fund is authorized in § 725-A, no fund has been established or funded.

I would welcome an opportunity to respond to questions the Committee may have regarding this matter. In addition, the Board and I are prepared to assist the Committee with any further analysis that may be requested.

pjs041901

¹ It is significant to note that in the April 14 letter, Kenniston pointed out that the continued health insurance benefit provided in the Voluntary Cost Savings Program had resulted in decreased participation in the State educational leave program. While the VCSP continues, subject to biennial authorization, it is not unreasonable to assume that the same holds true today.



Legislative Quick Facts: The Government Evaluation Act

The Government Evaluation Act was established in the First Regular Session of the 117th Legislature to replace the functions of the former Audit and Program Review Committee. The Act is a significant change from the previous audit process in four areas. **First**, the "committee of jurisdiction" now conducts the review rather than a single committee. **Second**, much of the initial evaluation work is prepared by the agency or department being reviewed, based on a specific set of criteria outlined in statute. In the past, much of the review was conducted by the legislative staff and the Audit and Program Review Committee. To a large extent, the initial review is based on a self audit by the agency. **Third**, the evaluation process seeks to incorporate other ongoing efforts at government reform including performance budgeting, strategic planning, privatization and rule-making. **Fourth**, the evaluation process is designed to allow Legislators a greater degree of flexibility in determining the level of detail in any evaluation report, based upon the operations and issues relating to an agency.

The center piece of the review process is the "**Program Evaluation Report**" which each agency and independent agency must submit to the committee of jurisdiction. This report is a self-assessment and the essential elements of the reports are as follows:

- Enabling legislation (State and Federal);
- Description of each program including: priorities, goals & objectives performance criteria, timetables or other benchmarks and success in meeting goals; reasons for failure; corrective measures taken;
- Organizational structure, position count, job classifications;
- Compliance with federal and state safety & health laws, ADA, etc.;
- 10-year financial summary;
- Regulatory agenda & summary of rules adopted;
- Areas where efforts have been coordinated with other agencies or where they could be;
- Constituencies served by agency, changes or projected changes;
- Efforts at alternative delivery systems, including privatization;
- Emerging issues for the agency; and
- Any other information specifically requested by the committee of jurisdiction

Review Timeline: First Regular Session (*See reverse side for waiving the review process)

By April 1st

Committee of jurisdiction reviews list of agencies scheduled for review in 2nd session.

By May 1st

Committee notifies agency of intent to review during the 2nd Regular Session.

By Nov. 1st

Agency must submit the Program Evaluation Report to the committee of jurisdiction.

Review Timeline: Second Regular Session

By Feb. 1st

Committee of jurisdiction must begin its review of agencies scheduled.

By March 15th

Committee must submit to the full Legislature its findings, recommendations and legislation required to implement recommendations.

Follow-up

Note: The Committee may also establish a follow-up review procedure for the agency.

Review Schedule for the 120th Legislature by Committee of Jurisdiction for the First Regular Session*

Agriculture, Conservation and Forestry

Maine Dairy and Nutrition Council
Maine Dairy Promotions Board
Maine Milk Commission
State Harness Racing Commission
Land for Maine's Future Board

Banking and Insurance:

No reviews scheduled

Business and Economic Development:

Finance Authority of Maine
Petroleum Advisory Committee

Criminal Justice:

Dept. of Public Safety
(except Bureau of Liquor Enforcement)

Education and Cultural Affairs:

Board of Trustees of the Maine Maritime Academy
Board of Trustees of the University of Maine System
Educational Leave Advisory Board
Maine Technical College System

Health and Human Services:

Maine Emergency Medical Services
Department of Human Services

Inland Fisheries and Wildlife:

No reviews scheduled

Judiciary:

Maine Human Rights Commission

Labor:

Maine Labor Relations Board
Workers' Compensation Board

Legal and Veterans' Affairs:

Dept. of Defense, Veterans and Emergency Management

Marine Resources:

Atlantic Salmon Authority

Natural Resources:

No reviews scheduled

State and Local Government:

Maine Municipal Bond Bank
Office of Treasurer of State
State Planning Office, except for the Land for Maine's Future Board

Taxation:

State Board of Property Tax Review

Transportation:

Maine Pilotage Commission

Utilities:

No reviews scheduled

***Waiver from established review**

On or before April 1st of any first regular session, the committee of jurisdiction shall review the list of agencies scheduled for review in §959. However a committee may, with a 2/3 vote of all committee members, do one of the following with regard to an agency review:

- Exempt an agency or independent agency from review and establish a new review date;
- Establish a modified review process in which an agency or independent agency may be asked to provide more or less information than required by this section; or
- Add an agency or independent agency for review, except that an agency that has been reviewed in accordance with this chapter in the legislative session immediately preceding the current legislative session may not be added for review.

TITLE 5: ADMINISTRATIVE PROCEDURES AND SERVICES

- PART 2: CIVIL SERVICE
 - CHAPTER 60: EDUCATIONAL LEAVE (HEADING: PL 1973, c. 500 (new))
 - [§ 721. Title](#)
 - [§ 722. Declaration of purpose](#)
 - [§ 723. Educational Leave Advisory Board](#)
 - [§ 724. Rules and regulations](#)
 - [§ 725. Funds \(REPEALED\)](#)
 - [§ 725-A. Funds](#)
 - [§ 726. Report](#)
 - [§ 727. Application](#)

CHAPTER 60

EDUCATIONAL LEAVE

(HEADING: PL 1973, c. 500 (new))

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TITLE 5: ADMINISTRATIVE PROCEDURES AND SERVICES

- PART 2: CIVIL SERVICE
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 - § 721. Title

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§ 721. Title

This chapter shall be known as, and may be cited as, the "Maine Educational Leave Act." [1973, c. 500 (new).]

Section History:

1973, c. 500 (NEW).

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TITLE 5: ADMINISTRATIVE PROCEDURES AND SERVICES

- PART 2: CIVIL SERVICE
 - CHAPTER 60: EDUCATIONAL LEAVE (HEADING: PL 1973, c. 500 (new))
 - § 722. Declaration of purpose

PAGE < **PAGE >****DOWNLOAD TEXT****§ 722. Declaration of purpose**

It is in the public interest and is the policy of the State of Maine to foster and encourage an educational leave program to permit employees of the State to increase knowledge and skills and to improve work techniques and procedures. This would permit the agencies themselves and the citizens of Maine to benefit by what the employee has learned and by what he will impart to others when he returns. [1973, c. 500 (new).]

Section History:

1973, c. 500 (NEW).

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TITLE 5: ADMINISTRATIVE PROCEDURES AND SERVICES

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 - CHAPTER 60: EDUCATIONAL LEAVE (HEADING: PL 1973, c. 500 (new))
 - § 723. Educational Leave Advisory Board

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§ 723. Educational Leave Advisory Board

The Educational Leave Advisory Board, established by section 12004-I, subsection 11, shall advise and consult with the Bureau of Human Resources to review and authorize all educational leave requests from classified and unclassified state employees for durations of 30 days or more. Educational leave requests that are subject to review and approval of the board must be submitted for approval by the board prior to the start of the educational program, except that the board may approve requests for educational leave retroactively when in the best interests of the State and when there exists a satisfactory reason for failure to comply with this advance approval requirement. The board consists of 5 members as follows: the Director of the Bureau of Human Resources who shall serve as chair of the board; the Commissioner of Education or a designee; the manager of human resource development within the Bureau of Human Resources; and 2 members who are state employees, at least one of whom is a state employee as defined in Title 26, section 979-A, subsection 6. Each state employee member is to be appointed by the Governor to serve for a term of 3 years. Members of the board are entitled to compensation as provided in chapter 379. [1991, c. 376, §14 (amd).]

Section History:

1973, c. 500 (NEW).
 1975, c. 766, § 4 (AMD).
 1975, c. 771, § 56 (AMD).
 1989, c. 483, § A10 (AMD).
 1989, c. 503, § B15 (AMD).
 1989, c. 878, § A9 (RPR).
 1983, c. 812, § 21 (AMD).
 1985, c. 785, § B21 (AMD).
 1991, c. 376, § 14 (AMD).

*Elaine Tomber
 Carol Fleming, DHS
 Leslie Clark, DOE
 2002*

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TITLE 5: ADMINISTRATIVE PROCEDURES AND SERVICES

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 - § 724. Rules and regulations

PAGE < **PAGE >****DOWNLOAD TEXT****§ 724. Rules and regulations**

The board shall by rule and regulation establish procedures for applying, processing and granting of educational leave to classified and unclassified employees of the State and shall maintain an up-to-date register of employees and their terms of leave and may adopt such other regulations as it finds necessary to administer this chapter. The board shall seek the advice of the department head concerned in reviewing the educational leave application of each employee. All rules and regulations of the board shall be adopted in accordance with the Maine Administrative Procedure Act, chapter 375, subchapter II. [1977, c. 694, § 18 (amd).]

Section History:

1973, c. 500 (NEW).

1977, c. 694, § 18 (AMD).

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TITLE 5: ADMINISTRATIVE PROCEDURES AND SERVICES

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 - § 725. Funds (REPEALED)

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§ 725. Funds (REPEALED)

Section History:

1973, c. 500 (NEW).

1991, c. 376, § 15 (RP).

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TITLE 5: ADMINISTRATIVE PROCEDURES AND SERVICES

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 - § 725-A. Funds

PAGE < **PAGE >****DOWNLOAD TEXT****§ 725-A. Funds**

A state employee may not be compensated with state funds while absent on leave for educational purposes for 30 work days or more unless that leave is approved by the board. [1991, c. 376, §16 (new).]

The board may provide special scholarships to employees who are granted a leave from work to participate in an educational program and who apply to the board for financial assistance. These scholarships must be administered by the board in accordance with rules adopted by the board. [1991, c. 376, §16 (new).]

The Educational Leave Scholarship Fund is established as an account of the Department of Administration to be used solely for the funding of scholarship requests that are approved by the board. Any remaining balance in the Educational Leave Scholarship Fund account continues from year to year. [1991, c. 376, §16 (new).]

Section History:

1991, c. 376, § 16 (NEW) .

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 - CHAPTER 60: EDUCATIONAL LEAVE (HEADING: PL 1973, c. 500 (new))
 - § 726. Report

PAGE < **PAGE >****DOWNLOAD TEXT****§ 726. Report**

The board shall make a detailed progress report biennially to the Legislature, together with such recommendations as it deems necessary to carry out the purposes of this chapter. [1973, c. 500 (new).]

Section History:

1973, c. 500 (NEW).

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 - § 727. Application

PAGE < **PAGE >****DOWNLOAD TEXT****§ 727. Application**

In the event that any provision of this chapter is in conflict with the provision of a federal grant or educational leave program, the terms of the federal grant or educational leave program shall prevail. [1973, c. 500 (new).]

Section History:

1973, c. 500 (NEW).

