

1 M.R.S. § 400

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

***Maine Revised Statutes Annotated by LexisNexis® > TITLE 1. General Provisions (Chs. 1 — 33)
> CHAPTER 13. Public Records and Proceedings (Subchs. 1 — 4) > SUBCHAPTER 1. Freedom of Access (§§ 400 — 414)***

§ 400. Short title

This subchapter may be known and cited as “the Freedom of Access Act.”

History

Section History

PL 2011, c. 662, §1 (NEW).

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1 M.R.S. § 401

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

Maine Revised Statutes Annotated by LexisNexis® > TITLE 1. General Provisions (Chs. 1 — 33) > CHAPTER 13. Public Records and Proceedings (Subchs. 1 — 4) > SUBCHAPTER 1. Freedom of Access (§§ 400 — 414)

§ 401. Declaration of public policy; rules of construction

The Legislature finds and declares that public proceedings exist to aid in the conduct of the people's business. It is the intent of the Legislature that their actions be taken openly and that the records of their actions be open to public inspection and their deliberations be conducted openly. It is further the intent of the Legislature that clandestine meetings, conferences or meetings held on private property without proper notice and ample opportunity for attendance by the public not be used to defeat the purposes of this subchapter.

This subchapter does not prohibit communications outside of public proceedings between members of a public body unless those communications are used to defeat the purposes of this subchapter.

This subchapter shall be liberally construed and applied to promote its underlying purposes and policies as contained in the declaration of legislative intent.

History

Section History

PL 1975, c. 483, §1 (AMD). PL 1975, c. 758 (RPR). PL 2011, c. 320, Pt. B, §1 (AMD).

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1 M.R.S. § 402

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

Maine Revised Statutes Annotated by LexisNexis® > TITLE 1. General Provisions (Chs. 1 — 33) > CHAPTER 13. Public Records and Proceedings (Subchs. 1 — 4) > SUBCHAPTER 1. Freedom of Access (§§ 400 — 414)

§ 402. Definitions

1. Conditional approval. Approval of an application or granting of a license, certificate or any other type of permit upon conditions not otherwise specifically required by the statute, ordinance or regulation pursuant to which the approval or granting is issued.

1-A. Legislative subcommittee. “Legislative subcommittee” means 3 or more Legislators from a legislative committee appointed for the purpose of conducting legislative business on behalf of the committee.

2. Public proceedings. The term “public proceedings” as used in this subchapter means the transactions of any functions affecting any or all citizens of the State by any of the following:

A. The Legislature of Maine and its committees and subcommittees;

B. Any board or commission of any state agency or authority, the Board of Trustees of the University of Maine System and any of its committees and subcommittees, the Board of Trustees of the Maine Maritime Academy and any of its committees and subcommittees, the Board of Trustees of the Maine Community College System and any of its committees and subcommittees;

C. Any board, commission, agency or authority of any county, municipality, school district or any regional or other political or administrative subdivision;

D. The full membership meetings of any association, the membership of which is composed exclusively of counties, municipalities, school administrative units or other political or administrative subdivisions; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities;

E. The board of directors of a nonprofit, nonstock private corporation that provides statewide noncommercial public broadcasting services and any of its committees and subcommittees;

F. Any advisory organization, including any authority, board, commission, committee, council, task force or similar organization of an advisory nature, established, authorized or organized by law or resolve or by Executive Order issued by the Governor and not otherwise covered by this subsection, unless the law, resolve or Executive Order establishing, authorizing or organizing the advisory organization specifically exempts the organization from the application of this subchapter; and

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G. The committee meetings, subcommittee meetings and full membership meetings of any association that:

- (1) Promotes, organizes or regulates statewide interscholastic activities in public schools or in both public and private schools; and
- (2) Receives its funding from the public and private school members, either through membership dues or fees collected from those schools based on the number of participants of those schools in interscholastic activities.

This paragraph applies to only those meetings pertaining to interscholastic sports and does not apply to any meeting or any portion of any meeting the subject of which is limited to personnel issues, allegations of interscholastic athletic rule violations by member schools, administrators, coaches or student athletes or the eligibility of an individual student athlete or coach.

