

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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Legislative Document

No. 838

S.P. 274

In Senate, March 9, 1993

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### **An Act to Establish a Professional Standards Board for Maine Educators.**

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Reference to the Committee on Education suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator HANDY of Androscoggin.  
Cosponsored by Representative ALIBERTI of Lewiston and  
Senator: ESTY of Cumberland, Representatives: ADAMS of Portland, CARROLL of Gray,  
CHASE of China, JOSEPH of Waterville, KILKELLY of Wiscasset, MARTIN of Eagle Lake.

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

Sec. 1. 2 MRSA §6, sub-§6, as amended by PL 1991, c. 626, §1, is further amended to read:

6. Range 85. The salaries of the following state officials and employees are within salary range 85:

Director of Civil Emergency Preparedness;

Members, Maine Unemployment Insurance Commission;-and

Director of the Military Bureau; and

Executive Director, Professional Standards Board for Educators.

Sec. 2. 5 MRSA §12004-A, sub-§12-A is enacted to read:

<u>12-A. Professional</u>	<u>Expenses</u>	<u>20-A MRSA</u>
<u>Standards Board for</u>	<u>Only</u>	<u>§13042</u>
<u>Educators</u>		

Sec. 3. 20-A MRSA c. 502-B is enacted to read:

#### CHAPTER 502-B

#### PROFESSIONAL STANDARDS BOARD FOR EDUCATORS

#### §13041. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Administrator. "Administrator" means a member of a school or school district's professional staff with direct responsibility for the evaluation and discipline of personnel or the development, supervision or internal management of a school, school system or school program regardless of whether that person's duties also include the furnishing of direct instructional or other services to students in schools, kindergarten and grades one to 12.

2. Administrators organization. "Administrators organization" means any organization the primary purpose of which is to advance the interests of school administrators.

3. Approved professional preparation program. "Approved professional preparation program" means a professional preparation program in which students, upon completion, meet the initial requirements for specific licenses for which the program has been approved by the board.

2        **4. Board.** "Board" means the Professional Standards Board  
for Educators.

4        **5. License.** "License" means the authority given by the  
6        State to teachers or administrators to exercise their respective  
responsibilities in the schools of the State and includes  
8        certificates issued prior to the enactment of this chapter.

10       **6. Professional preparation program.** "Professional  
preparation program" means a course of study designed to lead to  
12       individual teacher or administrator licensure.

14       **7. School.** "School" means a public school educating  
children in kindergarten and grades one to 12 or a private school  
16       approved for attendance purposes under section 2901, subsection  
2, paragraph B.

18       **8. Teacher.** "Teacher" means a member of a school  
20       professional staff with primary responsibility for planning,  
implementing and evaluating instructional programs for students  
22       in schools in kindergarten and grades one to 12.

24       **9. Teachers organization.** "Teachers organization" means  
any organization, agency, committee, council or group of any kind  
26       more than 1/2 of the membership of which is engaged in classroom  
instruction, a primary purpose of which is to advance the  
28       interests of the education profession. A teachers organization  
and any affiliated organizations are considered a single  
30       organization for the purposes of this chapter.

32       **§13042. Establishment of board**

34       The Professional Standards Board for Educators, as  
authorized in Title 5, section 12004-A, subsection 12-A, is  
36       established to involve professional educators directly in  
establishing and maintaining the standards of their profession  
38       and to ensure fair treatment to individual applicants for  
licensure and all members of the profession.

