**05**

**DEPARTMENT OF EDUCATION**

Maine Administrative Procedure Act

2014 Regulatory Agenda

August 11, 2014 *(with February, 2015 amendment adding Ch. 180)*

AGENCY UMBRELLA-UNIT NUMBER: **05-071**

AGENCY NAME: Department of Education, **Office of the Commissioner**

**RULE-MAKING LIAISON**: Deborah Friedman, Rules Contact, Maine Department of Education, 23 State House Station, Augusta, ME 04333-0023, Telephone: (207) 624-6620. E-mail: [Deborah.Friedman@Maine.gov](mailto:Deborah.Friedman@Maine.gov) .

**EMERGENCY RULES ADOPTED SINCE THE LAST REGULATORY AGENDA**: None from October 19, 2013 through August 11, 2014

**CONSENSUS-BASED RULE DEVELOPMENT:** Rule Ch. 132 may undergo a consensus-based process.

**EXPECTED 2014-2015 RULE-MAKING ACTIVITY:**

**CHAPTER 4**: Equal Educational Opportunity

**A JOINT RULE** **WITH THE MAINE HUMAN RIGHTS COMMISSION 94-348**

STATUTORY AUTHORITY: 5, M.R.S.A. §§ 4566(7), 4603

PURPOSE: Review / revise rules which govern claims of unlawful educational discrimination filed with the Maine Human Rights Commission to conform with changes in the Maine Human Rights Act and Commission rules.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Local school administrative units and private schools, students, teachers, administrators, and all parties appearing before the Maine Human Rights Commission.

**CHAPTER 13**: Qualifying Examinations for Teachers, Educational Specialists and Administrators

STATUTORY AUTHORITY: 20-A, M.R.S.A. §13038

PURPOSE: Review/Revise rules regarding the qualifying examination test codes and/or required scores for educators.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: School personnel seeking certification under the qualifying exam.

**CHAPTER 14**: Regulations Regarding School Board Policies on Exceptions to the General Residency Rules, and Education of Homeless Students; Education Access for Homeless Students

STATUTORY AUTHORITY: 20-A, M.R.S.A. §§ 261 and 5205(7)

PURPOSE: Review/Revise rules to ensure consistency with federal law and regulations.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Local school administrative units, homeless students and their families.

**CHAPTER 21**: Secular Textbooks and Services to Private School Pupils **-** *REPEAL*

STATUTORY AUTHORITY: 20-A, M.R.S.A. §15613(4)

PURPOSE: Repeal rules governing reimbursement of school administrative units for the cost of providing secular text books and services to private school pupils, since statutory provisions have been repealed.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Local school administrative units and private schools.

**CHAPTER** **23**: Collection of Staff Information - *REPEAL*

STATUTORY AUTHORITY: 20, M.R.S.A., §§ 104, 967, 1753

PURPOSE: Repeal rules regarding collection of staff information, since statutory provisions have been repealed.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Local school administrative units and school personnel.

**CHAPTER** **25**: Administration of Special Education Adjustments; Definition of Budgetary Hardship - *REPEAL*

STATUTORY AUTHORITY: 20-A, M.R.S.A. §15612

PURPOSE: Repeal rules regarding special education adjustment for budgetary hardship under prior school funding laws, since statutory provisions have been repealed.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Local school administrative units and students.

**CHAPTER 27**: Rules for Determining Geographic Isolation Status **-** *REPEAL*

STATUTORY AUTHORITY: 20-A, M.R.S.A. §15612, sub-section 2

PURPOSE: Repeal rules governing the determination of geographic isolation and the subsidy adjustment for certain school administrative units under prior school funding laws, since statutory provisions have been repealed.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Local school administrative units and students.

**CHAPTER 40:** Rule for Medication Administration in Maine Schools - **Major Substantive Rule**

STATUTORY AUTHORITY: 20-A, M.R.S.A. §254(5)(A-C); Public Law 2013, chapter 526,

PURPOSE: Review/Revise rules, in consultation with the Department of Health and Human Services, to include guidelines and emergency administration for epinephrine autoinjectors.

ANTICIPATED SCHEDULE: By December 1, 2015

AFFECTED PARTIES: Local school administrative units, school nurses and students.

**CHAPTER 45:** Rule for Vision and Hearing Screening in Maine Schools

STATUTORY AUTHORITY: 20-A, M.R.S.A. §6451, §6455, sub-section 5

PURPOSE: Repeal/Replace rules regarding vision, and hearing screening and body mass index data in public and approved private schools.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Local school administrative units, approved private schools, school nurses and students.