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INTER-DEPARTMENTAL MEMORANDUM
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES
Bureau of Human Resources
4 State House Station
Augusta, ME 04333

TO: Kevin W. Concannon, Commissioner
Department of Human Services

FROM:  Donald A. Wills, Director
Bureau of Human Resources

DATE: August 28, 2000

SUBJECT: Educational Leave Request –  H.S. Caseworker

The Educational Leave Advisory Board has approved  request for educational leave to complete her MSW degree.

 is authorized full-time, unpaid, educational leave commencing September 1, 2000 through December 20, 2001.

cc: ELAB

Shelby Rafter, SETU

DAW/pjs

EDUCATIONAL LEAVE ADVISORY BOARD
SUMMARY SHEET

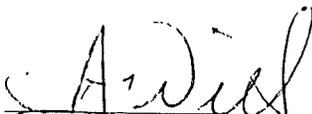
EMPLOYEE NAME: [REDACTED]
EMPLOYEE CLASSIFICATION: Human Services Caseworker
EMPLOYEE AGENCY: Department of Human Services
PROPOSED COURSE OF STUDY: Masters in Social Work
PROPOSED INSTITUTION: University of New England
PROPOSED DURATION: September 1, 2000 – December 20, 2001
PROPOSED HOURS (PER WEEK): 40 (full-time leave)
PAID OR UNPAID: Unpaid

SUMMARY OF PROPOSED LEAVE AND RELATED CIRCUMSTANCES

[REDACTED] requests full-time, unpaid, educational leave for the period 08/1/00 through 12/20/01. [REDACTED] is pursuing a Master's in Social Work from the University of New England. She intends to return to her Human Services Caseworker position in the Bureau of Child and Family Services upon completion of her degree. In supporting [REDACTED] request, the Department convincingly argues that the State service will benefit from this educational experience because she will increase her competence and effectiveness in child welfare.

The Director, Bureau of Child and Family Services, supports [REDACTED] request and Commissioner Concannon has approved the request.

BOARD ACTION



~~APPROVED~~ / DISAPPROVED
Donald A. Wills, Director
Bureau of Human Resources



APPROVED / ~~DISAPPROVED~~
Elaine Trubee, Human Resource
Development Manager

APPROVED / DISAPPROVED
J. Duke Albanese, Commissioner
Department of Education

APPROVED / DISAPPROVED
Carol Fleury
Employee Member

APPROVED / DISAPPROVED
Lesley Clark
Employee Member

COPY TO EACH

AUG 09 2000

DEPARTMENT OF HUMAN SERVICES

APPLICATION FOR UNPAID EDUCATIONAL LEAVE

Date: 7/17/00

1. Name: [Redacted] Position: Child Protective Caseworker

Bureau/Division: BCFS

2. Work Address: 161 Marginal Way Portland, ME 04101

3. Home Address: [Redacted]

4. Unpaid Educational Leave is requested for 68 to 4 weeks, beginning 9/1/00
20
19 00, and ending December 20, 20
01.

5. What institution will you be attending for your unpaid educational leave: University of
New England

6. How much financial help do you need to pursue the course or courses you have selected? (See "Requests for Tuition Assistance" in the Educational Assistance Policy). separate application for tuition
Assistance
Approximately \$5,000.00 per semester assistance must be
made thru

7. Discuss your reasons for making this application and how you believe it will contribute to your development in your particular field, as well as assist your agency to deliver services to the citizens of Maine in a more effective manner. (Use plain white paper to continue.) CW II

A Social Work education will provide me with a
variety of experiences with diverse populations
of clients, as well as the background infor-
mation to have a better understanding of social
concerns, including child abuse and neglect,
and mental health issues.

APPROVED:

Date: 8-1-00

Signature: [Signature]
Bureau Director

Name of Applicant for Educational Leave - [REDACTED]

IMMEDIATE SUPERVISOR'S EVALUATION

Please comment as appropriate:

1. How long has the applicant been under your supervision?

August 31, 2000 will make 2 full years of supervision.

2. Describe the applicant's proficiency in relation to the nature and requirements of his work.

[REDACTED] continues to meet all of the performance expectations set for her. She has demonstrated proficient casework and decision making in her brief two years of experience.

3. How does the applicant -

a. Seek and use supervisory help

[REDACTED] is quite thorough and utilizes supervision as education, support, and growth in her casework practice.

b. Organize his work

[REDACTED] has displayed a well organized caseload with deadlines being met and timely decisions being made.

4. Describe the applicant's relationships with other people, i.e., supervisors, peers, client groups and community.

[REDACTED] is a team player. She is well respected on the floor & is often sought out by her peers for advice. She is subordinate in tasks needing completion. [REDACTED] clients appear to have their needs met by [REDACTED] style of casework.

5. Does the applicant have qualities of leadership and other skills which if developed would qualify him for a position with more responsibility?

[REDACTED] has potential for advancement in time. The need for more experience is essential.

Describe the applicant's strengths and weaknesses with particular attention to:

a. Resourcefulness [REDACTED]

b. Initiative [REDACTED]

c. Leadership capabilities [REDACTED]

d. Intellectual capacity [REDACTED]

6. Additional comments:

* ASL & Spanish interpreting - Wonderful Assets in this Social Service field.

7. Recommendation:

* I strongly recommend that [REDACTED] be granted her Educational Leave Request from 9/1/00 to 10/31/01.

Respectfully,

[Signature]

(Dawn M. [REDACTED]) Metro Casework Supervisor

Department of Human Services
Interoffice Memorandum
Portland

To: Karen Westburg, Deputy Director, BCFS; Margaret Semple, Bureau Director, BCFS;
Kate Carnes, SETU
From: Peter Morgan, ^{PBM} Program Administrator, District 2
Date: July 20, 2000
Subject: Educational Leave Request, [REDACTED]

I have reviewed the plan for [REDACTED] to be granted educational leave for September, 2000 through December, 2001. Her supervisor has recommended that the request be granted and I am satisfied that she has an interest in returning to work for the agency doing (in her words) "a better job." She likes child protective work and expects to continue doing it in the foreseeable future. My recommendation that she be approved is contingent upon our being allowed to hire an acting capacity for the time she is on leave.

cc: [REDACTED]

OK
KMW
8/3/00

Date Sent: 8/9/00

Decision Section Requested by:8/14/00

ACTION MEMO

To: Kevin Concanon, Commissioner

Through: Peter Walsh, Deputy Commissioner

From: Shelby Rafter, Director, Staff Education & Training Unit

Subject: Educational Leave

Issue: Request for Educational Leave

Issue Activated by: Request by [REDACTED] for 40 hours per week of unpaid educational leave for the time period September 1, 2000 to December 20, 2001. This will be a total of 2,720 hours. [REDACTED] is pursuing a Masters in Social Work.

Background: [REDACTED] is pursuing a Masters in Social Work from the University of New England. She is requesting 40 hours per week of unpaid educational leave for 68 weeks. This would make a total of 2,720 hours. [REDACTED] plans to return to her position as a Caseworker in the Bureau of Child and Family Services upon completion of her degree. The Department will ultimately benefit from this educational experience as [REDACTED] plans to return to the Department having increased her competence and effectiveness in the field of Child Welfare. The Bureau Director supports this request and all requirements and necessary paper work have been completed.

Reason Issue is Important: Requested per policy.

Number	Classification	Depa	Begin	End	Type	Assistance	Degree/Prograr	College	Disposition	Comments	Notice
1993A	Teacher Bax	ED	1/4/1993	3/12/1993	Full-Time Unpai	None	MA Education	U of Southern	Approved	Internship Portl	7/21/1992
1993B	HS Case Sup	HS	9/1/1992	5/31/1992	Part-Time Full	None	MA Social Wor	U of New Engla	Approved	Modified reque	9/10/1992
1993C	HS Case	HS	9/15/1992	5/3/1993	Part-Time Full	None	MA Social Wor	Boston Universi	Approved	Modifed reques	9/10/1992
1993D	Psych SW I	AM	9/1/1992	5/31/1993	Part-Time Unp	Partial Tuition	MA Social Wor	U of M Orono	Approved	Unpaid leave 2	9/23/1992
1993E	Psych SW I	AM	2/1/1993	4/30/1993	Full-Time Unpai	Partial Tuition	MA Special Ed	U of M Orono	Approved	Changed unpai	2/10/1993
1993F	Prot Intake W	HS	5/1/1993	9/30/1993	Part-Time Full	Full Tuition	BS Rehab Serv	U of M Farming	Approved	Intern placeme	3/23/1993
1993G	HS Case	HS	9/1/1993	5/15/1994	Part-Time Full	None	MA Social Wor	U of M Orono	Approved	Eight hours pai	5/24/1993
1993H	HS Case	HS	9/1/1993	5/30/1994	Full-Time Half	None	MA Social Wor	Boston College	Approved	Modified from f	6/15/1993
1993I	HS Case	HS	6/21/1993	5/15/1994	Part-Time Full	None	MA Social Wor	U of M Orono	Approved	Paid leave for 1	6/15/1993
1994A	HS Case	HS	9/1/1993	5/7/1994	Full-Time Half	None	MA Social Wor	U of M Orono	Approved	Modified from f	7/13/1993
1994B	HS Case	HS	9/1/1993	5/15/1994	Full-Time Half	None	MA Social Wor	U of New Engla	Approved	Modified from f	7/13/1993
1994C	MH&MR Case	MH	9/1/1993	5/31/1994	Part-Time Unp	None	MA Social Wor	Boston College	Approved		7/15/1993
1994D	Psych SW	AM	9/1/1993	5/31/1994	Full-Time Unpai	Partial Tuition	MA Social Wor	Boston College	Approved	Agency paid \$5	7/26/1993
1995A	HS Case	HS	8/1/1994	5/30/1994	Full-Time Unpai	None	MA Social Wor	U of M Orono	Approved	Modified from f	7/15/1994
1995B	Aspire Spec	HS	9/12/1994	12/2/1994	Full-Time Unpai	None	MA Education	U of M Orono	Approved	Internship in sc	8/15/1994
1995C	Probation Off	CO	9/18/1994	12/26/1994	Full-Time Partia		BS Rehab Serv	U of M Farming	Approved	Kept on payroll	9/15/1994
1995D	HS Case	HS	9/5/1994	5/5/1995	Part-Time Full	None	MA Social Wor	U of New Engla	Approved	Part-time leave	10/11/1994
1995E	HS Case	HS	9/6/1994	5/16/1995	Part-Time Parti	None	MA Social Wor	U of M Orono	Approved	Modified from 2	10/11/1994
1995F	IM Spec	HS	6/12/1995	9/4/1995	Full-Time Unpai	None	BS Rehab Serv	U of M Farming	Approved	Modified from fu	5/17/1995
1995G	HS Case	HS	5/15/1995	8/25/1995	Full-Time Unpai	None	MA Social Wor	Boston Universi	Approved	Field Placemen	6/2/1995
1995H	HS Case	HS	9/1/1994	5/15/1995	Part-Time Full	None	MA Social Wor	U of M Orono	Approved	Modified from 2	6/14/1994
1995I	Ed Spec III	ED	7/1/1995	6/30/1997	Full-Time Half	reimburse boo	Ph.D. Spec Ed	Virginia Polytec	Approved	Second year ap	6/29/1995
1996A	Ben Rec Supv	HS	8/28/1995	12/8/1995	Full-Time Unpai	None	BS Special Edu	U of M Farming	Approved	Field placement	7/31/1995
1996B	MHW I	PC	8/20/1995	6/30/1996	Full-Time Unpai	None	BS Biology	U of M Augusta	Disapprove	Closing of Pinel	9/11/1995
1996C	MHW I	AM	9/5/1995	6/1/1996	Full-Time Unpai	Full Tuition	Associate in Nu	U of M Augusta	Approved		10/13/1995
1996D	MH&MR Case	IDC	9/1/1996	6/30/1997	Full-Time Unpai	None	Psychology Inte	Topsam School	Approved	Practicum relat	4/10/1996
1996E	MHW II	AM	1/14/1996	6/1/1996	Full-Time Unpai	Full Tuition	Associate in Nu	U of M Augusta	Approved	Request approv	4/17/1996
1996F	HS Case	HS	9/2/1996	5/16/1997	Full-Time Unpai	None	MSW	U of New Engla	Approved	Request approv	6/18/1996
1996G	HS Case	HS	8/26/1996	5/15/1998	Full-Time Unpai	None	MSW	U of M Orono	Disapprove	Withdrawn by D	7/24/1996
1996H	Ed Spec III	ED	8/26/1996	6/30/1997	Full-Time Unpai	None	MA Early Child	U of North Caro	Approved	Request approv	8/20/1996
1996I	HS Case	HS	9/3/1996	6/30/1997	Part-Time Unp	\$ 3,074.	MSW	U of New Engla	Approved	20 hours unpai	8/23/1996
1996J	HS Case	HS	9/3/1996	5/9/1997	Part-Time Unp	None	MSW	U of M Orono	Approved	8 hours unpaid	10/17/1996
1997A	Cook I	ARC	1/1/1997	6/1/1997	Full-Time Unpai	None	RN (Not BSN)	Northern ME T	Approved	Request approv	2/4/1997