40       **§13043. Powers and duties**

42       The board may:

44       **1. License.** Issue and supervise licenses authorizing  
46       educators to teach in schools, establish criteria for the  
issuance and renewal of those licenses, approve professional  
48       preparation programs for educators licensed pursuant to this  
chapter and establish and supervise by rule administrative  
50       policies and procedures of the board and the department governing  
the duties described in this subsection;

2        2. Enforce. Enforce rules adopted by the board through  
3        revocation and suspension of licenses and professional  
4        preparation program approval;

6        3. Appeals. Hear appeals regarding application, renewal,  
7        suspension or revocation of a license or professional  
8        preparation program approval;

10       4. Agreements. Enter into agreements with other states and  
11       with other agencies or organizations within the State as  
12       necessary to carry out its responsibilities;

14       5. Advisory committees. Appoint advisory committees;

16       6. Fees. Establish, collect and refund fees for licensure  
17       and program approval;

18       7. Staff. Employ staff to carry out the provisions of this  
19       chapter;

22       8. Rules. Adopt rules pursuant to the Maine Administrative  
23       Procedure Act to carry out the provisions of this chapter;

24       9. Budget. Prepare and submit budgets to the Legislature  
25       and administer approved budgets;

28       10. Study; advise. Carry out studies and reviews of  
29       educator licensing and advise the Legislature on matters  
30       regarding licensing of educators;

32       11. Report. Report annually to the Legislature on the  
33       activity of the board and information concerning the licensing of  
34       educators in the State; and

36       12. Recommendations. Make recommendations to the  
37       Legislature regarding educator certification.

38       §13044. Composition of board

40       The board is composed of the following 13 members:

42       1. Teachers. Seven persons employed as teachers in the  
43       public schools of the State;

46       2. Administrators. Three persons employed as  
47       administrators in the public schools of the State, one of whom  
48       must be an elementary school principal, one of whom must be a  
49       secondary school principal and one of whom must be a school  
50       superintendent;

52       3. Teacher educators. Two persons representing teacher  
53       education programs; and

2           4. Member of public. One member of the public.

4       **§13045. Appointments; vacancies**

6           The members of the board must be appointed by the Governor  
and approved by the Legislature.

8           1. Appointments. Appointments must be made by the Governor  
10 from a list of at least 3 nominees for each position, submitted  
12 to the Governor as follows.

14           A. Teacher members must be nominated by a teachers  
16 organization representing the majority of public school  
18 teachers in the State who teach at the education level from  
20 which the appointment is being made.

22           B. Administrator members must be nominated by the  
24 elementary, secondary and superintendent organizations of  
26 administrators in which the majority of administrators of  
28 schools in the State have membership.

30           C. Teacher education members must be nominated by a  
32 national council of higher education.

34           D. Members of the public must be nominated by the majority  
36 parent-teacher organization representing parents in the  
38 State.

40           2. Vacancies. A vacancy on the board must be filled in the  
42 same manner as the original appointment within 60 days after the  
44 vacancy occurs. Nominations to fill a vacancy must be submitted  
46 by the appropriate organization within 30 days after the vacancy  
48 occurs. Nominations to fill an expiring term must be submitted at  
50 least 30 days before the expiration of the term.

52           The Governor shall appoint members from among the nominations  
submitted pursuant to this section. If no timely nominations are  
received or the nominations received do not include a sufficient  
number of qualified candidates, the Governor shall appoint any  
persons who are qualified. Nominations may be withdrawn by the  
persons or organizations that made them.

54       **§13046. Qualifications for board members**

56           1. Teacher and administrator representatives. All members  
58 of the board representing teachers and administrators must have  
60 been employed in the State under the authority of a professional  
educator license for 5 years before appointment to the board.

62           2. Representation. The Governor shall achieve a balance of  
geographical, racial and gender representation in appointments to  
the board.

2        3. Failure to continue to meet criteria. Any member of the  
4        board who, through change of employment status or residence, or  
6        for other reasons, no longer meets the criteria for the position  
      to which the member was appointed is no longer eligible to serve  
      in that position and the position becomes vacant 60 days  
      following the member's change in circumstances.

8  
10       §13047. Removal from board

12       The Governor may remove a member from the board for  
14       ineligibility, incapacity, misconduct or malfeasance in office,  
      incapacity or neglect of duty.