3. Public records. The term “public records” means any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business, except:

- A.** Records that have been designated confidential by statute;
- B.** Records that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding;
- C.** Legislative papers and reports until signed and publicly distributed in accordance with legislative rules, and records, working papers, drafts and interoffice and intraoffice memoranda used or maintained by any Legislator, legislative agency or legislative employee to prepare proposed Senate or House papers or reports for consideration by the Legislature or any of its committees during the legislative session or sessions in which the papers or reports are prepared or considered or to which the paper or report is carried over;
- C-1.** Information contained in a communication between a constituent and an elected official if the information:

- (1) Is of a personal nature, consisting of:
 - (a) An individual’s medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;
 - (b) Credit or financial information;
 - (c) Information pertaining to the personal history, general character or conduct of the constituent or any member of the constituent’s immediate family; or

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(d) Complaints, charges of misconduct, replies to complaints or charges of misconduct or memoranda or other materials pertaining to disciplinary action; or

(2) Would be confidential if it were in the possession of another public agency or official;

D. Material prepared for and used specifically and exclusively in preparation for negotiations, including the development of bargaining proposals to be made and the analysis of proposals received, by a public employer in collective bargaining with its employees and their designated representatives;

E. Records, working papers, interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System when the subject matter is confidential or otherwise protected from disclosure by statute, other law, legal precedent or privilege recognized by the courts of this State. The provisions of this paragraph do not apply to the boards of trustees and the committees and subcommittees of those boards, which are referred to in subsection 2, paragraph B;

F. Records that would be confidential if they were in the possession or custody of an agency or public official of the State or any of its political or administrative subdivisions are confidential if those records are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities;

G. Materials related to the development of positions on legislation or materials that are related to insurance or insurance-like protection or services which are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities;

H. Medical records and reports of municipal ambulance and rescue units and other emergency medical service units, except that such records and reports must be available upon request to law enforcement officers investigating criminal conduct;

I. Juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter;

J. Working papers, including records, drafts and interoffice and intraoffice memoranda, used or maintained by any advisory organization covered by subsection 2, paragraph F, or any member or staff of that organization during the existence of the advisory organization. Working papers are public records if distributed in a public meeting of the advisory organization;

K. Personally identifying information concerning minors that is obtained or maintained by a municipality in providing recreational or nonmandatory educational programs or

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services. This paragraph does not apply to records governed by Title 20-A, section 6001 and does not supersede Title 20-A, section 6001-A;

L. Records describing security plans, security procedures or risk assessments prepared specifically for the purpose of preventing or preparing for acts of terrorism, but only to the extent that release of information contained in the record could reasonably be expected to jeopardize the physical safety of government personnel or the public. Information contained in records covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure. For purposes of this paragraph, “terrorism” has the same meaning as in Title 37-B, section 703, subsection 8;

M. Records or information describing the architecture, design, access authentication, encryption or security of information technology infrastructure, systems and software, including records or information maintained to ensure government operations and technology continuity and to facilitate disaster recovery. Records or information covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure;

N. Social security numbers;

O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For the purposes of this paragraph:

(1) “Personal contact information” means personal address, telephone number, facsimile number, e-mail address, cellular telephone number, pager number and username, password and uniform resource locator for a personal social media account as defined in Title 26, section 615, subsection 4; and

(2) “Public employee” means an employee as defined in Title 14, section 8102, subsection 1, except that “public employee” does not include elected officials;

P. Geographic information regarding recreational trails that are located on private land that are authorized voluntarily as such by the landowner with no public deed or guaranteed right of public access, unless the landowner authorizes the release of the information;

Q. Security plans, staffing plans, security procedures, architectural drawings or risk assessments prepared for emergency events that are prepared for or by or kept in the custody of the Department of Corrections or a county jail if there is a reasonable possibility that public release or inspection of the records would endanger the life or physical safety of any individual or disclose security plans and procedures not generally known by the general public. Information contained in records covered by this paragraph may be disclosed to state and county officials if necessary to carry out the duties of the officials or the Department of Corrections under conditions that protect the information from further disclosure;

R. [2017, ch. 163, § 1 (RP).]

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- S.** E-mail addresses obtained by a political subdivision of the State for the sole purpose of disseminating noninteractive notifications, updates and cancellations that are issued from the political subdivision or its elected officers to an individual or individuals that request or regularly accept these noninteractive communications;
- T.** Records describing research for the development of processing techniques for fisheries, aquaculture and seafood processing or the design and operation of a depuration plant in the possession of the Department of Marine Resources;
- U.** Records provided by a railroad company pursuant to Title 23, section 7311, subsection 5 and records describing hazardous materials transported by the railroad company in this State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those routes that are in the possession of a state or local emergency management entity or law enforcement agency, fire department or other first responder, except that records related to a train carrying hazardous materials that has derailed at any point from a main line train track or related to a discharge of hazardous materials transported by a railroad company that poses a threat to public health, safety and welfare are subject to public disclosure after that discharge. For the purposes of this paragraph, "hazardous material" has the same meaning as set forth in 49 Code of Federal Regulations, Section 105.5;
- V.** Participant application materials and other personal information obtained or maintained by a municipality or other public entity in administering a community well-being check program, except that a participant's personal information, including health information, may be made available to first responders only as necessary to implement the program. For the purposes of this paragraph, "community well-being check program" means a voluntary program that involves daily, or regular, contact with a participant and, when contact cannot be established, sends first responders to the participant's residence to check on the participant's well-being;
- W.** Information in the possession of a public utility, the Office of the Public Advocate or the Public Utilities Commission pertaining to an individual customer of a public utility as defined in Title 35-A, section 102, subsection 13 that is designated by rule as confidential by the Public Utilities Commission pursuant to Title 35-A, section 111; and
- X.** Information in the possession of a public sewer system pertaining to an individual customer of a public utility as described in this paragraph. For purposes of this paragraph, "public sewer system" means a municipality, division of a municipality or quasi-municipal entity that is a municipal sewer department, a sewer district as defined in Title 38, section 1032, subsection 3 or 4, a system that collects stormwater or a sanitary district formed under Title 38, chapter 11.
- (1)** If the municipality, division of a municipality or quasi-municipal entity, referred to in this subparagraph as "the entity," is both a public sewer system and a water utility as defined in Title 35-A, section 102, subsection 22, information in the possession of the entity, the Office of the Public Advocate or the Public Utilities Commission pertaining to an individual customer of the public sewer system is

