

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST SPECIAL SESSION**  
**September 27, 2011**

**SECOND REGULAR SESSION**  
**January 4, 2012 to May 31, 2012**

**THE EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**LAWS IS**  
**SEPTEMBER 28, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**AUGUST 30, 2012**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**Augusta, Maine**  
**2012**

A. Failing to file a statement within 15 days of having been notified by the Commission on Governmental Ethics and Election Practices is a civil violation for which a fine of not more than \$100 may be adjudged. A statement is not considered filed unless it substantially conforms to the requirements of Title 1, chapter 25, subchapter 2 and is properly signed. The commission shall determine whether a statement substantially conforms to such requirements.

B. The intentional filing of a false statement is a Class E crime. If the Commission on Governmental Ethics and Election Practices concludes that it appears that an executive employee has willfully filed a false statement, it shall refer its findings of fact to the Attorney General.

**Sec. 24. 5 MRSA §19, sub-§7**, as amended by PL 2011, c. 389, §1, is repealed.

**Sec. 25. Rulemaking regarding reporting by estranged spouse or domestic partner.** The Commission on Governmental Ethics and Election Practices shall adopt rules to exclude from the definition of "immediate family," for purposes of income reporting pursuant to the Maine Revised Statutes, Title 1, section 1016-G and Title 5, section 19, an estranged spouse or domestic partner of a Legislator or an executive employee. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

**CHAPTER 635**

**H.P. 1376 - L.D. 1858**

**An Act To Ensure Effective Teaching and School Leadership**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

**PART A**

**Sec. A-1. 20-A MRSA §1055, sub-§10**, as amended by PL 2011, c. 172, §1, is further amended to read:

**10. Supervise school employees.** The superintendent is responsible for ~~the evaluation of~~ implement-

ing a performance evaluation and professional growth system for all teachers and principals pursuant to chapter 508 and an evaluation system for all other employees of the school administrative unit. The superintendent shall evaluate probationary teachers during, but not limited to, their 2nd year of employment. The method of evaluation must be determined by the school board, be in compliance with the requirements of chapter 508 and be implemented by the superintendent.

**Sec. A-2. 20-A MRSA §13201, 5th ¶**, as amended by PL 2011, c. 172, §2 and affected by §4, is further amended to read:

The right to terminate a contract, after due notice of 90 days, is reserved to the school board when changes in local conditions warrant the elimination of the teaching position for which the contract was made. The order of layoff and recall is a negotiable item in accordance with the procedures set forth in Title 26, chapter 9-A. In any negotiated agreement, the criteria negotiated by the school board and the bargaining agent to establish the order of layoff and recall must include the teacher's effectiveness rating pursuant to chapter 508 as a factor and may also include, but may not be limited to, seniority.

**Sec. A-3. 20-A MRSA c. 508** is enacted to read:

**CHAPTER 508**

**EDUCATOR EFFECTIVENESS**

**§13701. Definitions**

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

**1. Educator.** "Educator" means a teacher or a principal.

**2. Effectiveness rating.** "Effectiveness rating" means the level of effectiveness of an educator derived through implementation of a performance evaluation and professional growth system.

**3. Performance evaluation and professional growth system.** "Performance evaluation and professional growth system" or "system" means a method developed in compliance with this chapter by which educators are evaluated, rated on the basis of effectiveness and provided opportunities for professional growth.

**4. Professional improvement plan.** "Professional improvement plan" means a written plan developed by a school or district administrator with input from an educator that outlines the steps to be taken over the coming year to improve the effectiveness of the educator. The plan must include but need not be limited to appropriate professional development opportunities.

**5. Summative effectiveness rating.** "Summative effectiveness rating" means the effectiveness rating of an educator that is assigned at the end of an evaluation period. Ratings or comments provided to the educator during the evaluation period for the purpose of providing feedback, prior to assignment of a final effectiveness rating, are not summative effectiveness ratings.

**§13702. Local development and implementation of system**

Each school administrative unit shall develop and implement a performance evaluation and professional growth system for educators. The system must meet the criteria set forth in this chapter and rules adopted pursuant to this chapter and must be approved by the department.

**§13703. Use of effectiveness rating; grievance**

A superintendent shall use effectiveness ratings of educators to inform strategic human capital decision making, including, but not limited to, decision making regarding recruitment, selection, induction, mentoring, professional development, compensation, assignment and dismissal.

