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**Maine Administrative Procedure Act
2021-2022 Regulatory Agenda
July 8, 2021**

AGENCY UMBRELLA-UNIT NUMBER: 05-071

AGENCY NAME: Department of Education, Office of the Commissioner

RULE-MAKING LIAISON: Jaci Holmes, Rules Contact, Maine Department of Education, 23 State House Station, Augusta, ME 04333-0023, Telephone: (207) 624-6669, Cell;207-831-3168

EMERGENCY RULES ADOPTED SINCE THE LAST REGULATORY AGENDA: Chapter 125: Basic Approval Standards: Public Schools and School Administrative Units, August 2020

CONSENSUS-BASED RULE DEVELOPMENT: One was done during 2020 for Chapter 115: Credentialing of Education Personnel

EXPECTED 2021-2022 RULE-MAKING ACTIVITY:

CHAPTER 4-A: Procedural Rule: Equal Educational Opportunity

STATUTORY AUTHORITY: 5 M.R.S.A. §4603, Joint rule with the Human Rights Commission

PURPOSE: Revise to change the tern handicap pursuant to PL 2021, Chapter 348.

ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: School personnel who file claims regarding unlawful discrimination.

CHAPTER 013: Qualifying Examinations for Teachers, Educational Specialists and Administrators - **REPEAL**

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

PURPOSE: Repeal rules regarding the qualifying examination test codes and/or required scores for educators since the cut scores change every year, there needs to be a more efficient way to post the scores. Revise to discontinue the use of hearing impaired pursuant to PL 2021, Chapter 348

ANTICIPATED SCHEDULE: By July 1, 2022

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

CHAPTER 014: Education of 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 July 1, 2022

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

CHAPTER 18: Rules for the Licensure of Residential Child Care Facilities

STATUTORY AUTHORITY: Title 22, §8104 Joint Rule with DHHS

PURPOSE: Review/Revise rules to ensure consistency with state law pursuant to PL 2021, Chapter 348 regarding the term handicap and hearing impaired.

ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: Residential child care facilities

CHAPTER 026: Rules Relating to Reorganization of School Administrative Districts

STATUTORY AUTHORITY: 20-A, M.R.S.A. §1511-1512

PURPOSE: Review/Revise rules regarding school closing issues since referenced statutory provisions have been repealed.

ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: Local school administrative units.

CHAPTER 33: Rule Governing Physical Restraint and Seclusion – **Major Substantive Rule**

STATUTORY AUTHORITY: 20-A MRSA §4502(5)(M); Resolves 2013 ch. 8

PURPOSE: Review/Revise rules regarding physical restraints and seclusion.
ANTICIPATED SCHEDULE: By July 1, 2022
AFFECTED PARTIES: Local school administrative units.

CHAPTER 040: Rule for Medication Administration in Maine Schools – Major Substantive Rule

STATUTORY AUTHORITY: 20-A, M.R.S.A. §254(5)
PURPOSE: Review/Revise rules regarding use of sunscreen in schools as the result of LD 441 and LD 772.
ANTICIPATED SCHEDULE: By July 1, 2022
AFFECTED PARTIES: Local school administrative units.

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

STATUTORY AUTHORITY: 20-A, M.R.S.A. §6401-A and 6451(2)(A)
PURPOSE: Review/Revise rules regarding the term hearing impaired pursuant to PL 2021, Chapter 348.
ANTICIPATED SCHEDULE: By July 1, 2022
AFFECTED PARTIES: Local school administrative units.

CHAPTER 60: New School Siting Approval

STATUTORY AUTHORITY: P.L. 1999 c. 776, §21
PURPOSE: Review/Revise rules regarding HVAC systems in schools to LD 705
ANTICIPATED SCHEDULE: By July 1, 2022
AFFECTED PARTIES: Local school administrative units.

Chapter 61: State Board of Education Rules for Major Capital School Construction Projects - Major Substantive Rule

STATUTORY AUTHORITY: 20-A M.R.S.A. §3, §405(3)(J), §15905, sub-§4, P.L. 2001, c. 439, Part 0000, §0000-3, P.L. 2007, c. 240, Part MM, Chapter 103-A, P.L. 2008, c.223
PURPOSE: Review/Revise rules regarding the term handicap pursuant to PL 2021, Chapter 348.
ANTICIPATED SCHEDULE: By July 1, 2022
AFFECTED PARTIES: Local school administrative units.