16       §13048. Terms and conditions of service

18       1. Terms. Members are appointed for 3-year terms and may  
20       be reappointed once. By October 1, 1993, the Governor shall  
      nominate the following members to the board for the following  
      terms:

22       A. Three teachers for 3-year terms to expire September 1,  
24       1996; 3 teachers for 2-year terms to expire September 1,  
      1995; and one teacher for a one-year term to expire  
      September 1, 1994;

26       B. One administrator for a term to expire September 1,  
28       1996; one administrator for a term to expire September 1,  
30       1995; and one administrator for a term to expire September  
      1, 1994;

32       C. One member of the public for a term to expire September  
34       1, 1996; and

36       D. One teacher education representative for a term to  
38       expire September 1, 1996; and one teacher education  
      representative for a term to expire September 1, 1995.

40       2. Reappointment. All initial appointees to the board are  
      eligible for reappointment to one additional 3-year term.

42       3. Compensation. Board members are not eligible for  
44       compensation for service on the board, but receive reimbursement  
      from the board for all actual and necessary expenses incurred in  
      the performance of board business.

46       4. Loss of wages; benefits. An employer may not reduce the  
48       wages or benefits of a nonpublic board member due to that  
50       member's service on the board. A state agency or any political  
      subdivision of the State, including a school district, that is  
52       required to employ a substitute for a member of the board who is  
      absent from employment while performing board business is

entitled to reimbursement by the board for the actual amount of any costs incurred.

**§13049. Meetings; chair**

**1. Elections of officers; chair.** The board shall elect, by a majority vote of its members, a chair and vice-chair from among the membership. At the last regular meeting of each calendar year, the chair and vice-chair are elected for one-year terms and may be reelected twice. A member may not serve as chair or vice-chair for more than 3 consecutive years. The chair and vice-chair may be removed from office at any time by a majority of the board's members, in which event the vacancy must be filled for the unexpired term in the same manner as the original selection.

**2. Authority of chair; vice-chair.** The chair shall serve as the presiding officer at meetings of the board and is an ex officio member of all committees established within the board. In the absence of the chair, or if the chair is unable to act, the vice-chair has the powers and shall perform the duties of the chair. The chair and vice-chair have such powers and duties as may be necessary for the performance of the functions of their offices. If both the chair and vice-chair are absent from or unable to act at a meeting, the board shall elect for that meeting a chair pro tempore.

**3. Meetings; headquarters.** The board shall hold regular meetings at least 4 times each year and shall hold such other special meetings as may be necessary. The board's headquarters is in Augusta. Meetings are held primarily in Augusta, but may be held at any place in the State designated by the board. The chair may call a special meeting of the board at any time and shall call a special meeting upon the written request of 7 or more members of the board. The chair shall mail written notice of the time and place of all regular meetings to each member at least 14 days before each meeting. The chair shall mail written notice to each member of the time, place and purpose of all special meetings at least 7 days before each meeting whenever practicable.

**4. Quorum; minutes; agenda.** The presence of a majority of the members of the board constitutes a quorum for transaction of business. All meetings of the board must be open and public, unless the board calls for an executive session and publicly sets forth a written statement of reasons for the session. The chair shall prepare and mail to each member of the board unofficial minutes of each board meeting at least 14 days before the next regular meeting. The chair shall prepare or direct the preparation of an agenda for each meeting and mail that agenda to each member at least 7 days before each meeting. The chair shall

mail an agenda for each special meeting at least 3 days before each meeting whenever practicable.

**5. Official seal.** The board must have an official seal, which must be judicially noticed.

**6. Presentations.** Written and oral presentations may be made to the board in accordance with rules adopted by the board. These rules must be made available to any interested person in accordance with the Maine Administrative Procedure Act.

**7. Conflict of interest.** A member of the board may not participate in any matter before the board in which that member has a conflict of interest. The board shall adopt rules defining what constitutes a conflict of interest.

#### **§13050. Staff**

**1. Executive director.** The board, by a vote of 2/3 of its members, shall employ an executive director, who shall perform and discharge under the direction and control of the board those duties and responsibilities vested in the board and delegated to the executive director by the board. The executive director may be dismissed by a majority vote of the members.