Receipt of summative effectiveness ratings indicating that a teacher is ineffective for 2 consecutive years constitutes just cause for nonrenewal of a teacher's contract unless the ratings are the result of bad faith.

Any appeal of, or grievance relating to, an evaluation conducted pursuant to this chapter or an effectiveness rating resulting from implementation of a system is limited to matters relating to the implementation of the system or the existence of bad faith in an evaluation or the assignment of a rating. The professional judgment involved in an evaluation or implementation of the system is not subject to appeal or grievance.

**§13704. Elements of system**

A performance evaluation and professional growth system consists of the following elements:

**1. Standards of professional practice.** Standards of professional practice by which the performance of educators must be evaluated.

A. The department shall provide, by rule, a set of standards of professional practice or a set of criteria for determining acceptable locally determined standards for teachers and a set of standards of professional practice or a set of criteria for determining acceptable locally determined standards for principals;

**2. Multiple measures of effectiveness.** Multiple measures of educator effectiveness, other than standards of professional practice, including but not limited to student learning and growth;

**3. Rating scale.** A rating scale consisting of 4 levels of effectiveness.

A. The rating must be based on standards of professional practice and measures of educator effectiveness. The proportionate weight of the standards and the measures is a local decision, but measurements of student learning and growth must be a significant factor in the determination of the rating of an educator.

B. The rating scale must set forth the professional growth opportunities and the employment consequences tied to each level.

C. At least 2 of the levels must represent effectiveness, and at least one level must represent ineffectiveness;

**4. Professional development.** A process for using information from the evaluation process to inform professional development;

**5. Implementation procedures.** Implementation procedures that include the following:

A. Evaluation of educators on a regular basis, performed by one or more trained evaluators. The frequency of evaluations may vary depending on the effectiveness level at which the educator is performing, but observations of professional practice, formative feedback and continuous improvement conversations must occur throughout the year for all educators;

B. Ongoing training on implementation of the system to ensure that all educators and evaluators understand the system and have the knowledge and skills needed to participate in a meaningful way;

C. A peer review component to the evaluation and professional growth system and opportunities for educators to share, learn and continually improve their practice; and

D. Formation of a steering committee composed of teachers, administrators and other school administrative unit staff that regularly reviews and refines the performance evaluation and professional growth system to ensure that it is aligned with school administrative unit goals and priorities; and

**6. Professional improvement plan.** The opportunity for a educator who receives a summative effectiveness rating indicating ineffectiveness in any given year to implement a professional improvement plan.

**§13705. Phase-in of requirements**

The requirements of this chapter apply to all school administrative units beginning in the 2015-2016 school year. In the 2013-2014 school year, each unit shall develop a system that meets the standards of

this chapter, in collaboration with teachers, principals, administrators, school board members, parents and other members of the public. In the 2014-2015 school year, each unit shall operate as a pilot project the system developed in the prior year by applying it in one or more of the schools in the unit or by applying it without using results in any official manner or shall employ other means to provide information to enable the unit to adjust the system prior to the first year of full implementation. Nothing in this section prohibits a unit from fully implementing the system earlier than the 2015-2016 school year.

#### **§13706. Rules**

The department shall adopt rules to implement this chapter, including but not limited to a rule relating to the method of identifying the educator or educators whose effectiveness ratings are affected by the measurement of learning or growth of a particular student. The department shall also adopt rules pertaining to the approval of performance evaluation and professional growth systems pursuant to section 13702. Rules adopted pursuant to this section are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. A-4. 20-A MRSA §15681, sub-§1, ¶D** is enacted to read:

D. To receive targeted educator evaluation funds, a school administrative unit must have or be in the process of developing a performance evaluation and professional growth system pursuant to chapter 508 and the rules adopted pursuant to that chapter.

**Sec. A-5. 20-A MRSA §15681, sub-§6** is enacted to read:

**6. Targeted funds for educator evaluation.** For educator evaluation funds beginning with the 2013-2014 school year, the commissioner shall calculate the amount available to assist school administrative units in developing and implementing performance evaluation and professional growth systems pursuant to chapter 508.

**Sec. A-6. Council created.** The Maine Educator Effectiveness Council, referred to in this section as "the council," is created to make recommendations regarding implementation of the Maine Revised Statutes, Title 20-A, chapter 508 to the Commissioner of Education and the Joint Standing Committee on Education and Cultural Affairs.