CHAPTER 84: School Bus Refurbishment Program

STATUTORY AUTHORITY: 20-A MRS § 5401(17)
PURPOSE: Repeal as the State Maine Military Authority no longer refurbishes school buses.
ANTICIPATED SCHEDULE: By July 1, 2022
AFFECTED PARTIES: Local school administrative units

CHAPTER 85: School Bus Purchase Program

STATUTORY AUTHORITY: 20-A MRS §5401(17)
PURPOSE: Need to strike Section 1 of this chapter where the School Bus Refurbishment Program is mentioned.
ANTICIPATED SCHEDULE: By July 1, 2022
AFFECTED PARTIES: Local school administrative units

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: Revise rule and revise the term hearing impaired pursuant to PL 2021, Chapter 348.
ANTICIPATED SCHEDULE: Provisionally adopted and filed with the Legislature by January 7, 2022.
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 104: Educational Programs for Gifted and Talented Children

STATUTORY AUTHORITY: 20-A MRS Section 8108 et seq. and Section 15603, subsection 22(c)
PURPOSE: Review and revise rules establishes the gifted and talented education program standards governing each school administrative unit in the state. Revise the term handicap pursuant to PL 2021, Chapter 348.
ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: Local school administrative units

CHAPTER 114: Purpose, Standards and Procedures for the Review and Approval of Preparation Programs for Education Personnel

STATUTORY AUTHORITY: 20-A, M.R.S.A. Sections 8, 402(4), 405(3)(F) and 406

PURPOSE: Review/Revise rules regarding teacher education program approval and revise the term hearing impaired pursuant to PL 2021, Chapter 348.

ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: Educational personnel preparation programs, educational personnel in training.

CHAPTER 115: Certification, Authorization and Approval of Education Personnel - **Major Substantive Rule**
STATUTORY AUTHORITY: 20-A, M.R.S.A., Chapter 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, to reflect statutory changes. *When proposing any revisions consideration should be given to provisions of LD 1189, now PL.2021, Chapter 228.* Revise the term hearing impaired pursuant to PL 2021, Chapter 348.

ANTICIPATED SCHEDULE: Provisionally adopted and filed with the Legislature by January 7, 2022.

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

CHAPTER 119: Adjudicatory Proceedings on Certification Issues

STATUTORY AUTHORITY: 20-A MRS §13011(4); 5 MRS §8051

PURPOSE: Review and revise rules regarding the procedures for the conduct of formal adjudicatory hearings pertaining to applications for the issuance or renewal of any certificate or endorsement which has been tentatively denied by the Commissioner.

ANTICIPATED SCHEDULE: by July 2022

AFFECTED PARTIES: School personnel seeking certification

CHAPTER 122: Grant Application and Award Procedure: Fund for the Efficient Delivery of Educational Services – **Major Substantive Rule**

STATUTORY AUTHORITY: 20-A M.R.S.A. §2651(5)

PURPOSE: Review/Revise rules

ANTICIPATED SCHEDULE: Provisionally adopted and filed with the Legislature by January 7, 2022.

AFFECTED PARTIES: All local school administrative units and students.

CHAPTER 124: Basic School Approval: Public Preschool Programs

STATUTORY AUTHORITY: 20-A M.R.S.A. §4271(4)

PURPOSE: Review/Revise rules

ANTICIPATED SCHEDULE: Provisionally adopted and filed with the Legislature by January 7, 2022.

AFFECTED PARTIES: All local school administrative units and students.

CHAPTER 125: Basic School Approval: Public Schools And School Administrative Units – **Major Substantive Rule**
STATUTORY AUTHORITY: 20-A M.R.S.A. §4502(5)

PURPOSE: Review/Revise rules to address HVAC system pursuant to LD 705

ANTICIPATED SCHEDULE: Provisionally adopted and filed with the Legislature by January 7, 2022.

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

PURPOSE: Review/Revise the rule that prescribes the basic instructional and assessment requirements to reflect changes in State law, to include guidelines and protocols to strengthen the capacity of school administrative units

to ensure sufficient opportunity through multiple pathways for all students to meet the content standards and guiding principles under Maine's Learning Results.

ANTICIPATED SCHEDULE: Provisionally adopted and filed with the Legislature by January 7, 2022.

AFFECTED PARTIES: All local school administrative units and students.

CHAPTER 128: Truants and Drop-outs Guidelines Repeal

STATUTORY AUTHORITY: Was 20 MRS §911 does not exist. The new relevant statute, 20-A Chapter 211 has sufficient detail.

PURPOSE: Repeal the existing Chapter 128 as the current statute has sufficient detail and the former rule is not consistent with the new statute.

ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: Local school administrative units

CHAPTER 131: The Maine Federal, State and Local Accountability Standards – Major Substantive Rule

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

PURPOSE: Review/Revise the rule to update any necessary changes.

ANTICIPATED SCHEDULE: Provisionally adopted and filed with the Legislature by January 7, 2021.

AFFECTED PARTIES: Local school administrative units and students.

CHAPTER 138: State Accreditation Standards and Processes

STATUTORY AUTHORITY: 20-A MRS §§4511-4516

PURPOSE: Review and revise rules which establish standards for accreditation of elementary, middle/junior high, secondary, and vocational schools.

ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: Local school administrative units

CHAPTER 147: Rules for the Licensing of Privately Owned Business, Trade and Technical Schools – Proprietary Schools

STATUTORY AUTHORITY: 20-A MRS, Chapter 323

PURPOSE: Review and revise the rule which details the criteria to be met by any privately owned business, trade, and technical school to obtain a license to do business in the State of Maine.

ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: Privately owned business, trade, and technical school

CHAPTER 149: Procedures for Obtaining Authorization for Institutions of Higher Education to Confer Academic Degrees or to Offer Degree Courses/Programs in the State of Maine

STATUTORY AUTHORITY: 20-A MRS, Chapter 409, §§10701-10710

PURPOSE: Review and revise the rules which include procedures for obtaining authorization for institutions of higher education to confer academic degrees or to offer degree courses/programs in the State of Maine

ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: Institutions of higher education

CHAPTER 150: Rules for Licensing Privately Owned Correspondence Schools

STATUTORY AUTHORITY: 20-A MRS, Chapter 321

PURPOSE: Review and revise rules which are utilized in licensing privately owned correspondence schools.

ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: Privately owned correspondence schools.

CHAPTER 161: Purchase and Storage of Hazardous Chemicals

STATUTORY AUTHORITY: 20-A MRS §15613(14)

PURPOSE: Review and revise this joint rule which establishes standards for the purchase and storage of hazardous chemicals in all public schools of the state.

ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: Public schools

Chapter 170: Standards for Evaluating Requests for Degree-Granting Authorizations and for Out of State Postsecondary Institutions Seeking to Offer Academic Credit Courses/Programs in Maine
STATUTORY AUTHORITY: 20-A MRSA § 10710

PURPOSE: Review and revise as necessary

ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: Post secondary institutions

CHAPTER 221: Adult Education Administrative Cost Reimbursement

STATUTORY AUTHORITY: Title 20-A MRS §8602

PURPOSE: Review and revise to change the recruiter to navigator

ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: Adult education administrative costs for which school administrative units, regions and centers may claim reimbursement.

CHAPTER 225: Adult Education High School Completion Programs

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

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

ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: Local adult education programs and students.

CHAPTER 229: ADULT EDUCATION FEES

STATUTORY AUTHORITY: Section 2388; 20-A MRS §§ 8602

PURPOSE: Review and revise to address how the compensation works with out of school youth and the SAU of the adult education program who serves the youth.

ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: This rule provides clarification about the collection and utilization of fees in adult education programs.

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

STATUTORY AUTHORITY: 20-A, M.R.S.A., Chapter 313, §8306-B; PL 2011, Chapter 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. Revise the term handicap pursuant to PL 2021, Chapter 348.

ANTICIPATED SCHEDULE: By July 1, 2022

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, Chapter 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. Revise the term handicap pursuant to PL 2021, Chapter 348.

ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: All school administrative units and students.

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

STATUTORY AUTHORITY: 32, M.R.S.A. §8306-B; PL 2011, Chapter 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 July 1, 2022

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, Chapter 679

PURPOSE: Review/Revise 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 July 1, 2022

AFFECTED PARTIES: All school administrative units and students.

NEW RULES

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

STATUTORY AUTHORITY: PL 2011, Chapter 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: 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, Chapter.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: By July 1, 2022

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: Equivalent Criminal History Background Checks for Out of State Schools Eligible for Maine Tuition Assistance

STATUTORY AUTHORITY: PL 2019, Chapter 114

PURPOSE: Establish a new rule to determine the equivalency of criminal history background checks for out of state teaching staff.

ANTICIPATED SCHEDULE: By July 1, 2022

AFFECTED PARTIES: Out of state schools eligible for Maine Tuition Assistance.

NEW RULE: Rules for Guidelines for School Counselors and School Social Workers - **MAJOR SUBSTANTIVE RULE**

STATUTORY AUTHORITY: PL 2019, Chapter 45

PURPOSE: Establish a new rule to create guidelines regarding the duties at least 80% of time of school counselors and school social workers providing direct services to and indirect services on behalf of students including for delivery of a comprehensive school counseling program.

ANTICIPATED SCHEDULE: Provisionally adopted and filed with the Legislature by January 7, 2022.

AFFECTED PARTIES: All school administrative units, school counselors and school social workers, and students

NEW RULE: Rules Governing Alternative Breakfast Delivery Services - **Routine Technical Rules**

STATUTORY AUTHORITY: PL 2019, Chapter 556

PURPOSE: Establish a new rule for an application process and to adopt standards to address evaluation criteria based on need for funding assistance for alternative breakfast delivery services in school administrative units as well as procedures to track health and academic outcomes by data collection of students and schools that participate in alternative breakfast delivery services.

ANTICIPATED SCHEDULE: By July 1, 2022 (No definite date listed in the Public Law to do rulemaking)

AFFECTED PARTIES: All school administrative units and students

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Wismer, Don

From: Holmes, Jaci
Sent: Thursday, July 8, 2021 4:37 PM
To: Makin, Pender; Chuhta, Daniel; Fortin, Chelsey A; Deveaux, Kelli; Mckay, Danielle; Wismer, Don
Subject: 2021-2022 Regulatory Agenda FINAL
Attachments: 2021-2022 Regulatory Agenda.7.8.2021docx.docx
Importance: High

Don,
Attached is the Maine Department of Education 2021-2022 Regulatory Agenda due today, the statutory deadline, which has been reviewed by the Commissioner's team this afternoon.
Danielle McKay will file with Legislative Council, as well.

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