Number	Classification	Depa	Begin	End	Type	Assistance	Degree/Prograt	College	Disposition	Comments	Notice
1997B	HS Case	DHS	9/1/1997	4/24/1998	Part-Time Unp	None	MSW	U of New Engla	Approved	20 hours unpai	6/19/1997
1997C	Ed Spec III	ED	6/30/1997	8/13/1997	Full-Time Unpai	None	PhD Special Ed	VA Polytechnic	Approved	Extension of 95	6/23/1997
1997D	Ed Spec III	ED	8/15/1997	12/1/1997	Full-Time Half	None	PhD Special Ed	VA Polytechnic	Approved	Request approv	10/7/1997
1998A	PH Nurse II	HS	1/12/1998	4/10/1998	Part-Time Unp	\$ 752.	MS Nursing	Husson College	Approved	20 hours unpai	1/5/1998
1998B	HS Case Sup	HS	8/31/1998	5/12/2000	Full-Time Unpai	None	MSW	U of New Engla	Approved	2 years approv	5/28/1998
1998C	Museum Tech	MU	7/20/1998	7/21/2000	Full-Time Unpai	None	MA Early Ameri	U fo Delaware	Approved	2 years approv	6/18/1998
1998D	Rehab Coun II	DOL	7/6/1998	1/1/1999	Full-Time Unpai	None	MA Rehabilitati	USM	Approved	Request approv	
1999A	PH Nurse II	HS	5/24/1999	5/12/2000	Part-Time Unp	\$ 1,116.	Masters Family	Husson	Approved	Half-time Leave	5/17/1999
1999B	HS Case	HS	9/7/1999	4/30/2000	Full-Time Unpai	\$ 2,000.	MSW	U of New Engla	Approved		7/29/1999
1999C	HS Case	HS	9/7/1999	4/30/2000	Part-Time Unp	\$ 2,127.	MSW	U of New Engla	Approved	16 Hours per w	7/29/1999
1999D	HS Case	HS	9/1/1999	4/30/2000	Full-Time Unpai	\$ 2,000.	MSW	U of New Engla	Approved		8/4/1999
2000A	HS Case	HS	5/15/2000	8/18/2000	Part-Time Unp	\$ 1,188.	MSW	U of M Orono	Approved		5/31/2000
2000B	Rehab Coun II	DOL	9/1/2000	5/31/2001	Full-Time Unpai	Resigned	MSW	Boston College	Approved		7/21/2000
2000C	HS Case	HS	9/1/2000	12/20/2001	Full-Time Unpai	\$ 1,674.	MSW	U of New Engla	Approved		8/28/2000
2001A	Rehab Coun II	DOL	1/16/2001	6/4/2001	Full-Time Unpai	Paid Tuition	Masters Couns	U of Southern	Approved		1/29/2001

Sec. 13. 3 MRSA §927, sub-§11, ¶A, as enacted by PL 1989, c. 483, Pt. A, §§4 and 62, is amended to read:

A. Agencies:

- (1) Maine State Retirement System;
- (2) Department of Labor; and
- (3) Department of Administration, ~~but limited to the Bureau of Human Resources, Bureau of Employee Relations, Bureau of Public Improvements and the state employee health insurance program.~~

Sec. 14. 5 MRSA §723, as affected by PL 1989, c. 700, Pt. B, §48 and repealed and replaced by c. 878, Pt. A, §9, is amended to read:

§723. Educational Leave Advisory Board

The Educational Leave Advisory Board, established by section 12004-I, subsection 11, shall advise and consult with the Bureau of Human Resources to review and authorize all educational leave requests from classified and unclassified state employees for durations of ~~more than one week~~ 30 days or more. Educational leave requests that are subject to review and approval of the board must be submitted for approval by the board prior to the start of the educational program, except that the board may approve requests for educational leave retroactively when in the best interests of the State and when there exists a satisfactory reason for failure to comply with this advance approval requirement. The board consists of 5 members as follows: ~~The~~ the Director of the Bureau of Human Resources who shall serve as chair of the board; the Commissioner of Education or a designee; the manager of human resource development within the Bureau of Human Resources; and 2 members who are state employees, at least one of whom is a state employee as defined in Title 26, section 979-A, subsection 6. Each state employee member is to be appointed by the Governor to serve for a term of 3 years. Members of the board are entitled to compensation as provided in chapter 379.

Sec. 15. 5 MRSA §725, as enacted by PL 1973, c. 500, is repealed.

Sec. 16. 5 MRSA §725-A is enacted to read:

§725-A. Funds

A state employee may not be compensated with state funds while absent on leave for educational purposes for 30 work days or more unless that leave is approved by the board.

The board may provide special scholarships to employees who are granted a leave from work to participate in an educational program and who apply to the board for financial assistance. These scholarships must be adminis-

tered by the board in accordance with rules adopted by the board.

The Educational Leave Scholarship Fund is established as an account of the Department of Administration to be used solely for the funding of scholarship requests that are approved by the board. Any remaining balance in the Educational Leave Scholarship Fund account continues from year to year.

Sec. 17. 5 MRSA §931, sub-§1, ¶L, as enacted by PL 1985, c. 785, Pt. A, §44, is amended to read:

L. The executive director, deputy director, general counsel and staff attorneys of the Maine Health Care Finance Commission; and

Sec. 18. 5 MRSA §931, sub-§1, ¶L-1 is enacted to read:

L-1. The Executive Director of the Maine Commission for Women; and

Sec. 19. 5 MRSA §1664, 3rd ¶, as amended by PL 1989, c. 501, Pt. P, §12, is further amended to read:

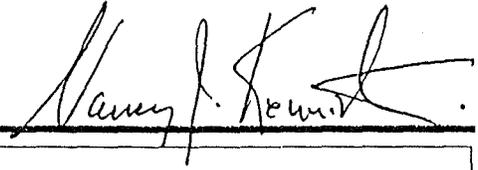
Part 2 ~~shall~~ must embrace the detailed budget estimates both of expenditures and revenues as provided. ~~It shall~~ Part 2 must include statements of the bonded indebtedness of the State Government showing the debt redemption requirements, the debt authorized and unissued and the condition of the sinking funds. ~~It shall~~ Part 2 must contain any statements relative to the financial plan which the Governor-elect, or the Governor, may deem desirable, or which may be required by the Legislature, and ~~shall~~ must contain the analysis and statement required by section 1665, ~~paragraph C~~ subsections 2 and 5.

Sec. 20. 5 MRSA §1665, sub-§5 is enacted to read:

5. Maine Technical College System; public improvements budgetary estimate. In accordance with Title 20-A, section 12706, subsection 4-A, the Board of Trustees of the Maine Technical College System shall submit a prioritized public improvements budget estimate to the State Budget Officer in the manner prescribed in subsection 1. This budgetary estimate must be separate from any prioritized public improvements budget developed by the Bureau of Public Improvements for the departments and agencies of State Government. This estimate must be prepared by project title in descending order of priority including for each project the total amount of the request, the accumulative total request and the type of capital improvement.

Sec. 21. 5 MRSA §1728-A, sub-§1, as amended by PL 1989, c. 94, is further amended by amending the first paragraph to read:

1. Duties. The director shall provide insurance advice and services for the State Government and any



Review of

DEPARTMENT OF ADMINISTRATION

- Bureau of Public Improvements
- Bureau of Human Resources
- Bureau of Employee Relations
- State Employee Health Insurance Program
- State Civil Service Appeals Board
- Educational Leave Advisory Board

Joint Standing Committee on Audit and Program Review 1988-1989



EDUCATIONAL LEAVE ADVISORY BOARD

STATUTORY 49. Continue the Educational Leave Advisory Board for one year under the provisions of the Maine Sunset law.

The Educational Leave Advisory Board was established in 1974 by Maine law (5 MRSA §§721. - 727) to, "...review and authorize all educational leave requests from classified and unclassified state employees for duration of more than one week." Current law states that in performing this function, the Board must consult with the Bureau of Human Resources.

By law, the Educational Leave Advisory Board is composed of 3 members: the Director of the Bureau of Human Resources, who serves as Chair, the Commissioner (or designee) of the Department of Educational and Cultural Services, and a state employee appointed by the Governor for a 3 year term. Board members are not entitled to compensation for their specific board related duties.

The Board is also responsible for developing rules which establish procedures for employees to apply for educational leaves, to approve applications, to maintain an up-to-date register of approved educational leaves, and to seek advice from the involved department head on the merits of a requested educational leave.

Upon review, the Committee found that the topic of educational leave is also being addressed by 2 other entities. The 1987-1989 MSEA contracts stipulate that "the Labor/Management Committee shall also study current educational leave policies and procedures. The Committee shall report its findings to the Policy Review Board..." This Labor/Management Committee has met on a number of occasions and has collected information on the educational leave policies for each state agency. As of April 1989, the Labor/Management Committee has not met since December 1988, nor has it yet made a report to the Policy Review Board.

The Policy Review Board consists of 9 members and has a statutory mandate to advise the Department of Administration on all issues relating to personnel administration. One of its specific tasks is to "Examine educational leave and training policies and procedures of each department and make recommendations that will further career incentives and employee motivation in each department (5 MRSA §7042 (3)). According to

the current chair of the Policy Review Board, the Policy Review Board has discussed the issue of educational leave on a number of occasions but has not spent a great deal of time on this topic. The Policy Review Board has directed the Bureau of Human Resources' Training Unit to collect data about current agency educational leave policies.