**1. Members.** The council consists of the Commissioner of Education or the commissioner's designee and the following members, appointed by the Commissioner of Education:

A. A member of the State Board of Education, nominated by the state board;

B. Four public school teachers, at least one of whom is a special education teacher, appointed from a list of names provided by the Maine Education Association;

C. A member representing educators in tribal schools in this State, appointed from a list of names provided by the respective tribal schools that are affiliated with Maine Indian Education;

D. Two public school administrators, appointed from a list of names provided by the Maine Principals' Association and the Maine School Superintendents Association;

E. Two members of school boards, appointed from a list of names provided by the Maine School Boards Association;

F. One faculty member representing approved educator preparation programs;

G. Two members of the business community; and

H. Two members of the general public with interest and experience in the education field.

The council must be cochaired by the Commissioner of Education and one other council member elected by the full membership of the council. The council may establish subcommittees and may appoint persons who are not members of the council to serve on the subcommittees as needed to conduct the council's work.

**2. Duties.** The council shall recommend standards for implementing a system of evaluation and support of teachers and principals consistent with the requirements of Title 20-A, chapter 508. The council shall:

A. Recommend a set of professional practice standards applicable to teachers and a set of professional practice standards applicable to principals;

B. Recommend a 4-level rating scale with clear and distinct definitions applicable to teachers and principals;

C. Recommend potential measures of student learning and growth;

D. Recommend the major components of an evaluation process, including but not limited to:

(1) Ongoing training to ensure that evaluators and teachers and principals have a full understanding of the evaluation system and its implementation;

(2) Methods of gathering evidence for the evaluation, which may include observation by supervisors and peers, self-reflection, student or parent surveys, analysis of artifacts and evidence portfolios;

(3) Methods of providing feedback to teachers and principals for formative evaluation purposes;

(4) Weighting of measures used in evaluating teachers and principals, which must provide that student learning and growth indicators inform a significant portion of the effectiveness rating;

(5) Methods for aligning district, school and classroom goals using the evaluation system; and

(6) Methods for linking summative effectiveness ratings to human capital decisions; and

E. Recommend a system of supports and professional development linked to effectiveness ratings for teachers and principals, including a process for developing and implementing a professional improvement plan.

**3. Report.** The Commissioner of Education shall submit a report regarding the work of the council to the Joint Standing Committee on Education and Cultural Affairs no later than November 1, 2012. The report must include the council's recommendations regarding implementation of the requirements set forth in Title 20-A, chapter 508 and recommendations regarding the continuing work of the council.

**4. Staff assistance.** The Department of Education shall provide staff assistance to the council. The department may seek and employ grant funds to provide additional assistance.

**5. Council continuation.** The council is authorized to continue meeting, if it so desires, 90 days after adjournment of the First Regular Session of 126th Legislature.

## PART B

**Sec. B-1. 20-A MRSA §13008** is enacted to read:

### **§13008. Educator preparation program data**

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

A. "Educator preparation program" means a public or private baccalaureate-level or postbaccalaureate-level program approved by the state board to recommend graduates for certification pursuant to chapter 502 as prekindergarten to grade 12 teachers, educational specialists or school leaders.

B. "Program completer" means a person who, by successfully completing all of an educator preparation program's requirements, has qualified for a recommendation for certification as a prekindergarten to grade 12 teacher, an educational specialist or a school leader.

**2. Data collection.** The department shall collect data relating to educator preparation programs, including but not limited to the following information with respect to each educator preparation program:

A. The number of program completers;

B. The number of program completers who pass certification tests and the number of those who attain provisional licensure in the State;

C. The number of program completers who proceed from provisional licensure to professional licensure; and

D. The number of program completers who are teaching in schools in this State 3 and 5 years after they complete that educator preparation program.

**3. Report.** The department shall annually report the data collected under this section to the Governor, the state board and the joint standing committee of the Legislature having jurisdiction over education matters.

**Sec. B-2. 20-A MRSA §13011, sub-§6**, as enacted by PL 1989, c. 889, §8, is repealed and the following enacted in its place:

**6. Alternative pathways to certification.** The state board shall develop and adopt rules providing a method for a person who has not completed an approved educator preparation program as defined under section 13008 to obtain provisional educator certification through an alternative pathway that:

A. Is designed for candidates who can demonstrate subject matter competency that is directly related to the certificate endorsement being sought and obtained through prior academic achievement or work experience;

B. May feature an accelerated program of preparation;

C. Uses mentorship programs that partner teacher candidates with mentor teachers; and

D. Includes accountability provisions to ensure that teacher candidates demonstrate the knowledge and skills established pursuant to section 13012, subsection 2-B prior to issuance of a provisional teacher certificate.