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confidential if that information would be confidential under paragraph W if the information pertained to an individual customer of a water utility.

(2) For all public sewer systems not described in subparagraph (1), information in the possession of the public sewer system pertaining to an individual customer of the public sewer system, including the customer's name, physical or mailing address, e-mail address, telephone number, utility usage, payment and credit history, financial condition or medical condition, or financial or medical condition of a member of the customer's family, is confidential and may not be disclosed by the public sewer system unless:

(a) The customer consents to the disclosure. For purposes of this division, the public sewer system may accept an oral certification from a social service agency that the customer has consented to the public sewer system's disclosure of the customer's information to the social service agency;

(b) The disclosure is made for the purpose of debt collection, credit reporting or usage reporting pursuant to state or federal law, except that the information may not be disclosed for purposes of debt collection or credit reporting purposes if the customer is currently protected by a protection from abuse order and the customer has disclosed the protection from abuse order to the public sewer system;

(c) The disclosure is made to a law enforcement officer or law enforcement agency pursuant to lawful process;

(d) The disclosure is made to state, county, tribal or local emergency management agency personnel when the information about the individual customer is requested while the agency is responding to an emergency situation;

(e) The disclosure is made to a public utility or public sewer system to the extent necessary to allow these entities to bill customers for services rendered; or

(f) The disclosure is otherwise required by state or federal law.

3-A. Public records further defined. "Public records" also includes the following criminal justice agency records:

A. Records relating to prisoner furloughs to the extent they pertain to a prisoner's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, address of furlough and dates of furlough;

B. Records relating to out-of-state adult probationer or parolee supervision to the extent they pertain to a probationer's or parolee's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, address of residence and dates of supervision; and

C. Records to the extent they pertain to a prisoner's, adult probationer's or parolee's identity, public criminal history record information, as defined in Title 16, section 703,

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subsection 8, and current address or location, unless the Commissioner of Corrections determines that it would be detrimental to the welfare of a client to disclose the information.

4. Public records of interscholastic athletic organizations. Any records or minutes of meetings under subsection 2, paragraph G are public records.

5. Public access officer. “Public access officer” means the person designated pursuant to section 413, subsection 1.

6. Reasonable office hours. “Reasonable office hours” includes all regular office hours of an agency or official.

History

Section History

PL 1973, c. 433, §1 (AMD). PL 1975, c. 243 (RPR). PL 1975, c. 483, §2 (AMD). PL 1975, c. 758 (RPR). PL 1977, c. 164, §§1,2 (AMD). PL 1977, c. 696, §9 (AMD). PL 1985, c. 695, §§1,2 (AMD). PL 1985, c. 779, §§1,2 (AMD). PL 1987, c. 20, §1 (AMD). PL 1987, c. 402, §A1 (AMD). PL 1987, c. 477, §1 (AMD). PL 1989, c. 358, §§1-4 (AMD). PL 1989, c. 443, §§1,2 (AMD). PL 1989, c. 878, §§A1,2 (AMD). PL 1991, c. 448, §§1,2 (AMD). PL 1991, c. 773, §§1,2 (AMD). PL 1991, c. 848, §1 (AMD). PL 1995, c. 608, §§1-5 (AMD). PL 1997, c. 714, §1 (AMD). PL 1999, c. 96, §§1-3 (AMD). PL 2001, c. 477, §1 (AMD). PL 2001, c. 675, §§1-3 (AMD). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF). PL 2003, c. 392, §§1-3 (AMD). PL 2003, c. 614, §§1-3 (AMD). PL 2005, c. 381, §§1-3 (AMD). PL 2007, c. 597, §1 (AMD). RR 2009, c. 1, §§1-3 (COR). PL 2009, c. 176, §§1-3 (AMD). PL 2009, c. 334, §§1-4 (AMD). PL 2009, c. 339, §§1-3 (AMD). PL 2011, c. 149, §§1-3 (AMD). PL 2011, c. 264, §1 (AMD). PL 2011, c. 320, Pt. E, §1 (AMD). PL 2011, c. 662, §§2, 3 (AMD). PL 2013, c. 267, Pt. B, §1 (AMD). PL 2013, c. 339, §§1-3 (AMD). PL 2013, c. 518, §§1-3 (AMD). PL 2015, c. 161, §§1-3 (AMD). PL 2015, c. 335, §1 (AMD). PL 2017, c. 118, §§1-3 (AMD). PL 2017, c. 163, §1 (AMD). PL 2019, c. 667, Pt. A, §§1-3 (AMD). PL 2019, c. 667, Pt. B, §§1-4 (AMD).; 2023 ch. 618, § 1, effective April 12, 2024; 2025 1st Sp. Sess. ch. 77, § 1, effective September 24, 2025; 2025 1st Sp. Sess. ch. 99, §§ 1–4, effective September 24, 2025.