In practice, the Board does not meet as a body. Instead, employee educational leave requests are forwarded to the Bureau of Human Resources' Director. Once received, the applications are reviewed by the Director and a Bureau staff member. Subsequent to this review, the Bureau of Human Resources' Director will issue a recommendation regarding a specific application and circulate the complete application package to other Board members for their consideration.

In reviewing an application, Board members consider recommendations from the employing agency, terms (length) and conditions (financial compensation) of the proposed leave, likely benefit(s) to employee and employer, usefulness of the educational program to needs of the state, and possible impact of the proposed leave on the agency's program and operational responsibilities.

In recent years, the Board has averaged some 23 requests for education leave per year. In FY 1988, the Educational Leave Advisory Board received 21 proposals and approved 17 of them. The 21 requests came from 4 agencies with 17 requests from the Department of Mental Health and Mental Retardation. The approved requests included 8 for bachelor degree programs, 1 for a master's degree program, 2 for a doctorate degree, 2 for nursing certificate programs, and 4 were for recreational/occupational therapy programs. In addition, 13 of the approved leaves were for part-time leave with pay, 1 was for part-time leave without pay, and 3 were for full-time leave without pay.

Current law (5 MRSA §725) prohibits the Board from receiving and/or using state funds to administer its responsibilities. Finally, 5 MRSA §725 allows the Board to "apply for and accept donations and contributions from any other source to further assist it in carrying out the purposes of this chapter."

After reviewing all aspects of the Educational Leave Advisory Board, the Committee found a current need for the Board's continued existence. However, the Committee noted that the topic of educational leave is the subject of several mandated studies; the ultimate results of which, may or may not, suggest a continued need for the Board as presently authorized. In a subsequent recommendation, the Committee is directing the Board to report to this Committee, as well as the Committee on State and Local Government on the results of a detailed study regarding the adequacy of their governing statutes and existing guidelines. The Committee expects to use this study to help determine whether there will be a continuing need for the Board to exist.

Therefore, the Committee recommends that the Educational Leave Advisory Board be continued for 1 year under the provisions of the Maine Sunset Law.

ADMINISTRATIVE 50.

Conduct a detailed review of the current adequacy of governing statutes and existing guidelines. Submit a written report concerning the results of this review, and any subsequent recommendations, to the Joint Standing Committees on Audit & Program Review and State and Local Government by January 1, 1990.

As mentioned earlier, current law (5 MRSA §724) authorizes the Board to establish, by rule and regulation, "...procedures for applying, processing and granting of educational leave to classified and unclassified employees...and may adopt other regulations as it finds necessary to administer this chapter."

The Committee found that the Board's rulemaking authority appears to be quite broad in light of the rest of the Board's governing statutes which place only two strictures; the Board must consider for approval all educational leave requests for durations of more than one week, and the Board must seek the advice of the employee's agency on the merits of the employee's educational leave request.

The current Board Guidelines were developed by the Board upon its creation in 1974. These guidelines have not been revised since that date. The Committee found the present guidelines are deficient in the following respects:

- lack of an up-to-date, precise definition of what constitutes an educational leave;
- a clarification of the purpose of educational leaves;
- lack of definition for the use of "seniority determination"; and
- unresolved issues surrounding the retention of benefits by employees on an approved educational leave.

As described in the previous recommendation, "educational leave" is a topic mandated for study by 2 other entities: The Policy Review Board and a Labor/Management Committee. The Committee found a striking degree of inter-relatedness in the mandates for each of these bodies: both bodies have a mandate to study educational leave and 1 body (Labor/Management Committee) is to report its findings to the other (Policy Review Board). The Committee notes that the Management chair of the Labor/Management Committee is also the Director of Training and Staff Development at the Bureau of Human Resources and that that same individual currently serves as the gubernatorially appointed Educational Leave Advisory Board member.

The Committee found a need to consolidate the various review efforts and suggests that the report emanating from this recommendation may also be used to satisfy the other previously cited mandates.

Therefore, the Committee recommends that the Educational Leave Advisory Board conduct a detailed review of the current adequacy of governing statutes and existing guidelines. The Board shall submit a written report concerning the results of this review, any subsequent recommendations, to the Joint Standing Committees on Audit & Program Review and State and Local Government by January 1, 1990.

STATUTORY

51.

Increase the membership of the Educational Leave Advisory Board to ensure needed representation from both management and labor.

As specified by current law (5 MRS §723), the Educational Leave Advisory Board is composed of 3 members: the Director of Bureau of Human Resources, who serves as Chair, the Commissioner of Educational & Cultural Services (or designee), a "State employee" appointed by the Governor for a three year term.

Upon review, the Committee found that the current State employee member of the Board is the Director of Staff Training and Development from the Bureau of Human Resources whose formal job classification is listed as "Manager, Human Resource Development". The Committee also found that current law merely requires that the appointed member be a "State employee" and does not further define who that State employee shall be. The Committee noted that under the provisions of current law, the Manager of State Training and Development is indeed a state employee but that this position is a confidential, managerial employee and is not included as a member of a collective bargaining unit.

After careful review, the Committee concluded that current Board membership as specified by statute is in need of several revisions. First, the current State employee member who is the Director of Staff Training and Development from the Bureau of Human Resources, is not representative of a great majority of State employees who are members of bargaining units. However, the Committee found that because of that position's responsibilities for training and development, it is necessary to include, by statute, that position as a permanent member of the Educational Leave Advisory Board.

Secondly, the Committee found a continuing need for significant representation on the Educational Leave Advisory Board by State employees. The Committee further found that State employee membership should be increased from one to two, and that current law should be amended to specify that at least one state employee member be a member of a collective bargaining unit.

Therefore, the Committee recommends that the membership of the Educational Leave Advisory Board be expanded to ensure needed representation from both management and labor.



John R. McKernan, Jr.
Governor

Nancy J.
Dir

DEPARTMENT OF ADMINISTRATION

Bureau of Human Resources
Telephone (207) 289-3761

September 26, 1990

Senator Beverly M. Bustin, Senate Chair
Committee on Audit & Program Review
State House Station #3
Augusta, ME 04333

Neil Rolde, House Chair
Committee on Audit & Program Review
State House Station #2
Augusta, ME 0433

Dear Senator Bustin and Representative Rolde:

Attached is the report and recommendations of the Educational Leave Advisory Board that have resulted from the Board's study of the current laws and regulations for administration of the State's Educational Leave Program.

In submitting this report, the Educational Leave Advisory Board wishes to thank the members of the Human Resources Policy Review Board and the members of the Labor-Management Committee on Educational Leave for their ideas and recommendations for improving the Educational Leave Program.

The Educational Leave Advisory Board is pleased with the outcome of this study and hopes to complete its work on the objectives set forth in this report by the end of this calendar year.

Sincerely,

Donald Wills, Acting Director
Bureau of Human Resources and
Chair, Educational Leave
Advisory Board

DW:mg

Enclosure

cc: Senator Georgette Berube, Chair, State & Local Government
Committee
Rep. Ruth Joseph, Chair, State & Local Government Committee

DEPARTMENT OF ADMINISTRATION

BUREAU OF HUMAN RESOURCES

STUDY OF AND RECOMMENDATIONS FOR
THE STATE'S EDUCATIONAL LEAVE PROGRAM

SUBMITTED TO THE JOINT STANDING COMMITTEES ON AUDIT & PROGRAM
REVIEW AND STATE AND LOCAL GOVERNMENT

Contact Person:
Donald A. Wills, Acting Director
Bureau of Human Resources
Augusta, Maine 04333
Tele: 289-4459

PROGRAM REPORT

The Educational Leave Advisory Board, with assistance and input from the Human Resources Policy Review Board and the Labor and Management components of the Labor-Management Study Committee established by the 1987-1989 collective bargaining agreements, has completed its review of the current Educational Leave legislation and regulations. The results of this review and the Educational Leave Advisory Board's plan of action that has resulted from this review are set forth in this report in the form of six policy objectives.

Objective One. To rewrite the current Educational Leave Guidelines and amend legislation as necessary to include the following decisions of the Board:

1. To limit the types of educational leave programs that need to be submitted to the Educational Leave Advisory Board for advance approval to accredited educational programs that require leave from work for thirty work days or more, whether continuous or accumulative, to take formal courses of study that lead to licenses, certifications and degrees in recognized program areas.

A draft Legislative Proposal for this purpose is at Attachment 1.

The Educational Leave Advisory Board recognizes the value of all types of educational programs to the professional development of State employees and will continue to encourage the availability of these programs at agency level in its revised Guidelines.

2. To give special importance to educational program areas that are of benefit to the State due to the State's difficulty in obtaining an adequate number of candidates with these educational backgrounds through normal recruitment and selection practices and to relate these educational programs to specific classes of employment and specific employment opportunities.

The Educational Leave Advisory Board will work with State agencies and the Bureau of Human Resources to identify and prepare a list of these educational program areas and career classifications.

3. To recognize that the State's ability to grant leaves for educational purposes may be influenced by funds that are available to subsidize these leaves with full or partial pay, to make reimbursement for educational program expenses, or to pay for the added cost of a substitute appointment or increased overtime that may result from releasing an employee to participate in an educational program.

4. To recognize that the State's ability to grant leaves for educational purposes may be influenced by the operational needs of the agency or department involved.

5. To increase the time allowed by the current Guidelines for the Educational Leave Advisory Board to review and decide requests from 5 to 30 work days.

6. To provide a means for the Educational Leave Advisory Board to approve late requests for educational leaves in those instances where retroactive approval would be in the best interests of the State and the employee and/or the employee's agency provides a reasonable reason for not meeting advance notice requirements.

A draft Legislative Proposal for this authority is at Attachment 1 to this report.

7. To include a standard of educational performance for employees who are granted leave from work to participate in educational programs and a requirement for employees on educational leave to provide evidence of satisfactory completion of courses or copies of grade records as appropriate, and in those instances where standards are not maintained, an authority for the employee's agency to discontinue the employee's educational leave with the approval of the Educational Leave Advisory Board

8. To include a day-for-day return to work obligation for employees who are granted leave from work to participate in an educational program, whether or not financial assistance is provided by the employee's agency.

9. To clarify the need for agencies and departments to submit to the Educational Leave Advisory Board all employee requests for educational leave that by definition require its review and approval, including employee requests that may not be recommended by the employee's agency or that may be recommended for approval provided the terms of the employee's request are modified in some specific way.

10. To clarify the need for agencies and departments to develop an efficient, structured system for responding to employee requests for educational leave so that requests that require approval by the Educational Leave Advisory Board are reviewed and decided within established timeframes and so that requests for educational programs that are managed at agency level are fairly and equitably considered.

Objective Two. To establish a fixed monthly meeting date for the Educational Leave Advisory Board to convene and conduct its business. To this end, the Educational Leave Advisory Board has agreed to convene the second Thursday of each month at 9:30 a.m., the first of such meetings to be held on Thursday, October 11, 1990 for the primary purpose of rewriting the Educational Leave Guidelines.

Objective Three. To request legislative funding for educational scholarships to be conferred by the Educational Leave Advisory Board on a request basis and for reasons that may be exceptional to normal objectives of the State's Educational Leave Program.

