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Date: January 10, 2025

Source of Report: Title 5 M.R.S. §11055(2), which requires the Maine Department of Education to file a biennial report with the Joint Standing Committee on Education and Cultural Affairs and describes the implementation of the Tribal-State Collaboration Act within the framework of the Department.

Topic: Tribal-State Collaboration Act Report

Context

This report is submitted pursuant to 5 M.R.S. §11055(2), which requires the Department of Education (DOE) to file biennial reports with this Committee describing our implementation of the Tribal-State Collaboration Act.

Background

In 2022, representatives of the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation, and the Governor’s Office negotiated the terms of legislation intended to expand economic opportunities for and improve the welfare of the Wabanaki Nations and their citizens, and to make structural changes in certain state agency decision-making to promote government-to-government dialogue with the Wabanaki Nations. That legislation, enacted as Public Law 2021, Chapter 681, contains three parts. First, it amends Maine’s tax laws both to provide financial benefits to Tribal citizens residing on Tribal lands, and to encourage economic development on Tribal lands. Second, it provides each of the four Wabanaki Nations located in Maine the exclusive opportunity to conduct mobile sports wagering operations within the state. Third, it establishes in law a Tribal-State collaboration process designed to promote meaningful communication on issues of particular significance to the Tribes and their citizens.

The Tribal-State Collaboration Act

The Tribal-State Collaboration Act, 5 M.R.S. §§11051 *et seq.*, requires 15 agencies identified in the statute to engage in a Tribal collaboration process regarding contemplated programs, rules, or services that substantially and uniquely affect Maine’s four federally recognized Tribes or their citizens. It is intended to be a user-friendly process free from unnecessary bureaucracy that will be implemented within existing resources.

Title 5 M.R.S. §§11053(1) requires each agency covered by the statute to adopt a collaboration policy. The Department of Education adopted its collaboration policy, which is appended to this report, on January 10, 2023. The Department's Tribal liaison, as required by 5 M.R.S. §§11053(3), is the Director of Special Projects.

Collaboration Policy

A core requirement of the Act is that each participating agency set forth the processes it will follow in order to carry out the provisions of the Act. The purpose of the Act is to promote respectful, government-to-government dialogue, and improve communication between state agencies and the Houlton Band of Maliseet Indians, the Mi'kmaq Nation, the Passamaquoddy Tribe, and the Penobscot Nation. The Act is intended to be implemented within existing resources and therefore should be administered in a way that is practical, user-friendly, and efficient. The goal is to ensure the Tribes are afforded a reasonable opportunity to be heard, in addition to the public process, during the development of programs, rules and services that substantially and uniquely affect them or their citizens, while minimizing administrative burdens for both state and tribal staff. This policy incorporates Tribal-State Collaboration Agency Guidance of November 29, 2022, which is attached as Appendix A, this report is submitted to update on actions since the previous report, which was submitted in January 2023, during the First Regular Session of the 131st Maine State Legislature to the Joint Standing Committee on Education and Cultural Affairs.

Actions

The Maine Department of Education has engaged in Tribal-State collaboration in multiple substantive ways since the submission of the previous report in 2022.

Maine Online Learning Opportunities for Sustained Education (MOOSE)

MOOSE offers a learning library of age-appropriate, project-based learning experiences. Modules are self-paced and offer variety and choice across grades, subjects, topics, and interests. MOOSE modules are aligned with the Maine Learning Results and Guiding Principles, are available for access anytime, anywhere, for no cost to educators, parents, or students. MOOSE is made possible by a collaboration of the DOE with curriculum coordinators, Maine educational community organizations, museums, learning centers, and our own Maine educators. The Maine Department of Education embraces a strategy of continuous improvement. To this end, we are working to continue development of and improvements to the MOOSE modules. For example, modules created in the first year of MOOSE are currently under revision. New modules are also under development. The DOE Interdisciplinary Instruction Team is currently mid-way through development of Wabanaki History and Culture within the MOOSE Modules. These exercises are under the stewardship of Penobscot Nation member Brianne Lolar and will be made available at no cost to educators throughout the state.

Diversity, Equity, and Inclusion Work

The Maine DOE has committed to support academic and non-academic programming that is culturally responsive and co-constructed with community members. We encourage curriculum leaders to review curricula and materials to ensure the resources are well-rounded, decolonized, and represent all experiences so that students can be engaged with rigorous curricula.

Within Wabanaki studies, diversity, equity, and inclusion work (DEI) focuses on equity and justice and the Native American Truth and Reconciliation Commission. The Maine DOE DEI Committee discussed the Native American Truth and Reconciliation Commission, and Maine DOE's Director of DEI delivered a workshop on Truth and Reconciliation on October 12, 2022. The hybrid in-person and Zoom workshop provided participants with an overview of social change, racial justice, and equity and inclusion as related to the experience of Maine Native Americans. Educational resources related to Tribal lands in Maine and the Wabanaki Alliance were shared to raise awareness of Wabanaki history and the national truth-seeking process that worked to uncover the truth about the off-reservation Indian boarding schools that confined Native American children away from their families of origin. Diversity, equity and inclusion work has been embedded in the MOOSE modules since the platform's creation in 2020.

Partnerships and Resources

The Maine Department of Education partners with many organizations throughout Maine to offer resources that supplement the traditional curriculum. These resources are developed with Tribal members and Maine teachers working collaboratively to develop age and culturally appropriate curriculum resources to Maine. Many of these materials meet the requirements of the *Maine Native American Studies Law* that was enacted in 2001. Other organizations providing educator resources include:

- The Abbe Museum
- Maine Memory Network
- Hudson Museum
- Penobscot nation Curriculum
- Maliseet-Passamaquoddy Language Resources
- The Maine Folklife Center

Instruction in American history, African American studies, Maine studies, Maine Native American history and the history of genocide

Instruction in American history, African American studies, government, citizenship, Maine studies and the history of genocide must be aligned with the parameters for essential instruction and graduation requirements established under [§6209](#). [PL 2021, c. 247, §1 (AMD); PL 2021, c. 247, §3 (AFF).]