1 M.R.S. § 402-A

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

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§ 402-A. Public records defined [Repealed]

History

Section History

PL 1975, c. 483, §3 (NEW). PL 1975, c. 623, §1 (RPR). PL 1975, c. 758 (RP).

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1 M.R.S. § 403

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§ 403. Meetings to be open to public; record of meetings

1. Proceedings open to public. Except as otherwise provided by statute or by section 405, all public proceedings must be open to the public and any person must be permitted to attend a public proceeding.

2. Record of public proceedings. Unless otherwise provided by law, a record of each public proceeding for which notice is required under section 406 must be made within a reasonable period of time after the proceeding and must be open to public inspection. At a minimum, the record must include:

- A.** The date, time and place of the public proceeding;
- B.** The members of the body holding the public proceeding recorded as either present or absent; and
- C.** All motions and votes taken, by individual member, if there is a roll call.

3. Audio or video recording. An audio, video or other electronic recording of a public proceeding satisfies the requirements of subsection 2.

4. Maintenance of record. Record management requirements and retention schedules adopted under Title 5, chapter 6 apply to records required under this section.

5. Validity of action. The validity of any action taken in a public proceeding is not affected by the failure to make or maintain a record as required by this section.

6. Advisory bodies exempt from record requirements. Subsection 2 does not apply to advisory bodies that make recommendations but have no decision-making authority.

History

Section History

PL 1969, c. 293 (AMD). PL 1975, c. 422, §1 (AMD). PL 1975, c. 758 (RPR). PL 2009, c. 240, §1 (AMD). PL 2011, c. 320, Pt. C, §1 (RPR).

§ 403. Meetings to be open to public; record of meetings

End of Document

1 M.R.S. § 403-A

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§ 403-A. Public proceedings through remote access during declaration of state of emergency due to COVID-19 [Repealed]

History

Section History

PL 2019, c. 617, Pt. G, §1 (NEW). MRSA T. 1 §403-A, sub-§3 (RP).

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1 M.R.S. § 403-B

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

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§ 403-B. Remote participation in public proceedings

1. Remote participation. This section governs remote methods of participation in public proceedings of certain public bodies. For the purposes of this section, “remote methods” means telephonic or video technology allowing simultaneous reception of information and may include other means when such means are necessary to provide reasonable accommodation to a person with a disability. Public proceedings may not be conducted by text-only means such as e-mail, text messages or chat functions.

2. Requirements. A public body subject to this subchapter may allow members of the body and the public to participate in a public proceeding using remote methods only under the following conditions:

A. After notice and hearing the body has adopted a written policy governing the conditions upon which members of the body and the public may participate in a public proceeding of that body by remote methods.

(1) If a public body has not adopted a policy authorizing remote methods of participation under this section and if the chair of the body determines that an emergency or urgent issue exists that prevents the public body from meeting in person to adopt a policy, the chair may call a meeting of the body in which the members may participate by remote methods. Notice of the meeting must include information about how the public can participate in the meeting and the proposed policy or instructions on how to obtain a copy of the proposed policy in advance of the meeting. Once the meeting is convened, the members shall vote on whether to support the chair’s determination that an emergency or urgent issue exists that prevents the public body from meeting in person.