**CHAPTER 52**: School Nutrition Program Eligibility Verification Program **-** *REPEAL*

STATUTORY AUTHORITY: 20-A, M.R.S.A. §6602(5)

PURPOSE: Repeal rules governing school nutrition program eligibility, since the authority for verification now occurs at the local school administrative unit level.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Local school administrative units, approved private schools and students.

**CHAPTER 58**: Child Nutrition Programs in Child Care Centers and Recreational Centers and Camps **-** *REPEAL*

STATUTORY AUTHORITY: 20-A, M.R.S.A. §6602(5)

PURPOSE: Repeal rules governing child nutrition programs in child care centers, recreation centers, and camps since the program is now operated by the Department of Health and Human Services under their rules.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Children in child care centers, recreation centers, and camps.

**CHAPTER 60:** New School Siting Approval—**Major Substantive Rule**

STATUTORY AUTHORITY: P.L. 1999 Ch. 776 §21 (Unallocated Language)

PURPOSE: Review/revise rules governing regarding the siting of all new school construction projects that receive State funding.

ANTICIPATED SCHEDULE:Provisionally adopted and filed with the Legislature by January 9, 2015.

AFFECTED PARTIES: Local school administrative units who seek site approval for a new school construction project that receives State funding.

**CHAPTER 61:** Rules for Major Capital School Construction Projects – **Major Substantive Rule**

STATUTORY AUTHORITY: 20-A, M.R.S.A. §§15905(4)

PURPOSE: Review/Revise rules governing major capital school construction projects to eliminate redundancy with Rule Ch. 60: New School Siting Approval and to update the rule to conform to current practices.

ANTICIPATED SCHEDULE: Provisionally adopted and filed with the Legislature by January 9, 2015.

AFFECTED PARTIES: Local school administrative units and students.

**CHAPTER 64:** Maine School Facilities Program and School Revolving Renovation Fund **- Major Substantive Rule**

**A JOINT RULE WITH THE MAINE MUNICIPAL BOND BANK 94-376**

STATUTORY AUTHORITY: 20-A, M.R.S.A. §§1, 4001, 5804, 5805, 15603, 15907, 15918; 30-A, M.R.S.A. §§5953-E, 6006-E, 6006-F, 6014; Resolve 2007, Ch. 174; Public Law 2013, Ch. 506

PURPOSE: Review/Revise rules to remove provisions related to the school facilities maintenance template and software due to the statutory changes enacted through LD 1805 (Public Law 2013 Ch. 506.)

ANTICIPATED SCHEDULE: Pursuant to Public Law 2013, chapter 506, section 19,these changes will be made in a routine technical rulemaking process. Intended for final adoption by January 1, 2015. .

AFFECTED PARTIES: Local school administrative units and students.

**CHAPTER 81:** Uniform School Bus Standards for Pupil Transportation in Maine

STATUTORY AUTHORITY: 29-A, M.R.S.A. subsection 2311

PURPOSE: Repeal/Replace rule governing requirements for Maine school bus regulations, school

bus purchase approval, school bus construction standards/specifications, body types, and school

bus driver physical examination since these standards are outdated.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Local school administrative units, bus vendors and students.

**CHAPTER 101:** Maine Unified Special Education Regulation – **Major Substantive Rule**

STATUTORY AUTHORITY: 20-A, M.R.S.A., §7005 (1); Resolve 2013, chapter 70

PURPOSE: Review/Revise rule to bring clarity to the rule, to address new federal interpretations of the Individuals with Disabilities Education Act, to establish a process for the department to review sending school units with respect to children with disabilities who reside within a school administrative unit that does not own, lease or otherwise operate any school who attend receiving schools, and to correct gaps in the rule.

ANTICIPATED SCHEDULE: Provisionally adopted and filed with the Legislature by January 9, 2015.

AFFECTED PARTIES: Special education programs and services for eligible infants, toddlers, and children from birth through age 20, school administrative units, and private schools.

**CHAPTER 115**: Certification, Authorization and Approval of Education Personnel - **Major Substantive Rule**

STATUTORY AUTHORITY: 20-A, M.R.S.A., Ch. 502

PURPOSE: Review/Revise rules regarding the certification of educational personnel Part I: Standards and Procedures for Certification, Authorization, and Approval and Part II: Requirements for Specific Certificates and Endorsements as needed, including to correct an omission in the most recent rulemaking language relating to certification of career and technical education professionals.

ANTICIPATED SCHEDULE: Provisionally adopted and filed with the Legislature by January 9, 2015.