A draft Legislative Proposal for this purpose is at Attachment 1 to this report.

Objective Four. For the Educational Leave Advisory Board and the Policy Review Board to work cooperatively with the Bureaus of Human Resources and Employee Relations to pursue through the collective bargaining process a standard benefits package for employees who are granted leave from work to participate in educational leave programs.

Objective Five. For the Educational Leave Advisory Board to work cooperatively with the State's Training and Development Division, the Bureau of Human Resources and agencies and departments to publicize the revised Educational Leave policy and regulations and to promote the benefit of educational leave to the State's human resource needs.

Objective Six. To develop an appeals process for employees who are denied leaves to participate in educational programs that by definition are decided at agency level. If appeals of this nature are not resolved at agency level, the employee may request a hearing before the Educational Leave Advisory Board. Also, employees who are denied educational leave by board decision shall be provided the opportunity for a hearing before the Educational Leave Advisory Board.

The Educational Leave Advisory Board greatly appreciates the contributions of the Human Resources Policy Review Board and the Labor and Management components of the Labor-Management Committee for Educational Leave to the recommendations for improvement to the Educational Leave Program that are included in this report, and hopes that the Joint Standing Committees on Audit and Program Review and State and Local Government will support the objectives that the Educational Leave Advisory Board has established to accomplish these recommended changes.

Donald A. Wills, Acting Director
Bureau of Human Resources and Chair
Educational Leave Advisory Board

Eve Bither, Commissioner of Education
Elaine Trubee, Human Resources Development Manager

Carol Fleury, Employee member
Richard Millington, Employee member

Attachment 1

AN ACT TO AMEND THE EDUCATIONAL LEAVE CHAPTER OF CIVIL SERVICE LAW

Sec. 1. Chapter 60, Section 723 is ammended to read:

Sec.723. Educational Leave Advisory Board

The Educational Leave Advisory Board, established by section 12004-I, subsection 11, shall advise and consult with the Bureau of Human Resources to review and authorize all educational leave requests from classified and unclassified state employees for durations of ~~more than one week~~ thirty work days or more. Educational leave requests that are subject to review and approval of the board must be sumitted for approval by the board prior to the start of the educational program except that the board may approve requests for educational leave retroactively when in the best interests of the State and when there exists a satisfactory reason for failure to comply with this advance approval requirement. The board shall consist of 5 members as follows: The Director of Human Resources who shall serve as chair of the board; the Commissioner of Educational and Cultural Services or a designee; the manager of human resource development within the Bureau of Human Resources; and 2 members who shall be state employees, at least one of whom shall be a state employee as defined in Title 26, section 979-A, subsection 6. Each state employee member is to be appointed by the Governor to serve for a term of 3 years. Members of the board shall be compensated as provided in chapter 379.

Sec.2. Chapter 60, section 725 is repealed and replaced as follows:

Section 725. Funds

No State employee shall be compensated with State funds while absent on leave for educational purposes for thirty work days or more unless such leave is approved by the board.

The board may provide special scholarships to employees who are granted a leave from work to participate in an educational program and who apply to the board for financial assistance. These scholarships shall be administered by the board in accordance with rules and regulations published by the board.

An Educational Leave Scholarship Fund is established as an account of the Department of Administration to be used solely for the funding of scholarship requests that are approved by the board. Any remaining balance in the Educational Leave Scholarship Fund account shall continue from year to year.

9/7/90

REVIEW AND ANALYSIS OF EDUCATIONAL LEAVE POLICY

BY

POLICY REVIEW BOARD

A special meeting of the Policy Review Board was held on Tuesday, August 21, 1990 to review the Educational Leave provision of Civil Service Law (Title 5, Sections 721-727), the Board's Guidelines for Educational Leave (issued July 2, 1974), and specific issues advanced by the members of the Educational Leave Advisory Board and the Labor and Management components of the Labor-Management Committee on Educational Leave established pursuant to the collective bargaining process.

The results of this review are presented in this report to the Bureau of Human Resources.

1. The Policy Review Board finds that the philosophy and purpose of educational leave under the State's Educational Leave Program should:

- . Balance the operational needs of the State with the professional development needs of the employee. The State's Educational Leave Program should be tied to occupations that are critical to agency operations and that are difficult to fill through normal recruitment and selection practices. A list of these occupations should be developed and made available to employees to help steer employees to occupations that meet this criteria. This purpose should be clearly communicated to employees through the enacting legislation and published guidelines and the list of critical occupations should be made a definite part of the application process for educational leave and career development programs administered at agency level.
- . Recognize that the State's ability to grant educational leave requests may be influenced by funds that are available to provide financial assistance, to subsidize leaves with pay or partial pay, or to pay for the added cost of a substitute appointment or increased overtime that may result from an educational leave. These possible limitations should be clearly communicated to employees through the enacting legislation and published guidelines and career development programs administered at agency level.
- . Recognize that the State's ability to grant educational leave requests may be influenced by operational needs of

the agency involved. This possible limitation should be clearly communicated through the enacting legislation and published guidelines and career development programs administered at agency level.

- . Recognize the value of the professional development of the State's workforce through the State's Educational Leave Program, through in-service training, through professional seminars and workshops and through the State's Training and Development Program and other educational opportunities. The Policy Review Board recommends that the types of educational leaves that should be submitted to the Educational Leave Advisory Board for advance review and approval should be limited to formal courses of study in accredited programs that lead to licenses, certifications and degrees in recognized program areas that require leave from work for one month or more. Leaves to attend seminars, workshops, institutes and other training programs that an agency may require or make generally available to its employees should be decided at agency level without the need of Board review and approval. Also, special in-service training programs or courses offered through the State's Development and Training Program should be decided at agency level without need for Board review and approval. And, Board review and approval should not be required in those instances where an agency can make a reasonable adjustment to an employee's workload or schedule to enable an employee to take a college course or courses that would ordinarily require leave from work for part of a normal work day or days. This policy should be clearly communicated to employees through the enacting legislation and published guidelines and career development plans administered at agency level.
- . Include a standard of educational performance for employees who are granted educational leave under the Educational Leave Program. The Policy Review Board recommends that the Guidelines for the Educational Leave Program include a requirement for an employee on educational leave to provide a copy of grade records at the end of a scheduled course or courses and provide an authority for the employee's agency to recommend to the Educational Leave Advisory Board that a leave be discontinued if the employee's course performance indicates failing or a failure to attain a grade standard agreed to by the agency and employee as part of the terms of the educational leave. In addition to inclusion in the Guidelines, this standard for educational performance should be clearly communicated to the employee through the forms used in the application process and career development programs administered at agency level.

- . Include a return to work obligation for employees who are granted educational leave. The Policy Review Board recommends that all educational leaves should include an obligation on the part of employees who are granted educational leave to return to employment with their agency or, in the event of promotion or transfer, another state agency. The Board also recommends that this obligation should be one month of employment for each month of leave for all educational leaves, whether with pay or without pay.

2. The Policy Review Board finds that the current Guidelines for administration of the Educational Leave Program should be rewritten and reissued to include the following recommendations:

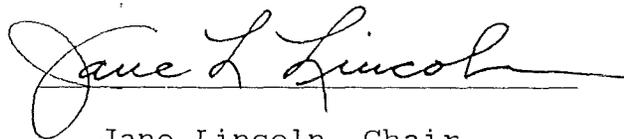
- . Provide a reasonable and workable turnaround time for the five-member Educational Leave Advisory Board to review and decide educational leave requests. The Policy Review Board recommends that the maximum time currently allowed for this process be increased from from 5 days to 30 days. This time requirement should be clearly communicated to employees by the Guidelines and the forms used for the application process.
- . Include an authority for the Educational Leave Advisory Board to accept and decide late applications. The Policy Review Board recommends that the Educational Leave Advisory Board be provided the authority to approve an application for educational leave retroactively when approval of the leave would be in the best interest of the State and when the employee and employee's agency can provide a satisfactory reason for the delay in submitting the late request. This administrative provision should be clearly communicated in the Guidelines.
- . Include a requirement for the employee to file an application for educational leave with the employing agency 60 days prior to the start of the educational program and for the employing agency to make a recommendation to the Educational Leave Advisory Board within 30 days of its receipt of the employee's application. The Policy Review Board makes this recommendation to be consistent with the 30 day turnaround that is recommended for the Educational Leave Advisory Board to make its decision. This administrative requirement should be clearly communicated to the employee and the employing agency through the Guidelines and the forms used for the application process.
- . Re-title the Educational Leave Guidelines to "Policy and Procedure for Educational Leave".

3. The Policy Review Board finds that the following suggestions advanced and discussed during its review of the Educational Leave Program warrant further consideration and study:

- . The possibility of obtaining funding for leaves that are related to State priority needs and for positions that are critical to agency operations.
- . The development of a policy for enforcing return to work agreements that includes possible legal action.
- . The development of an equitable benefits package for the various types of educational leave arrangements - full-time educational leave with full pay; full-time educational leave with partial pay; full-time educational leave without pay; part-time educational leave with full-pay (employee on educational leave for part of position hours and works balance of position hours and receives full pay); and part-time educational leave with partial pay (employee on educational leave for part of position hours and works balance of position hours with pay for only hours worked). At a minimum, the benefits package should address total and continuous service for purpose of vacation accrual, sick leave, seniority, anniversary for merit increase evaluation and step increases, health, dental and life insurances, longevity, and retirement service credit.

4. The Policy Review Board finds that the revised Educational Leave Guidelines and governing policy should be well-publicized and promoted through a statewide promotional effort.

5. The Policy Review Board finds that all other provisions of the current policy and Guidelines for Educational Leave that are not addressed by this report should be continued.



Jane Lincoln, Chair
POLICY REVIEW BOARD

Sept. 7, 1990

date

REVIEW OF EDUCATIONAL LEAVE POLICIES
Statewide Labor/Management Committee

On September 27, 1988, the Statewide Labor/Management Committee sent a request for information regarding educational leave policy to 32 Departments and Agencies. Additional contacts were made with those agencies that did not respond to the initial letter.

They requested the following information:

1. A copy of the procedure established by the department/agency to comply with educational leave statute
2. A description of the distribution process
3. The name of the contact person.

The following information has been gathered from that round of requests and may (or may not) reflect the current policies and practices of the agencies.

Nine agencies did not respond. Those agencies were:

Public Safety
Attorney General
Conservation
Maine Labor Relations Board
Economic and Community Development
Mental Health
State
Treasury
Board of Barbers

Twenty-three (23) agencies responded. Detailed results of their responses are shown on the attached chart and are summarized in the following narrative.

Twelve (12) agencies responded and said they had no policy. Those agencies were:

Agriculture
Human Rights
PUC
Sardine Council
Audit
Defense and Veterans' Services
Marine Resources
Motor Vehicle
Finance
Retirement
Labor

Eleven (11) agencies said they had policies and sent copies of their policies. Those policies were analyzed in terms of the initial request for information as well as compliance with the Educational Leave Guidelines (Caraganis memo July 2, 1974).