(2) If 2/3 of the members vote in support of the chair’s determination under subparagraph (1), after an opportunity for hearing, the members may vote on whether to adopt a policy authorizing remote methods of participation in public proceedings of the body under this section;

B. [2021, ch. 666, § 1 (RP).]

C. The policy adopted pursuant to paragraph A must provide members of the public a meaningful opportunity to attend by remote methods when members of the body

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participate by remote methods, and reasonable accommodations may be provided when necessary to provide access to individuals with disabilities;

D. If the body allows or is required to provide an opportunity for public input during the proceeding, an effective means of communication between the members of the body and the public must be provided;

E. Notice of the proceeding must be provided in accordance with section 406. When the public may attend by remote methods pursuant to paragraphs C and D, the notice must include the means by which members of the public may access the proceeding using remote methods. The notice must also identify a location for members of the public to attend in person. The body may limit public attendance at a proceeding solely to remote methods if there is an emergency or urgent situation that requires the body to meet only by remote methods;

F. A member of the body who participates in a public proceeding by remote methods is present for purposes of a quorum and voting;

G. All votes taken during a public proceeding using remote methods must be taken by roll call vote that can be seen and heard if using video technology, and heard if using only audio technology, by the other members of the public body and the public;

H. The public body must make all documents and other materials considered by the public body available, electronically or otherwise, to the public who attend by remote methods to the same extent customarily available to members of the public who attend the proceedings of the public body in person, as long as additional costs are not incurred by the public body. The public body must make the proposed policy regarding remote participation available in advance of the meeting if meeting remotely under paragraph A, subparagraphs (1) and (2); and

I. When the public may attend a public proceeding by remote methods, the public body must allow members of the public to record the proceeding remotely using the same electronic platform that is used to conduct the proceeding remotely as long as the electronic platform allows participants other than the host to record the proceeding remotely, additional costs are not incurred by the public body and the recording of the proceeding does not interfere with the orderly conduct of the proceeding.

2-A. Blanket remote participation policies; exceptions. The applicability of a policy adopted by a public body under subsection 2 to other public bodies within the jurisdiction of the public body is governed by this subsection.

A. Except as provided in paragraphs B and C, a remote participation policy adopted by a public body pursuant to subsection 2 applies to a board, committee or subcommittee that is within the jurisdiction of the public body, unless the board, committee or subcommittee adopts its own policy under subsection 2.

B. A remote participation policy adopted pursuant to subsection 2 by the county commissioners of the county, the municipal officers of a municipality or the officers of any regional or other political subdivision applies to all public bodies subject to this subchapter that are within the jurisdiction of the county, municipality or regional or

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other political subdivision, respectively, unless the county commissioners, municipal officers or other officers of the regional or other political subdivision specifically authorize a public body under their jurisdiction to adopt its own remote participation policy.

C. Nothing in this subsection limits the right of a school board to choose to adopt or to choose not to adopt a remote participation policy under subsection 2.

3. Remote participation not permitted. This section does not authorize town meetings held pursuant to Title 30-A, section 2524 or regional school unit budget meetings held pursuant to Title 20-A, section 1482-A to be conducted using remote methods.

4. Application. This section does not apply to:

A. The Legislature; or

B. A public body to which specific statutory provisions for remote participation apply.

History

Section History

PL 2021, c. 290, §1 (NEW).; 2021 ch. 611, §§ 1, 2, effective August 8, 2022; 2021 ch. 666, §§ 1–3, effective August 8, 2022; 2023 1st Sp. Sess. ch. 158, §§ 1, 2, effective October 25, 2023; 2023 1st Sp. Sess. ch. 185, §§ 1–3, effective October 25, 2023.

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1 M.R.S. § 404

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§ 404. Recorded or live broadcasts authorized

In order to facilitate the public policy so declared by the Legislature of opening the public's business to public scrutiny, all persons shall be entitled to attend public proceedings and to make written, taped or filmed records of the proceedings, or to live broadcast the same, provided the writing, taping, filming or broadcasting does not interfere with the orderly conduct of proceedings. The body or agency holding the public proceedings may make reasonable rules and regulations governing these activities, so long as these rules or regulations do not defeat the purpose of this subchapter.

History

Section History

PL 1975, c. 422, §2 (RPR). PL 1975, c. 483, §4 (AMD). PL 1975, c. 758 (RPR).

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1 M.R.S. § 404-A

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§ 404-A. Decisions [Repealed]

History

Section History

PL 1973, c. 433, §2 (NEW). PL 1973, c. 704, §§1,2 (AMD). PL 1975, c. 758 (RP).

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1 M.R.S. § 405

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§ 405. Executive sessions

Those bodies or agencies falling within this subchapter may hold executive sessions subject to the following conditions.

