

MAINE STATE LEGISLATURE

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OFFICE OF
THE GOVERNOR

NO. _____
DATE _____

13FX04/05
-13 FY 04/05
April 9, 2004

**AN ORDER CONCERNING ACCESS TO STATE SERVICES BY
ALL ENTITLED MAINE RESIDENTS**

WHEREAS, it is the policy of the State of Maine to promote utilization of its services by all of its residents who are eligible to receive them; and

WHEREAS, individuals should know that they may seek the assistance of State agencies regardless of personal or private attributes, without negative consequences to their personal lives; and

WHEREAS, the race, color, gender, ethnicity, religion, sexual orientation, age or socio-economic status of a person in need of services should never negatively influence the work performed by State employees; and

WHEREAS, all who are eligible to receive a state government service must not be inhibited from seeking that service because of fear, or anxiety; and

WHEREAS, all of Maine can be proud of the work that State employees perform on a daily basis; and

WHEREAS, obtaining pertinent information essential to the performance of a wide variety of governmental functions may in some cases be difficult or impossible if some expectation of confidentiality is not preserved, and preserving confidentiality in turn requires that governments regulate the use of such information by their employees; and

WHEREAS, in furtherance of this policy, confidential information in the possession of State agencies should be disclosed only as provided herein, or as otherwise required by law.

NOW, THEREFORE, I, John E. Baldacci, under the power vested in me as Governor of the State of Maine, mindful that there can be no room for prejudice, bias, racial or ethnic profiling in public service, do hereby issue an order concerning access to State services by all qualifying Maine residents as follows:

1. As used herein, "confidential information" means any information obtained and maintained by a State agency relating to an individual's sexual orientation, status as a victim of domestic violence, status as a victim of sexual assault, status as a crime witness, status as a person with a disability, receipt of public assistance, or immigration status, and shall include all information contained in any individual's income tax records.

2. **Disclosure of Confidential Information**

- a. In the case of confidential information other than information relating to immigration status, no State employee shall disclose confidential information, unless:
- i. such disclosure has been authorized in writing by the individual to whom such information pertains, or if such individual is a minor or is otherwise not legally competent, by such individual's parent or legal representative; or
 - ii. such disclosure is required by law; or
 - iii. such disclosure is to another State employee, or other authorized agent of the State, and is otherwise authorized by law; or
 - iv. such disclosure is necessary to fulfill the purpose or achieve the mission of any State agency and is otherwise authorized by law.
- b. In the case of confidential information relating to immigration status, no State employee shall disclose confidential information unless:
- i. the individual to whom such information pertains is suspected by such employee or such employee's agency of engaging in illegal activity, other than mere status as an undocumented alien; or
 - ii. the dissemination of such information is necessary to apprehend a person suspected of engaging in illegal activity, other than mere status as an undocumented alien; or
 - iii. such disclosure is necessary in furtherance of an investigation of potential terrorist activity; or
 - iv. such disclosure is required by law.
- c. Any State employee with a question relating to the disclosure of confidential information under this section shall consult with the counsel of such employee's agency.

3. **State Employees**

- a. A State employee, other than law enforcement officers, shall not inquire about a person's immigration status unless:
- i. such person's immigration status is necessary for the determination of program, service or benefit eligibility or the provision of State services; or

- ii. such employee is required by federal or state law or by court order or court rule to inquire about such person's immigration status; or
- iii. if otherwise necessary for the purposes of safeguarding public health.

4. State Agencies with Law Enforcement, Investigative or Prosecutorial Authority

- a. All State law enforcement officers shall continue to cooperate with federal authorities in investigating and apprehending aliens suspected of criminal activity.
- b. All State agencies with law enforcement, investigative or prosecutorial authority shall not inquire about a person's immigration status unless investigating or prosecuting illegal activity other than mere status as an undocumented alien.
- c. It shall be the policy of all State agencies with law enforcement, investigative or prosecutorial authority not to inquire about the immigration status of crime victims, witnesses, or others who call or approach these agencies seeking assistance.

5. Prevailing Legal Authority

Nothing in this Executive Order is intended to supercede any lawful requirements, State or Federal, regarding the conduct of State employees.

6. Guiding Principle

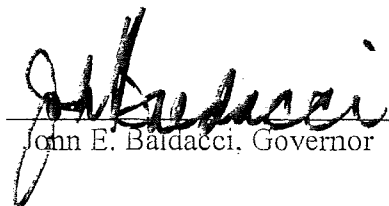
Respect for the rights and dignity of all Maine residents, regardless of background or status, must govern all aspects of the work undertaken by the employees of the State of Maine.

7. No Liability

Nothing in this Executive Order is intended, nor shall it be deemed to create or form the basis for liability on the part of the State, or its employees or agents. The exclusive remedy for violation of this Executive Order shall be through the State's disciplinary procedures for employees.

8. Effective Date

The effective date of this Executive Order is April 9, 2004.



John E. Baldacci, Governor