Those agencies were:

- Workers' Compensation Commission
- Administration
- Corrections
- Education
- Inland Fisheries and Wildlife
- Transportation
- Human Services
- Baxter State Park
- Environmental Protection
- State Planning
- Professional and Business Regulations

Of these 11 agencies:

- 3 (Transportation, Administration and Education) incorporated the Guidelines through reference but did not spell them out in their policy... "this department follows the education leave guidelines and utilized the forms set forth in the memo from Nicholas Caraganis..."
- 4 (Inland Fisheries and Wildlife, Human Services, Baxter State Park and Professional and Financial Regulations) did not meet the Caraganis guidelines. In all four cases the Commissioner rather than the Educational Leave Review Board was the final decision maker.

The attached sheets provide greater detail on the status of each agency.

Department	Ed Leave Pol.	How Distrib.	Contact Person	Final Decision	Comply	Comments
Administration	Yes	Yes	Yes	ELAB	Yes	By reference
Agriculture	No	---	Yes	---	---	
Audit	No	---	---	---	---	
Baxter Park	Yes	Yes	Yes	Director	No	
Community Serv.	No	---	Yes	---	---	Asked for help in developing policy
Corrections	Yes	Yes	Yes	ELAB	Yes	
Def & Vet Serv.	No	---	---	---	---	Was in process of reviewing educational policies
Education	Yes	Yes	Yes	ELAB	Yes	By reference
Environ. Protec.	Yes	Yes	Yes	ELAB	Yes	
Finance	No	Yes	Yes	----	---	No requests for educational leave in past 11 years
Human Rights	No	---	Yes	----	---	
Human Services	Yes	Yes	Yes	SETU to Commissioner	No	Policy in place since 1985 Currently under review
Inland Fish.	Yes	Yes	Yes	Commissioner	No	
Labor	No	---	Yes	----	---	Have never has a request for educational leave
Marine Resources	No	---	Yes	----	---	
Motor Vehicle	No	---	Yes	----	---	

Department	Ed Leave Pol.	How Distrib.	Contact Person	Final Decision	Comply	Comments
Prof & Fin Reg	No	---	Yes	----	---	Has educational policy that does not appear to include educational leave
PUC	No	---	---	----	---	Have never had a request for educational leave
Retirement	No	---	Yes	----	---	Have never granted a request for educational leave
Sardine Council	No	---	Yes	----	---	
State Planning	Yes	Yes	Yes	Director and ELAB	Yes	
Transportation	Yes	No	Yes	ELAB	Yes	By reference
Workers' Comp	Yes	Yes	Yes	ELAB	Yes	

DID NOT RESPOND TO QUESTIONNAIRE

Attorney General
Board of Barbers
Conservation
Economic and Community Development
Maine Labor Relations Board

Mental Health
Public Safety
State
Treasury

REVIEW OF MSEA "FINDINGS OF..."

The March 2, 1990 "Findings of the Statewide Labor/Management Committee concerning Educational Leave" that was prepared by MSEA has several flaws. The following points are numbered to correspond to the MSEA statement:

MSEA Statement 1a:

"Most agencies do not forward employee requests for educational leave to the Educational Leave Advisory Board [ELAB]. Therefore, the majority of requests are processed in violation of law and regulation."

Response:

Not all requests for educational leave come to the ELAB - only those that are for five (5) consecutive working days. Requests for seminars, workshops, conferences, or courses taken during off-duty hours or part-time are excepted from the process as outlined in the Guidelines for Educational Leave "provided the employee is still able to fulfill responsibilities of his usual work load or a reasonably adjusted work load determined by the agency concerned" (p.1 of Guidelines)

In reviewing 36 past educational leave requests, there were two (2) requests that were not forwarded from the agency to the ELAB in a timely fashion. In both cases, while the Board was unable to process the individuals' leave application, the Director of the Bureau of Human Resources approved personal unpaid leave for both individuals.

MSEA Statement 1b:

The Board does not respond to the requesting employee except through the employee's agency.

Response:

The Guidelines require the ELAB to notify both the Agency head and the employee. In the cases I reviewed, the employee was copied on all decisions.

MSEA Statement 1c:

The Board has failed to respond within the five working day time limit.

Response:

Because the materials were not consistently date stamped, it is difficult to respond to this.

MSEA Statement 1d:

No "career development plans" have been prepared by the agencies for employees recommended for educational leave.

Response:

According to the Guidelines, "In recommending an applicant for educational leave with pay, the agency head should prepare a proposed career development plan within the agency for each employee." (p. 4, Guidelines).

Therefore, career development plans are only required if the agency is recommending educational leave with pay. Agencies are not required to forward the career development plan to the ELAB. One can not assume that the Agencies have not complied with the requirement just because they did not send the ELAB a copy of the employee's plan with each request.

MSEA Statement 2, 2b and 2c:

Some current practices not in violation of law or guidelines nonetheless frustrate the intent of the educational leave process...(b) the employee has no opportunity to communicate to the board his/her justification for the request...(c) no effort has been made to allow requesting employees an opportunity to respond to agency recommendations which differ from the original request.

Response:

The Guidelines state: "It is the responsibility of the agency head, or his/her delegated representative to provide the Educational Leave Advisory Board with sufficient information regarding each applicant for educational leave to enable them to make a sound decision as to approval or disapproval of each request." (p. 4 of Guidelines)

The Guidelines go on to state: "The Educational Leave Advisory Board will base their approval or disapproval of applications for educational leave on the information supplied by the agency head justifying the need and benefits to be derived in each case". (p. 5 and 6, Guidelines).

DEPARTMENT OF ADMINISTRATION

Bureau of Human Resources

June 25, 1991

CIVIL SERVICE BULLETIN 11.15

TO: Commissioners/Agency Heads, Directors of Administrative Services and Personnel Officers

SUBJECT: Educational Leave Law

By amendment to the Educational Leave Law effective June 18, 1991, only educational leave requests that require position leave for thirty (30) days or more need to be reviewed and approved in advance by the Educational Leave Advisory Board. Educational leave requests for less than thirty days may be decided by the employing agency.

The Educational Leave Advisory Board is preparing an update to the Educational Leave Guidelines that were issued in 1974, and the revised Guidelines will be distributed as soon as they are completed.



Nancy J. Kenniston, Director
BUREAU OF HUMAN RESOURCES

STATE OF MAINE
Inter-Departmental Memorandum

July 2, 1974

TO: Department Heads
FROM: Nicholas L. Caraganis, Chairman, Educational Leave Advisory Board
SUBJ: Educational Leave Guidelines and Related Forms

Enclosed are the Guidelines for Educational Leave, Personnel Form #21, Revised 5/74, (Agreement between employee and department head) and Personnel Form #22 (application for educational leave).

One copy of Personnel Form #21 and three copies of Personnel Form #22 must be completed by the department and forwarded to the State Department of Personnel, Attention: Educational Leave Advisory Board at least thirty (30) days prior to the anticipated date the leave is to commence. The board will review, evaluate and return the proposed leave application to the agency head and employee within not more than five working days indicating disposition of the application.

Copies of the completed forms may be reproduced by the department to provide the necessary number for the record and for the parties concerned.

Encls: as cited

STATE OF MAINE

Department of Personnel

Guidelines for Educational Leave

The following guidelines are established by the Educational Leave Advisory Board to provide uniform procedures for applying, processing and granting of educational leave to classified and unclassified employees of the State as set forth in R.S., T.5.,C.60.

DEFINITION

Educational leave, with or without benefit of salary, is leave from regular position responsibilities while fulfilling the obligations of a properly authorized assignment which requires attendance at a school, college, institute and the like, in order to pursue a formalized course of study. All such leaves having a duration of more than one work week are subject to approval by the Educational Leave Advisory Board.

Attendance at workshops, conferences, seminars, etc., intended to provide the means whereby the employee is kept up to date on technical or professional advancements and/or improved methods of operation, should not be included in this definition. Such in-service training activities are to be considered as part of an employee's regular employment.

Leave to take a specific course or courses during off-duty hours or on a part-time basis should also be excepted from this definition, provided the employee is able to fulfill responsibilities of his usual work load or a reasonably adjusted work load determined by the agency concerned.

PURPOSE

It shall be the policy of this State to encourage employees toward further self-development through participation in educational leave programs when

Educational Leave

the knowledges and skills derived therefrom are shown to be of direct benefit to their agency and the State and such knowledges and skills cannot be developed or obtained through usual programs of in-service training.

TYPES OF EDUCATIONAL LEAVE

LEAVE WITHOUT PAY

Educational leave without pay may be granted to a permanent status employee wishing to enter a course of study not exceeding twelve months in any fourteen consecutive months. Such leave is subject to the provisions of Rule 11.14 of the current Personnel Law and Rules and does not normally involve any type of scholarship or financial obligation. All benefits except total time accrued ~~for purposes of seniority determination shall be discontinued during~~ the period of absence.

LEAVE WITH PAY

This is defined as leave to attend an approved university, college, or other educational institution to participate in a formalized full-time course of study with the benefit of full or partial salary. Employees granted such leave are expected to have a definite educational objective such as a degree or a specific educational qualification essential to an expected level of achievement required in the performance of present or anticipated job functions.

Eligibility for consideration would normally require a minimum of one year of service prior to making application.

The usual minimum time for this type of leave would be one semester, and the maximum two academic years.

Educational Leave

Neither sick nor annual leave shall be earned during the period while an employee is on such leave. The employee shall, however, be entitled to the normal school vacations and school holidays during the academic year.

All other benefits will remain intact.

Financial assistance provided may range from partial to full (current) salary, depending upon the type of program involved and its value to the agency concerned.

Tuition and fees may be paid by the agency.

Eligibility for merit increases shall be dependent upon satisfactory progress in the educational program involved.

RESPONSIBILITIES AND PROCEDURES

EMPLOYEE

Employees applying for educational leave with pay shall sign an agreement to continue employment upon completion of their leave on the following basis:

- (1) Those receiving full benefits (full pay and tuition) - One and one half months ($1\frac{1}{2}$) of employment for each month of educational leave.
- (2) Those receiving less than full benefits - One (1) month of employment for each month of leave.

If after successful completion of training the employee elects not to serve the State for the prescribed period, he/she shall reimburse the State for all funds received while on educational leave, prorated according to unexpired months of his/her obligation.

Educational Leave

An employee who fails the required course of study will have the time spent on educational leave evaluated in terms of being considered for a merit increase.

Each employee applying for educational leave shall include in his/her application a statement concerning the manner in which additional education would improve his/her performance and skills to provide greater benefits to his/her agency and the State.

AGENCY

It is the responsibility of the agency head, or his/her delegated representative to provide the Educational Leave Advisory Board with sufficient information regarding each applicant for educational leave to enable them to make a sound decision as to approval or disapproval of each request.

In recommending an applicant for educational leave with pay, the agency head should prepare a proposed career development plan within the agency for each employee. Such a plan should include possible promotional opportunities which could be available to the employee and the benefits which the agency will derive from the educational program both immediately and in the future.

It is suggested that each agency participating in the educational leave program appoint an Educational Leave Committee to establish initial application procedure and to receive, screen and make recommendations to the agency head on applications for educational leave so received. Factors recommended for consideration include:

1. Needs of the agency for additional expertise.

Educational Leave

2. Availability of funds and other forms of aid such as scholarships, veterans entitlement, etc.
3. Proposed training is in an area in which the employee has already demonstrated sufficient ability and interest to insure reasonable success.
4. Reasonable expectation of tangible benefits accruing to the agency involved as a result of the proposed training.
5. Length and quality of service of the applicant.
6. Probability that the employee will continue his employment with the State.
7. Practicality, in terms of agency priorities, of releasing a particular individual at the time requested.