- 1. Not to defeat purposes of subchapter.** An executive session may not be used to defeat the purposes of this subchapter as stated in section 401.
- 2. Final approval of certain items prohibited.** An ordinance, order, rule, resolution, regulation, contract, appointment or other official action may not be finally approved at an executive session.
- 3. Procedure for calling of executive session.** An executive session may be called only by a public, recorded vote of 3/5 of the members, present and voting, of such bodies or agencies.
- 4. Motion contents.** A motion to go into executive session must indicate the precise nature of the business of the executive session and include a citation of one or more sources of statutory or other authority that permits an executive session for that business. Failure to state all authorities justifying the executive session does not constitute a violation of this subchapter if one or more of the authorities are accurately cited in the motion. An inaccurate citation of authority for an executive session does not violate this subchapter if valid authority that permits the executive session exists and the failure to cite the valid authority was inadvertent.
- 5. Matters not contained in motion prohibited.** Matters other than those identified in the motion to go into executive session may not be considered in that particular executive session.
- 6. Permitted deliberation.** Deliberations on only the following matters may be conducted during an executive session:
 - A.** Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:

§ 405. Executive sessions

- (1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the individual's reputation or the individual's right to privacy would be violated;
- (2) Any person charged or investigated must be permitted to be present at an executive session if that person so desires;
- (3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against that person be conducted in open session. A request, if made to the agency, must be honored; and
- (4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion must be permitted to be present.

This paragraph does not apply to discussion of a budget or budget proposal;

B. Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, as long as:

- (1) The student and legal counsel and, if the student is a minor, the student's parents or legal guardians are permitted to be present at an executive session if the student, parents or guardians so desire;

C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency;

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions;

E. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage;

F. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute;

G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between

a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and

H. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph C in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter.

History

Section History

PL 1975, c. 758 (RPR). PL 1979, c. 541, §A3 (AMD). PL 1987, c. 477, §§2,3 (AMD). PL 1987, c. 769, §A1 (AMD). PL 1999, c. 40, §§1,2 (AMD). PL 1999, c. 144, §1 (AMD). PL 1999, c. 180, §§1-3 (AMD). PL 2003, c. 709, §1 (AMD). PL 2009, c. 240, §2 (AMD).

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1 M.R.S. § 405-A

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

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§ 405-A. Recorded or live broadcasts authorized [Repealed]

History

Section History

PL 1975, c. 483, §5 (NEW). PL 1975, c. 758 (RP).

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1 M.R.S. § 405-B

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

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§ 405-B. Appeals [Repealed]

History

Section History

PL 1975, c. 483, §5 (NEW). PL 1975, c. 758 (RP).

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1 M.R.S. § 405-C

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

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§ 405-C. Appeals from actions [Repealed]

History

Section History

PL 1975, c. 483, §5 (NEW). PL 1975, c. 758 (RP).

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1 M.R.S. § 406

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

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§ 406. Public notice

Public notice shall be given for all public proceedings as defined in section 402, if these proceedings are a meeting of a body or agency consisting of 3 or more persons. This notice shall be given in ample time to allow public attendance and shall be disseminated in a manner reasonably calculated to notify the general public in the jurisdiction served by the body or agency concerned. In the event of an emergency meeting, local representatives of the media shall be notified of the meeting, whenever practical, the notification to include time and location, by the same or faster means used to notify the members of the agency conducting the public proceeding.

History

Section History

PL 1975, c. 483, §6 (AMD). PL 1975, c. 758 (RPR). PL 1987, c. 477, §4 (AMD).

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1 M.R.S. § 407

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

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§ 407. Decisions

1. Conditional approval or denial. Every agency shall make a written record of every decision involving the conditional approval or denial of an application, license, certificate or any other type of permit. The agency shall set forth in the record the reason or reasons for its decision and make finding of the fact, in writing, sufficient to appraise the applicant and any interested member of the public of the basis for the decision. A written record or a copy thereof shall be kept by the agency and made available to any interested member of the public who may wish to review it.

2. Dismissal or refusal to renew contract. Every agency shall make a written record of every decision involving the dismissal or the refusal to renew the contract of any public official, employee or appointee. The agency shall, except in case of probationary employees, set forth in the record the reason or reasons for its decision and make findings of fact, in writing, sufficient to apprise the individual concerned and any interested member of the public of the basis for the decision. A written record or a copy thereof must be kept by the agency and made available to any interested member of the public who may wish to review it.

History

Section History

PL 1975, c. 758 (NEW). PL 2009, c. 240, §3 (AMD).

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1 M.R.S. § 408

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

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§ 408. Public records available for public inspection and copying [Repealed]

History

Section History

PL 1975, c. 758 (NEW). PL 2003, c. 709, §2 (RPR). PL 2007, c. 501, §1 (AMD). PL 2009, c. 240, §4 (AMD). PL 2011, c. 662, §4 (RP).

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1 M.R.S. § 408-A

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

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§ 408-A. Public records available for inspection and copying

Except as otherwise provided by statute, a person has the right to inspect and copy any public record in accordance with this section within a reasonable time of making the request to inspect or copy the public record.

1. Inspect. A person may inspect any public record during reasonable office hours. An agency or official may not charge a fee for inspection unless the public record cannot be inspected without being converted or compiled, in which case the agency or official may charge a fee as provided in subsection 8.