AFFECTED PARTIES: Educational Personnel seeking certification, authorization and approval or re-certification, re-authorization, and re-approval.

**CHAPTER 120**: Innovative Education Grants - *REPEAL*

STATUTORY AUTHORITY: 20-A, M.R.S.A. §§17101-17104

PURPOSE: Repeal rules governing Innovative Education grants since the grant has not been funded for several years and the statutory provisions have been repealed.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: None.

**CHAPTER 125**: Basic Approval Standards: Public Schools and School Administrative Units

**A JOINT RULE WITH THE MAINE STATE BOARD OF EDUCATION**

STATUTORY AUTHORITY: 20-A, M.R.S.A., Ch. 206

PURPOSE: Review/Revise rule that establishes school approval standards governing school administrative units and public schools of the State to reflect changes in State law.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: All local school administrative units and students.

**CHAPTER 127**: Instructional Program, Assessment and Diploma Requirements – **Major Substantive Rule**

STATUTORY AUTHORITY: 20-A, M.R.S.A., Ch. 207-A and Ch. 222; PL 2011, Ch. 669; 20-A M.R.S.A. §253(9); Resolve 2013, Ch. 38

PURPOSE: Review/Revise the rule that prescribes the basic instructional and assessment requirements to reflect changes in State law, including but not limited to the awarding of a proficiency-based high school diploma, and a provision that the high school graduation requirements in the area of visual and performing arts may be met by completion of a credit in dance, music, theater, forensics or visual arts.

ANTICIPATED SCHEULE: Provisionally adopted and filed with the Legislature by January 9, 2015.

AFFECTED PARTIES: All local school administrative units and students.

**CHAPTER 132:** Learning Results: Parameters for Essential Instruction – **Major Substantive Rule**

STATUTORY AUTHORITY: 20-A, M.R.S.A. §6211

PURPOSE: Review/Revise the rule to incorporate revised English Language Arts, Mathematics and Science Standards into the state standards.

ANTICIPATED SCHEDULE: Provisionally adopted and filed with the Legislature by January 9, 2015.

AFFECTED PARTIES: Local school administrative units and students.

*Amendment added February, 2015:*

**CHAPTER 180**: Performance Evaluation and Professional Growth Systems - **Major Substantive Rule**

STATUTORY AUTHORITY: Title 20-A MRSA §13706

PURPOSE: Review/Revise rules to implement the requirements for creating a performance evaluation and professional growth system for teachers and principals addressing federal US Department concerns in order to be in compliance with the federal Elementary and Secondary Education Act of 1965.

ANTICIPATED SCHEDULE: Emergency Adoption by March 15, 2015

AFFECTED PARTIES: Local school administrative units, educational personnel, and students.

**CHAPTER 221**: Adult Education Administrative Cost Reimbursement

STATUTORY AUTHORITY: 20, M.R.S.A. Ch. 308-A, §§ 2386, 2390, 20-A, M.R.S.A. §8602

PURPOSE: Review/Revise rule to reflect changes in state statute.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Local adult education programs and students.

**CHAPTER 225:** Adult Education High School Completion Programs

STATUTORY AUTHORITY: 20-A, M.R.S.A. §§ 257, 8602

PURPOSE: Review/Review rule to reflect changes in state statute and federal guidelines.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Local adult education programs and students.

**CHAPTER 229:** Adult Education Fees

STATUTORY AUTHORITY: 20, M.R.S.A. Ch. 308, Section 2388, 20-A, M.S.R.A. §§ 8601-8609

PURPOSE: Review/Review rule to reflect changes in state statute.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Local adult education programs and students.

**CHAPTER 230:** Adult Education Program Requirements

STATUT.ORY AUTHORITY: 20, M.R.S.A. Ch. 230, Section 2384, Subpart 1

20-A, M.R.S.A. §§ 8601-8609

PURPOSE: Review/Review rule to reflect changes in state statute.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Local adult education programs and students.

**CHAPTER 231**: Vocational Program and Funding Procedure

STATUTORY AUTHORITY: 20-A, M.R.S.A., Ch. 313, §8306-B; PL 2011, Ch. 679

PURPOSE: Repeal and replace the rule to change the title to reflect Career and Technical Education Programs and to update the rule with regard to career and technical education program approval and funding based on national industry standards and assessments.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: All school administrative units and students.