It is also the responsibility of the agency to determine that the employee continues to be a full-time student in good standing and to ensure that the employee satisfies his/her obligations upon completion of the educational leave program.

EDUCATIONAL LEAVE ADVISORY BOARD

All requests for educational leave having a duration of more than five (5) consecutive work days must be forwarded to the Educational Leave Advisory Board for review and action. Each request should be submitted to the Board at least thirty (30) days before an agency and employee must make a decision regarding the proposed leave. Upon receipt of the proposed educational leave the board will review, evaluate and return the proposed leave to the agency head and employee within not more than five working days. The Educational Leave Advisory Board will base their approval or disapproval of applications for educational leave on the information

Educational Leave

supplied by the agency head justifying the need and benefits to be derived in each case.

Educational Leave will be granted only for a course of study which is job related or related to a classification to which the employee may reasonably aspire.

Any application for educational leave to obtain a degree beyond the Master's level will be considered on an individual basis.

No state employee shall be compensated with State funds while absent on leave for educational purposes for more than one week unless such leave has prior approval by the Educational Leave Advisory Board.

STATE OF MAINE
Department of Personnel

APPLICATION FOR EDUCATIONAL LEAVE

1. Name: _____ Position _____ Agency _____
2. Work Address _____
3. Home Address _____
4. Educational Leave is requested for _____ weeks, beginning _____,
19 __, and ending _____, 19 __.
(Estimate if uncertain)
5. Where will you be going for your educational leave: _____

6. How much financial help do you need to pursue the course or courses you
select? _____
7. Type of Educational Leave for which you are applying:
a. Full Pay c. Without Pay e. Part Time
b. Partial Pay d. Full Time
8. Who will pay expenses: Agency (A); Employee (E)
a. Tuition c. Travel e. Other
b. Books, Fees, Etc. d. Living Expenses
9. Discuss your reasons for making this application and how you believe it will
contribute to your development in your particular field, as well as assist
your agency to deliver services to the taxpayers of Maine in a more effective
manner. (Use plain white paper to continue) _____

Date _____

Signature _____

Department Head

ACCEPTANCE:

Qualifications:

Date _____

Signature _____

Chairman, Educational Leave Advisory Board

STATE OF MAINE
Department of Personnel

In consideration of the granting of educational leave or scholarship to attend _____
_____ for the period covering _____
(Name of Educational Facility) (Inclusive dates)
in accordance with terms established by the Department of _____

of the State of Maine and approved by the Educational Leave Advisory Board, I,

_____ of _____, State of Maine, an employee
(Name) (Address)

of the above Department in the position of _____, do agree with said
(Title of Position)

Department that I will remain in the employ of said Department for at least _____
(Period)

_____ immediately following the completion of said educational
determined by type of leave
leave or extended by mutual agreement. Extension beyond reasonable time to relocate
or primarily for my benefit will be without compensation and other benefits.

It is further agreed that I will fulfill the duties of the position assigned
with usual competence and integrity; that if I am dismissed or resign, before I have
worked the above required time, or while on educational leave, I will reimburse the
Department in full for all sums paid or granted to or for me during my period of
educational leave, accumulated vacation leave excepted. A resignation while on educa-
tional leave or within the time limit stated above, is understood to be with prejudice
to me.

The Department, in addition to providing the previously agreed upon compensation
and expenses during the period of educational leave, agrees upon completion of educa-
tional leave to provide employment in a capacity of comparable duties and salary as
now held by the said _____.
(Employee) Such employment is subject to (1) con-
tinuation of funds by legislative action, and (2) satisfactory work performance.

This agreement is subject to the Personnel Law and Rules and Educational Leave
Advisory Board regulations and policies in effect at the time of signing this
agreement.

Dated at Augusta, Maine, this _____ day of _____, A.D., 19 _____.

Witnessed by: _____

(Signature of Employee)

Department of _____

By: _____

(Department Head)

Bureau of Corporations, Elections, and Commissions



*Department of
the Secretary of State*

Bill Diamond
Secretary of State

Janet E. Wa
Assistant Secret

Gary Coope
Deputy Secretar

February 25, 1993

Policy Review Board

Title 5 citation: 5 §12004-I sub-§15

Dear Board or Commission:

Through this letter, I alert you to legislation that the Legislature instructed us to develop through PL 1991, c.844, §8 (copy attached). We were required to separate out all boards listed in Title 5, §12004-I and §12004-J (advisory boards) and any similar boards, and by cloture to submit repeal legislation broken down by appropriate legislative committee.

As you can see from the c.844 excerpt, we were not asked to evaluate the boards in any way; instead, a set of criteria were outlined in the law for the consideration of the committees dealing with each board.

When the drafts are reported out in LD form, you will probably be asked to appear before the appropriate committee to comment on your board. This letter, I hope, will prepare you for that event.

With best wishes,


Gary Cooper
Deputy Secretary of State

From PL 1991, c.844:

Sec. 8. Legislative review of statutory advisory boards. The Secretary of State shall submit legislation calling for the repeal of those advisory boards and commissions listed in the Maine Revised Statutes, Title 5, sections 12004-I and 12004-J and any other advisory boards and commissions not listed in those sections whose responsibilities are comparable to the listed boards and commissions. The Secretary of State, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, shall group the repeal provisions for the advisory boards and commissions into separate pieces of legislation so as to allow review of each piece of legislation by the appropriate joint standing committee of the Legislature.

In considering legislation submitted by the Secretary of State under this Act, on direction of the Legislative Council, each joint standing committee of the Legislature shall consider the following questions in evaluating the advisory boards contained in that legislation:

- A. Is the area of an agency's responsibility sufficiently important or controversial to require a formal advisory function through a statutorily created board as a matter of good government?
- B. Is the independence of such an advisory board of sufficient importance to warrant the provision of independent staff to the board?
- C. Is the board required by federal law?
- D. If the board was intended as a source of expertise or public input during the start-up of a new program and the program is implemented, is the board still necessary?
- E. Is it likely that an agency will obtain adequate public input and access to special expertise through other channels, thus obviating the need for the board? The flexibility of an informal group must be balanced with the possibility that agencies being advised may be disinclined or otherwise less likely to heed dissenting opinions coming from an informal group.
- F. Does the board undertake actions or have responsibilities that duplicate those of an agency or that violate sound management principles?
- G. Can one board assume the responsibilities and authority of one or more other boards that are duplicate or overlap its own?
- H. Can qualified board members be recruited on a regular basis?
- I. Is the board's level of activity sufficient to fulfill its purposes? Frequency and length of meetings and level of member attendance must be considered.
- J. Is the compensation policy established under the Maine Revised Statutes, Title 5, section 12003-A, subsection 2 being appropriately applied?
- K. Should the board in question be formally established to ensure the procedural safeguards of the State's freedom of access laws regarding notice and public access to meetings and documents?

The joint standing committees shall obtain and review all reports issued by the joint standing committee of the Legislature having jurisdiction over audit and program review matters issued during the past 5 years that address the advisory boards under review and shall forward a copy of their findings and recommendations to the Legislative Council.

A. Is the area of an agency's responsibility sufficiently important or controversial to require a formal advisory function through a statutorily created board as a matter of good government?

The Educational Leave Advisory Board is established to review all employee requests for educational leave to participate in formal courses of study that lead to licenses, certifications and degrees in recognized and accredited program areas that require leave from work for one month or more. Membership includes the Director, Bureau of Human Resources (chair), the Commissioner of Education (or designee), the manager of human resource development within the Bureau of Human Resources, and two state employee members (one of whom must be a state employee who is eligible for collective bargaining).

The primary value of the Educational Leave Advisory Board is to ensure and oversee the administration of a uniform, statewide policy for granting educational leave to state employees.

With the availability of cost savings programs, many employees who would ordinarily request educational leave are able to take unpaid voluntary leave for educational purposes and retain their group health benefit. Today, educational leave requests are received only from employees who are not approved for participation in the voluntary cost savings program because of the department's critical need to keep positions filled.

B. Is the independence of such an advisory board of sufficient importance to warrant the provision of independent staff to the board?

The Board is not provided any authority to employ staff. When needed, staff assistance is met by using the resources of the Bureau of Human Resources, and this is adequate.

C. Is the board required by federal law?

No

D. If the board was intended as a source of expertise or public input during the start-up of a new program and the program is implemented, is the board still necessary.

Not applicable. The needs of human resource training are on-going.

E. Is it likely that an agency will obtain public input and access to special expertise through other channels, thus obviating the need for the board? The flexibility of an informal group must be balanced with the possibility that

agencies being advised may be disinclined or otherwise less likely to heed dissenting opinions coming from an informal group.

It is very unlikely that any department would utilize other channels for processing educational leave requests.

F. Does the board undertake actions or have responsibilities that duplicate those of an agency or that violate sound management policy.

Many of the larger departments have applied the statewide guidelines prepared by the Educational Leave Advisory Board to develop their own guidelines for educational leave and financial assistance, and have created in-house panels to review departmental requests for educational leave and make recommendations to the appointing authority. Thus, for many of the larger departments, requests for educational leave are thoroughly analyzed by those departments before they are submitted to the Educational Leave Advisory Board, and for these larger departments, the Educational Leave Advisory Board may be an unnecessary loop.

G. Can one board assume the responsibilities and authority of one or more other boards that are duplicate or overlap its own?

No. The purpose and function of the Educational Leave Advisory Board does not appear to be duplicated by other state boards.

H. Can qualified board members be recruited on a regular basis?

Yes. Membership for three positions is automatically fixed (Commissioner of Education; Director, Bureau of Human Resources; and the employee of the Bureau of Human Resources who manages the State's human resource training program). The two remaining employees are from within state government and normally these employees are referred for consideration by the various unions.

I. Is the board's level of activity sufficient to fulfill its purposes? Frequency and length of meetings and level of member attendance must be considered.

As explained in reply to question "A", the activity of the Educational Leave Advisory Board is down due to the availability of unpaid leave through the State's voluntary cost savings program.

It must be noted that the Educational Leave Advisory Board does not meet collectively to decide educational leave requests. Instead, leave requests are researched by the Bureau of Human Resources and the Director of Human

Resources makes a recommendation to the other members for independent action. The other members advise the Director of their vote to approve or disapprove each leave request, and leaves are approved only if a consensus is reached through this process.

J. Is the compensation policy established under the Maine Revised Statutes, Title 5, section 12003-A, subsection 2 being appropriately applied?

Not applicable. Members do not receive any compensation for their services.

K. Should the board in question be formally established to ensure the procedural safeguards of the State's freedom of access laws regarding notice and public access to meetings and documents.

The papers, correspondence and documents that are submitted to the Educational Leave Advisory Board by the various state departments as justification or recommendation for employee requests for educational leave, and papers, correspondence and documents prepared by the Educational Leave Advisory Board itself are not deemed to be confidential, except as these papers, correspondence and documents may contain information personal to the state employee (address, telephone number, etc.).