2. Copy. A person may copy a public record in the office of the agency or official having custody of the public record during reasonable office hours or may request that the agency or official having custody of the record provide a copy. The agency or official may charge a fee for copies as provided in subsection 8.

A. A request need not be made in person or in writing.

B. The agency or official shall mail the copy upon request.

3. Acknowledgment; clarification; time estimate; cost estimate. The agency or official having custody or control of a public record shall acknowledge receipt of a request made according to this section within 5 working days of receiving the request and may request clarification concerning which public record or public records are being requested. Within a reasonable time of receiving the request, the agency or official shall provide a good faith, nonbinding estimate of the time frame within which the agency or official will comply with the request and a cost estimate as provided in subsection 9. The agency or official shall make a good faith effort to fully respond to the request within the estimated time frame. For purposes of this subsection, the date a request is received is the date a sufficient description of the public record is received by the agency or official at the office responsible for maintaining the public record. An agency or official that receives a request for a public record that is maintained by that agency but is not maintained by the office that received the request shall forward the request to the office of the agency or official that maintains the record, without willful delay, and shall notify the requester that the request has been forwarded and that the office to which the request has been forwarded will acknowledge receipt within 5 working days of receiving the request.

4. [CONFLICT: Amended by 2025, ch. 175, § 1] Refusals; denials. If a body or an agency or official having custody or control of any public record refuses permission to inspect or copy or abstract a public record, the body or agency or official shall provide, within 5 working days of the receipt of the request for inspection or copying, written notice of the denial, stating the reason for the denial or the expectation that the request will be denied in full or in part following a review. A request or series of requests for inspection or copying may be denied, in whole or in part, on the basis that the request or series of requests is unduly burdensome or oppressive if the procedures established in subsection 4-A are followed. Failure to comply with this subsection is considered failure to allow inspection or copying and is subject to appeal as provided in section 409.

4. [CONFLICT: Amended by 2025, ch. 186, § 1] Refusals; denials. If a body or an agency or official having custody or control of any public record refuses permission to inspect or copy or abstract a public record, the body or agency or official shall provide, within 5 working days of the receipt of the request for inspection or copying, written notice of the denial, stating the reason for the denial or the expectation that the request will be denied in full or in part following a review. A written notice of a denial must contain a citation to the statutory authority used as the basis for the denial. A request for inspection or copying may be denied, in whole or in part, on the basis that the request is unduly burdensome or oppressive if the procedures established in subsection 4-A are followed. Failure to comply with this subsection is considered failure to allow inspection or copying and is subject to appeal as provided in section 409.

4-A. Action for protection. A body, an agency or an official may seek protection from a request or series of requests for inspection or copying that is unduly burdensome or oppressive by filing an action for an order of protection in the Superior Court for the county where the request or series of requests for records was made within 60 days of receipt of the request or the date on which the body, agency or official notifies the requester that the series of requests is unduly burdensome or oppressive.

A. The following information must be included in the complaint if available or provided to the parties and filed with the court no more than 14 days from the filing of the complaint or such other period as the court may order:

- (1)** The terms of the request or series of requests and any modifications agreed to by the requesting party;
- (2)** A statement of the facts that demonstrate the burdensome or oppressive nature of the request or series of requests, with a good faith estimate of the time required to search for, retrieve, redact if necessary and compile the records responsive to the request or series of requests and the resulting costs calculated in accordance with subsection 8;
- (3)** A description of the efforts made by the body, agency or official to inform the requesting party of the good faith estimate of costs and to discuss possible

§ 408-A. Public records available for inspection and copying

modifications of the request or series of requests that would reduce the burden of production; and

(4) Proof that the body, agency or official has submitted a notice of intent to file an action under this subsection to the party requesting the records, dated at least 10 days prior to filing the complaint for an order of protection under this subsection.

B. Any appeal that may be filed by the requesting party under section 409 may be consolidated with an action under this subsection.

C. An action for protection may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require upon the request of any party.

D. If the court finds that the body, agency or official has demonstrated good cause to limit or deny the request or series of requests, the court shall enter an order making such findings and establishing the terms upon which production, if any, must be made. If the court finds that the body, agency or official has not demonstrated good cause to limit or deny the request or series of requests, the court shall establish a date by which the records must be provided to the requesting party.

5. Schedule. Inspection, conversion pursuant to subsection 7 and copying of a public record subject to a request under this section may be scheduled to occur at a time that will not delay or inconvenience the regular activities of the agency or official having custody or control of the public record requested. If the agency or official does not have regular office hours, the name and telephone number of a contact person authorized to provide access to the agency's or official's records must be posted in a conspicuous public place and at the office of the agency or official, if an office exists.