**CHAPTER 232:** Standard Criteria for Maine Secondary Vocational Programs

STATUTORY AUTHORITY: 20-A, M.R.S.A. §8306-B; PL 2011, Ch. 679

PURPOSE: Repeal and replace the rule to change the title to reflect Career and Technical Education Programs and to update the rule with regard to career and technical education program(s) and courses based on national industry standards and assessments

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: All school administrative units and students.

**CHAPTER 236**: Program (Vocational Education) Evaluation Requirements

STATUTORY AUTHORITY: 32, M.R.S.A. §8306-B; PL 2011, Ch. 679

PURPOSE: Repeal and replace the rule to change the title to reflect Career and Technical Education Programs and to update the rule with regard to program evaluation requirements for Career and Technical Education programs based on national industry standards and assessments.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: All school administrative units and students.

**CHAPTER 237**: "Live or Outside Work"

STATUTORY AUTHORITY: 20-A, M.R.S.A. §8306-B; PL 2011, Ch. 679

PURPOSE: Repeal and replace the rule to change the title to reflect Career and Technical Education Programs and to update the rule with regard to requirements for Career and Technical Education Live or Outside Work Programs based on national industry standards and assessments.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: All school administrative units and students.

**CHAPTER 245**: Standards for Education Programming for Certified Nursing Assistants - *REPEAL*

STATUTORY AUTHORITY: 32, M.R.S.A. §2104(4)(C); PL 2009, Ch. 628

PURPOSE: Repeal the Department of Education rule that authorizes the department to establish a minimum standard for training in programs that prepare Certified Nursing Assistants, since statutory authority has been transferred to the Department of Health and Human Services.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Certified Nursing Assistants and Certified Nursing Assistants training institutions.

**NEW RULES**

**NEW RULE:** Retention and Graduation Rates for Maine’s Colleges and Universities

STATUTORY AUTHORITY: PL 2011, Ch. 232; 20-A, M.R.S.A., §10011

PURPOSE: May develop any necessary rules to carry out the provisions of statute.

ANTICIPATED SCHEDULE: As necessary

AFFECTED PARTIES: Department of Education and Maine’s colleges and universities.

**NEW RULE:** Basic Approval Standards: Public Preschool Programs

**A JOINT RULE WITH THE MAINE STATE BOARD OF EDUCATION**

STATUTORY AUTHORITY: 20-A M.R.S.A., §405(3)(E), §4502(5), Public Law 2013, Ch. 581

PURPOSE: Develop rules to establish school approval standards governing the school administrative units which operate public preschool programs and adopt procedures for ascertaining compliance with all applicable legal requirements.

ANTICIPATED SCHEDULE: June 1, 2015

AFFECTED PARTIES: Local school administrative units and students.

**NEW RULE:** Rule Governing the Child Development Services State Intermediate Educational Unit’s Contracting for Evaluations, Early Intervention Services, and Special Education and Related Services

STATUTORY AUTHORITY: PL 2011, Ch. 616, *An Act to Implement the Recommendations of the Office of Program Evaluation and Government Accountability and the Government Oversight Committee Regarding Quasi-independent State Entities*

PURPOSE: Develop rules to implement the process whereby the Child Development Services State Intermediate Educational Unit establishes a roster of independent contractors for the provision of evaluation and services for children ages 0-5 and ensures the provision of services in accordance

with the contracts developed with independent contractors selected from the roster. (Rules required to implement PL 2011)

ANTICIPATED SCHEDULE: June 1, 2015

AFFECTED PARTIES: Providers in private practice. For example: speech language pathologists, physical therapists, occupational therapists, psychologists, private special purpose pre-school programs, etc.

**NEW RULE**: School Bus Safety and Security

STATUTORY AUTHORITY: 20-A, M.R.S.A. §5401(17), 29-A, M.R.S.A. §2303(1.C and 4), §2304(1.E), and §2311

PURPOSE: Develop updated rules governing school bus safety and security provisions.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Local school administrative units and students.

**NEW RULE**: School Bus Purchase Program

STATUTORY AUTHORITY: 20-A, M.R.S.A. §5401(17) §5402, §15681-A, and §15689-A, 29-A, M.R.S.A. §2311

PURPOSE: Develop updated rules governing requirements for school bus purchase approval.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Local school administrative units and students.

**NEW RULE**: School Bus Operator Requirements

STATUTORY AUTHORITY: 20-A, M.R.S.A. §5401(17), 29-A, M.R.S.A. §2303 and §2311

PURPOSE: Develop updated rules governing school bus driver requirements.

ANTICIPATED SCHEDULE: By June 1, 2015

AFFECTED PARTIES: Local school administrative units, students, medical examiners and school bus drivers.