CHAPTER 60

EDUCATIONAL LEAVE

§ 721. Title

This chapter shall be known as, and may be cited as, the "Maine Educational Leave Act."

§ 722. Declaration of purpose

It is in the public interest and is the policy of the State of Maine to foster and encourage an educational leave program to permit employees of the State to increase knowledge and skills and to improve work techniques and procedures. This would permit the agencies themselves and the citizens of Maine to benefit by what the employee has learned and by what he will impart to others when he returns.

§ 723. Educational Leave Advisory Board

The Educational Leave Advisory Board, established by section 12004-I, subsection 11, shall advise and consult with the Bureau of Human Resources to review and authorize all educational leave requests from classified and unclassified state employees for durations of 30 days or more. Educational leave requests that are subject to review and approval of the board must be submitted for approval by the board prior to the start of the educational program, except that the board may approve requests for educational leave retroactively when in the best interests of the State and when there exists a satisfactory reason for failure to comply with this advance approval requirement.

The board consists of 5 members as follows: The Director of the Bureau of Human Resources who shall serve as chair of the board; the Commissioner of Education or a designee; the manager of human resource development within the Bureau of Human Resources; and 2 members who are state employees, at least one of whom is a state employee as defined in Title 26, section 979-A, subsection 6. Each state employee member is to be appointed by the Governor to serve for a term of 3 years. Members of the board are entitled to compensation as provided in chapter 379.

§ 724. Rules and regulations

The board shall by rule and regulation establish procedures for applying, processing and granting of educational leave to classified and unclassified employees of the State and shall maintain an up-to-date register of employees and their terms of leave and may adopt such other regulations as it finds necessary to administer this chapter. The board shall seek advice of the department head concerned in reviewing the educational leave application of each employee. All rules and regulations of the board shall be adopted in accordance with the Maine Administrative Procedure Act, chapter 375, subchapter II.

§ 725. Repealed. Laws 1991, c. 376, §15, eff. June 18, 1991.

§ 725-A. Funds

A state employee may not be compensated with state funds while absent on leave for educational purposes for 30 work days or more unless that leave is approved by the board.

The board may provide special scholarships to employees who are granted a leave from work to participate in an educational program and who apply to the board for financial assistance. These scholarships must be administered by the board in accordance with rules adopted by the board.

The Educational Leave Scholarship Fund is established as an account of the Department of Administration to be used solely for the funding of scholarship requests that are approved by the board. Any remaining balance in the Educational Leave Scholarship Fund account continues from year to year.

§ 726. Report

The board shall make a detailed progress report biennially to the Legislature, together with such recommendations as it deems necessary to carry out the purposes of this chapter.

§ 727. Application

In the event that any provision of this chapter is in conflict with the provision of a federal grant or educational leave program, the terms of the federal grant or educational leave program shall prevail.

REVIEW AND ANALYSIS OF EDUCATIONAL LEAVE POLICY

BY

POLICY REVIEW BOARD

A special meeting of the Policy Review Board was held on Tuesday, August 21, 1990 to review the Educational Leave provision of Civil Service Law (Title 5, Sections 721-727), the Board's Guidelines for Educational Leave (issued July 2, 1974), and specific issues advanced by the members of the Educational Leave Advisory Board and the Labor and Management components of the Labor-Management Committee on Educational Leave established pursuant to the collective bargaining process.

The results of this review are presented in this report to the Bureau of Human Resources.

1. The Policy Review Board finds that the philosophy and purpose of educational leave under the State's Educational Leave Program should:

- . **Balance the operational needs of the State with the professional development needs of the employee.**
The State's Educational Leave Program should be tied to occupations that are critical to agency operations and that are difficult to fill through normal recruitment and selection practices. A list of these occupations should be developed and made available to employees to help steer employees to occupations that meet this criteria. This purpose should be clearly communicated to employees through the enacting legislation and published guidelines and the list of critical occupations should be made a definite part of the application process for educational leave and career development programs administered at agency level.
- . **Recognize that the State's ability to grant educational leave requests may be influenced by funds that are available to provide financial assistance, to subsidize leaves with pay or partial pay, or to pay for the added cost of a substitute appointment or increased overtime that may result from an educational leave.** These possible limitations should be clearly communicated to employees through the enacting legislation and published guidelines and career development programs administered at agency level.
- . **Recognize that the State's ability to grant educational leave requests may be influenced by operational needs of**

the agency involved. This possible limitation should be clearly communicated through the enacting legislation and published guidelines and career development programs administered at agency level.

- . Recognize the value of the professional development of the State's workforce through the State's Educational Leave Program, through in-service training, through professional seminars and workshops and through the State's Training and Development Program and other educational opportunities. The Policy Review Board recommends that the types of educational leaves that should be submitted to the Educational Leave Advisory Board for advance review and approval should be limited to formal courses of study in accredited programs that lead to licenses, certifications and degrees in recognized program areas that require leave from work for one month or more. Leaves to attend seminars, workshops, institutes and other training programs that an agency may require or make generally available to its employees should be decided at agency level without the need of Board review and approval. Also, special in-service training programs or courses offered through the State's Development and Training Program should be decided at agency level without need for Board review and approval. And, Board review and approval should not be required in those instances where an agency can make a reasonable adjustment to an employee's workload or schedule to enable an employee to take a college course or courses that would ordinarily require leave from work for part of a normal work day or days. This policy should be clearly communicated to employees through the enacting legislation and published guidelines and career development plans administered at agency level.
- . Include a standard of educational performance for employees who are granted educational leave under the Educational Leave Program. The Policy Review Board recommends that the Guidelines for the Educational Leave Program include a requirement for an employee on educational leave to provide a copy of grade records at the end of a scheduled course or courses and provide an authority for the employee's agency to recommend to the Educational Leave Advisory Board that a leave be discontinued if the employee's course performance indicates failing or a failure to attain a grade standard agreed to by the agency and employee as part of the terms of the educational leave. In addition to inclusion in the Guidelines, this standard for educational performance should be clearly communicated to the employee through the forms used in the application process and career development programs administered at agency level.

- . Include a return to work obligation for employees who are granted educational leave. The Policy Review Board recommends that all educational leaves should include an obligation on the part of employees who are granted educational leave to return to employment with their agency or, in the event of promotion or transfer, another state agency. The Board also recommends that this obligation should be one month of employment for each month of leave for all educational leaves, whether with pay or without pay.

2. The Policy Review Board finds that the current Guidelines for administration of the Educational Leave Program should be rewritten and reissued to include the following recommendations:

- . Provide a reasonable and workable turnaround time for the five-member Educational Leave Advisory Board to review and decide educational leave requests. The Policy Review Board recommends that the maximum time currently allowed for this process be increased from from 5 days to 30 days. This time requirement should be clearly communicated to employees by the Guidelines and the forms used for the application process.
- . Include an authority for the Educational Leave Advisory Board to accept and decide late applications. The Policy Review Board recommends that the Educational Leave Advisory Board be provided the authority to approve an application for educational leave retroactively when approval of the leave would be in the best interest of the State and when the employee and employee's agency can provide a satisfactory reason for the delay in submitting the late request. This administrative provision should be clearly communicated in the Guidelines.
- . Include a requirement for the employee to file an application for educational leave with the employing agency 60 days prior to the start of the educational program and for the employing agency to make a recommendation to the Educational Leave Advisory Board within 30 days of its receipt of the employee's application. The Policy Review Board makes this recommendation to be consistent with the 30 day turnaround that is recommended for the Educational Leave Advisory Board to make its decision. This administrative requirement should be clearly communicated to the employee and the employing agency through the Guidelines and the forms used for the application process.
- . Re-title the Educational Leave Guidelines to "Policy and Procedure for Educational Leave".

3. The Policy Review Board finds that the following suggestions advanced and discussed during its review of the Educational Leave Program warrant further consideration and study:

- . The possibility of obtaining funding for leaves that are related to State priority needs and for positions that are critical to agency operations.
- . The development of a policy for enforcing return to work agreements that includes possible legal action.
- . The development of an equitable benefits package for the various types of educational leave arrangements - full-time educational leave with full pay; full-time educational leave with partial pay; full-time educational leave without pay; part-time educational leave with full-pay (employee on educational leave for part of position hours and works balance of position hours and receives full pay); and part-time educational leave with partial pay (employee on educational leave for part of position hours and works balance of position hours with pay for only hours worked). At a minimum, the benefits package should address total and continuous service for purpose of vacation accrual, sick leave, seniority, anniversary for merit increase evaluation and step increases, health, dental and life insurances, longevity, and retirement service credit.

4. The Policy Review Board finds that the revised Educational Leave Guidelines and governing policy should be well-publicized and promoted through a statewide promotional effort.

5. The Policy Review Board finds that all other provisions of the current policy and Guidelines for Educational Leave that are not addressed by this report should be continued.

Jane Lincoln, Chair
POLICY REVIEW BOARD

date



John R. McKernan, Jr.
Governor

Nancy J
Dir

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

Bureau of Human Resources

Telephone (207) 289-3761

April 14, 1993

TO: Senator Georgette Berube, Chair
Representative Ruth Joseph, Chair
Joint Standing Committee on State and Local Government

FROM: Nancy J. Kenniston, Director
Bureau of Human Resources

SUBJECT: L.D. 1096, An Act Repealing Advisory Boards on State
and Local Government Matters

I have reviewed the section of L.D. 1096 that proposes to abolish Educational Leave Advisory Board by the repeal of Title 5, Section 723 and Title 5, Section 12004-I, and would like to offer some comments in opposition to this action.

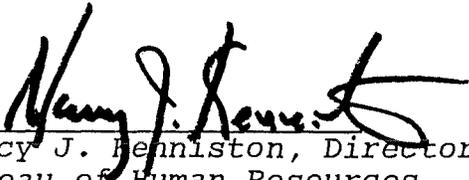
The Educational Leave Advisory Board is established to administer the State's Educational Leave Law (Title 5, Chapter 60). The Educational Leave Law provides an authority for a statewide educational leave program. This program is defined by Educational Leave Guidelines that are developed by the board, in accordance with the requirements of Chapter 60.

I believe that the statewide educational leave program is beneficial to the state, and that this program and the Educational Leave Advisory Board should be continued. This program provides the guidelines for each state agency to follow in processing employee requests for educational leave and ensures a greater degree of fairness and objectivity from one state agency to another. And, as the composition of the board was recently modified to include employee members, this representation has furthered and improved the labor-management value of the statewide educational leave program.

Senator Georgette Berube, Chair
Representative Ruth Joseph, Chair
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Finally, I would like to clarify that the Voluntary Cost Savings Program has resulted in decreased participation in the State's educational leave program. Because of the special benefit advantages of the Cost Savings Program, employees prefer to take unpaid leave with paid health insurance whenever this leave can be approved by the appointing authority. However, the Voluntary Cost Savings Program is temporary, and should not provide a basis for discontinuing the statewide educational leave program.

The Educational Leave Advisory Board is not authorized compensation, and costs for administration are absorbed by the Bureau of Human Resources.



Nancy J. Henniston, Director
Bureau of Human Resources

NJK/FW/mg