As part of the Maine Department of Education’s commitment to supporting schools in the delivery of effective K-12 instructional programs, the State of Maine reviews the System of Learning Results on an on-going basis. Each of the eight content areas is reviewed every five years; the Social Studies state standards review was last completed in 2019. In 2022, Science and Social Studies state standards review cycles began.

Wabanaki representatives were included in the individual steering committees, with a team assembled for four days of writing that convened in the summer of 2023. Teachers from across the state shared their expertise with each other (how each standard is currently interpreted at their schools) as well as with the Wabanaki advisors. Wabanaki advisors brought their expertise (lived experiences, traditional ways of knowing, etc.) as well enabling meaningful additions to be made. With these collective understandings revisions were made to the science and social studies standards to better integrate Wabanaki studies in the summer of 2023.

The Maine State Legislature’s 131st Joint Standing Committee on Education and Cultural Affairs chose to maintain the existing science standards rather than adopt revised standards. The revised social studies standards are to be voted on in the 132nd Legislature.

Dozens of Wabanaki advisors continue to work collaboratively with the Department and educators to maintain and build resources to support revised standards. Relationships continue to be strengthened as we all work towards common goals.

Additionally, Brianne Lolar, Panawaphskek, citizen, was hired in the limited period position of Wabanaki Studies Specialist, which ends in June of 2025. A second pilot will begin in January 2025 for the seven modules as well as 20 educator guides. Additionally, over 20 Wabanaki advisors will be contracted to work collaboratively with the Wabanaki Studies Specialist as well as educators across the state through the end of June 2025

Recommendations

The Maine Department of Education has no recommendations for changes to the Tribal-State Collaboration Act.

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Appendix

Tribal-State Collaboration Policy, Established November 2022

Collaboration Required Staff shall engage in tribal collaboration regarding a contemplated program, rule or service that substantially and uniquely affects an Indian Tribe or its members. In determining whether a contemplated action triggers the need for collaboration, staff should consider whether it will have a meaningful and significant impact on an Indian Tribe or its members that is distinct from the general population. This will always be a subjective determination and should be informed by the Act's purpose of improving communication between the State and the Tribes. When in doubt, staff should consider whether some initial, informal communication with potentially affected Tribes would assist in making this determination. If the standard for collaboration is not met, but some communication with one or more Tribes would nonetheless be beneficial, staff should ensure that occurs. Decisions about whether and how to engage in collaboration should not be formalistic but should be driven by common sense and good judgement. The overarching goal is to increase and improve communication with the Tribes, rather than technical compliance with the Act for its own sake.

A. **The Process of Collaboration**

The Act requires the agency to provide the Tribes with written notice of the contemplated action, allow the Tribes a reasonable opportunity to provide information, advice and opinions on the contemplated action, and consider the comments it receives.

1. **Notice (sub-§ 11053(1)(D)(1)).** Once the determination has been made that collaboration is appropriate, the tribal liaison or project manager should email the point of contact that each of the four Tribes has provided for the purpose of collaboration. This email should explain that the agency is initiating the collaboration process, provide a description of the proposed action, identify the date within which comments are requested, and offer to answer any questions.
2. **Opportunity to Comment (sub-§ 11053(1)(D)(2)).** There is no statutorily required comment period for tribal collaboration. The schedule should take into account the nature of the proposed action, its relative complexity, the magnitude of its impact, the relative urgency to act, and other factors. The schedule may be extended or truncated as appropriate, depending on the level of interest the Tribes may express. Comments may be submitted in writing or provided orally in a meeting or via teleconference. The comment period and the manner in which information is exchanged should be flexible to accommodate the needs of tribal and state agency staff, and to promote

efficiency and good communication. The agency must use reasonable efforts to complete the process before taking final action.

3. **Consideration of Comments (sub-§ 11053(1)(D)(3)).** The agency must consider in good faith the information, advice, and opinions it receives from the Tribes in the course of collaboration. The agency is not required to provide a written response to submissions it receives from the Tribes, but it may choose to provide feedback, including informally, in the interests of respectful dialogue. The agency should include any written materials received or generated in the collaboration process in the record of its decision-making. To the extent the Tribes provide comments orally, the agency should prepare a memorandum summarizing those comments for its record.
4. **Collaboration in Rulemaking (sub-§§ 11053(1)(D) & (D)(4)).** In the context of rulemaking, agencies must engage in collaboration consistent with applicable provisions of the Administrative Procedures Act, 5 M.R.S. §§8051 *et seq.* (APA), as well as the Tribal-State Collaboration Act, 5 M.R.S. §§11051 *et seq.* The Act directs the agency to use reasonable efforts to complete collaboration before formal publication of a proposed rule pursuant to 5 M.R.S. §8053(5). Completing collaboration before publication of a proposed rule will also avoid procedural confusion that could arise from collaboration occurring at the same time as the public notice and comment process under the APA. If it is necessary to engage in collaboration following publication of the proposed rule, the agency should work closely with the Attorney General's Office to ensure compliance with both statutes.

In the context of emergency rulemaking pursuant to 5 M.R.S. §8054, the agency must provide notice and engage in collaboration to the extent practicable.

5. **Informing Agency Staff (sub-§11053(1)(E)).** The tribal liaison shall promote awareness of the Tribal-State Collaboration Act and this policy within the agency by conspicuously posting this policy on the agency's website and ensuring appropriate references are made to the policy in agency employment manuals and training materials.

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