**Sec. B-3. 20-A MRSA §13011, sub-§10**, as enacted by PL 2003, c. 445, §2, is amended to read:

**10. Conditional certificate; transitional endorsement; exception.** A conditional certificate is a certificate for teachers and educational specialists who have not met all of the requirements for a provisional or professional certificate. A school administrative unit may employ a conditionally certified teacher or educational specialist who is in the process of becoming professionally certified notwithstanding the availability of provisionally or professionally certified

teachers or educational specialists. Any amendment to the rules adopted pursuant to this chapter that revises the qualifications for a conditional certificate or transitional endorsement does not apply to a person who was issued a conditional certificate or transitional endorsement prior to or during the school year preceding the adoption of revisions to the rules as long as the holder of the conditional certificate or transitional endorsement annually completes the required course work and testing as determined by the department for the school year preceding the adoption of revised rules.

**Sec. B-4. 20-A MRSA §13012, sub-§2-A**, as enacted by PL 2001, c. 534, §2 and amended by PL 2005, c. 397, Pt. D, §3, is further amended to read:

**2-A. Qualifications.** State board rules governing the qualifications for a provisional teacher certificate must require that a certificate may only be issued to an applicant who meets the requirements of subsection 2-B, has successfully completed a student teaching experience of at least 15 weeks and:

A. For elementary school, has met academic and preprofessional requirements established by the state board for teaching at the elementary school level and has graduated from an accredited, degree-granting educational institution upon completion of:

- (1) A bachelor's degree from a 4-year accredited college or university;
- (2) A 4-year program in liberal arts and sciences; or
- (3) An approved 4-year teacher preparation program and has majored in the subject area to be taught or an interdisciplinary program in liberal arts;

B. For secondary school, has met academic and preprofessional requirements established by the state board for teaching at the secondary school level and has graduated from an accredited, degree-granting educational institution upon completion of:

- (1) A bachelor's degree from a 4-year accredited college or university;
- (2) A 4-year program in liberal arts and sciences; or
- (3) An approved 4-year teacher preparation program and has majored in the subject area to be taught;

C. Is otherwise qualified by having met separate educational criteria for specialized teaching areas, including, but not limited to, special education, home economics, agriculture, career and technical

education, art, music, business education, physical education and industrial arts, as established by the state board for teaching in these specialized areas; or

D. Has completed 6 credit hours of approved study within 5 years prior to application, has met entry-level standards and has held either a professional teacher certificate that expired more than 5 years prior to the application date or a provisional teacher certificate issued prior to July 1, 1988 that expired more than 5 years prior to the application date.

**Sec. B-5. Certification rules.** The State Board of Education shall amend its rules relating to certification of educators under the Maine Revised Statutes, Title 20-A, section 13012 to require that any person seeking an endorsement to teach kindergarten to grade 8 students must demonstrate proficiency in math and reading instruction, including evidence-based reading instruction. For the purposes of this section, "evidence-based reading instruction" means instructional practices that have been proven by systematic, objective, valid and peer-reviewed research to lead to predictable gains in reading achievement. The requirement must apply to all teachers and educational specialists, including teachers in special education and teachers of English language learners.

**Sec. B-6. Alternative certification working group.** The State Board of Education shall establish a working group to develop one or more alternative certification pathways that meet the standards set forth in the Maine Revised Statutes, Title 20-A, section 13011, subsection 6. Members of the State Board of Education shall participate in the working group, and the State Board of Education shall invite the participation of representatives of the Maine Education Association, the Maine School Superintendents Association, the Maine Principals' Association, the Maine School Boards Association, Maine Administrators of Services for Children with Disabilities and Maine Administrators of Career and Technical Education, representatives of approved educator preparation programs, parents and the business community and other interested parties. The working group shall submit a report describing one or more alternative certification pathways to the State Board of Education and the Commissioner of Education. The State Board of Education shall submit the report to the Joint Standing Committee on Education and Cultural Affairs no later than November 1, 2012. The report must include pathway descriptions, the working group's recommendations and any draft legislation or rules needed to implement the recommendations.

See title page for effective date.