**2. General counsel.** The board may retain the services of a general counsel as necessary.

**3. Additional staff.** The executive director, with the approval of the board, may employ such additional professional and clerical personnel as may be necessary to carry out the executive director's duties and responsibilities.

#### **§13051. Fees**

**1. License fee.** Each application for the issuance or renewal of a license must be accompanied by a fee in the following amount: for renewals of active licenses, \$50; for renewals of inactive licenses, \$50; and for issuance of initial licenses, \$50. The fee is nonrefundable for applicants who do not qualify for a license. If the applicant is determined eligible for a license, the board shall issue the license without additional charge.

**2. Teacher preparation fee.** Each application for the approval of a teacher preparation program must be accompanied by a fee in an amount to be fixed by the board. The fee is nonrefundable for teacher preparation programs that are denied approval.

**Sec. 4. Reports; recommendations; committees.** By January 15, 1995, the board shall submit a report on its activities to

the joint standing committee of the Legislature having jurisdiction over education matters. Thereafter, the board shall submit to the Governor and the Legislature a published annual report of its activities. This annual report must include specific findings and conclusions with regard to licensure and teacher preparation program approval, an official audit of all board expenditures and additional information the board considers appropriate. The board shall publish, from time to time, other reports it considers appropriate. The board shall develop and recommend to the Legislature for its consideration any necessary or desirable legislation with regard to the matters covered by this Act. The board shall appoint committees the board considers appropriate to assist in an advisory capacity.

**Sec. 5. Delegation of functions.** Except as otherwise provided in this Act, the board may delegate to one or more of its members, staff or other agents the authority to perform any of the functions to be performed by the board itself under this Act. Performance by that delegate is, for purposes of this Act, deemed an action of the board.

**Sec. 6. Interim chair.** The Governor shall designate one member of the board to serve as chair until the board elects a chair pursuant to the Maine Revised Statutes, Title 20-A, section 13049.

**Sec. 7. Appointment of board members.** The time served by board members prior to January 1, 1994 may not be considered as part of the term of those board members for purposes of the Maine Revised Statutes, Title 20-A, section 13048.

**Sec. 8. Transition provisions.**

1. Educator certification laws in effect on the effective date of this Act, specifically the Maine Revised Statutes, Title 20-A, chapters 501, 502 and 502-A, continue to govern educator licensing until amended by the Legislature, with the exception that the exclusive authority for educator licensing as described in Title 20-A, section 13043 is vested in the Professional Standards Board for Educators.

2. Any educator license that was issued pursuant to the laws of the State before the effective date of this Act remains in effect as long as the license continues to be valid under the laws and rules pursuant to which it was issued.

3. Any approval of a teacher preparation program that was granted pursuant to the laws of the State before the effective date of this Act remains in effect until the regular time for renewing approval, which must be conducted under this Act.

2       4. The board created by this Act is the successor to the  
3 State Board of Education in matters related to the issuance of  
4 certificates of license to teach in the schools of the State.  
5 The State Board of Education continues to serve in that capacity  
6 until the effective date of this Act.

7       5. Assets, liabilities, contracts, property, records and  
8 unexpended balances of appropriations or other funds employed,  
9 held by or available to any state agency or department for  
10 carrying out the functions assigned to the board under this Act  
11 are transferred to the board as of the effective date of this Act.

12       **Sec. 9. Funding.** All fees collected under this Act must be  
13 set at a level to produce revenue that does not substantially  
14 exceed the cost and expense of administering this Act. All fees  
15 payable under this Act must be paid to and collected by the board  
16 and transmitted for deposit to the General Fund.

17       **Sec. 10. Effective date.** This Act takes effect January 1, 1994.  
18

19  
20  
21                   **STATEMENT OF FACT**

22  
23       This bill establishes the Professional Standards Board for  
24 Educators.