6. No requirement to create new record. An agency or official is not required to create a record that does not exist.

7. Electronically stored public records. An agency or official having custody or control of a public record subject to a request under this section shall provide access to an electronically stored public record either as a printed document of the public record or in the medium in which the record is stored, at the requester's option, except that the agency or official is not required to provide access to an electronically stored public record as a computer file if the agency or official does not have the ability to separate or prevent the disclosure of confidential information contained in or associated with that file.

A. If in order to provide access to an electronically stored public record the agency or official converts the record into a form susceptible of visual or aural comprehension or into a usable format for inspection or copying, the agency or official may charge a fee to cover the cost of conversion as provided in subsection 8.

§ 408-A. Public records available for inspection and copying

B. This subsection does not require an agency or official to provide a requester with access to a computer terminal.

8. Payment of costs. Except as otherwise specifically provided by law or court order, an agency or official having custody of a public record may charge fees for public records as follows.

A. The agency or official may charge a reasonable fee to cover the cost of copying. A reasonable fee to cover the cost of copying is no more than 10¢ per page for a standard 8 1/2 inches by 11 inches black and white copy of a record. A per-page copy fee may not be charged for records provided electronically.

B. The agency or official may charge a fee to cover the actual cost of searching for, retrieving and compiling the requested public record in accordance with this paragraph. Compiling the public record includes reviewing and redacting confidential information.

(1) The agency or official may not charge a fee for the first 2 hours of staff time per request.

(2) After the first 2 hours of staff time, the agency or official may charge a fee of not more than \$25 per hour.

C. The agency or official may charge for the actual cost to convert a public record into a form susceptible of visual or aural comprehension or into a usable format and for the actual cost of a device used to store the public record if the storage device will be given to the requester by the agency or official.

D. An agency or official may not charge for inspection unless the public record cannot be inspected without being compiled or converted, in which case paragraph B or C applies.

E. The agency or official may charge for the actual mailing costs to mail a copy of a record.

F. An agency or official may require payment of all costs before the public record is provided to the requester.

9. Estimate. The agency or official having custody or control of a public record subject to a request under this section shall provide to the requester an estimate of the time frame within which the agency or official will comply with the request and of the total cost as provided by subsection 8. If the estimate of the total cost is greater than \$50, the agency or official shall inform the requester before proceeding. If the estimate of the total cost is greater than \$100, subsection 10 applies.

10. Payment in advance. The agency or official having custody or control of a public record subject to a request under this section may require a requester to pay all or a portion of the estimated costs to complete the request prior to the search, retrieval, compiling, conversion and copying of the public record if:

A. The estimated total cost exceeds \$100; or

B. The requester has previously failed to pay a properly assessed fee under this chapter in a timely manner.

11. Waivers. The agency or official having custody or control of a public record subject to a request under this section may waive part or all of the total fee charged pursuant to subsection 8 if:

A. The requester is indigent; or

B. The agency or official considers release of the public record requested to be in the public interest because doing so is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester.

12. Retention of fees or costs. An agency may retain any fees or costs charged under this section.

History

Section History

PL 2011, c. 662, §5 (NEW). PL 2013, c. 350, §§1, 2 (AMD). PL 2015, c. 248, §§1, 2 (AMD). PL 2015, c. 249, §1 (AMD). PL 2015, c. 317, §1 (AMD). PL 2015, c. 494, Pt. A, §1 (AMD). PL 2017, c. 158, §1 (AMD). PL 2017, c. 288, Pt. A, §1 (AMD). PL 2021, c. 313, §1 (AMD). PL 2021, c. 375, §§1, 2 (AMD).; 2023 1st Sp. Sess. ch. 155, §§ 1–3, effective October 25, 2023; 2025 1st Sp. Sess. ch. 175, §§ 1, 2, effective September 24, 2025; 2025 1st Sp. Sess. ch. 186, § 1, effective September 24, 2025.

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1 M.R.S. § 409

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

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§ 409. Appeals

1. Records. Any person aggrieved by a refusal or denial to inspect or copy a record or the failure to allow the inspection or copying of a record under section 408-A may appeal the refusal, denial or failure within 30 calendar days of the receipt of the written notice of refusal, denial or failure to the Superior Court within the State for the county where the person resides or the agency has its principal office. The agency or official shall file a statement of position explaining the basis for denial within 14 calendar days of service of the appeal. If a court, after a review, with taking of testimony and other evidence as determined necessary, determines such refusal, denial or failure was not for just and proper cause, the court shall enter an order for disclosure. Appeals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

2. Actions. If any body or agency approves any ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action in an executive session, this action is illegal and the officials responsible are subject to the penalties hereinafter provided. Upon learning of any such action, any person may appeal to any Superior Court in the State. If a court, after a trial de novo, determines this action was taken illegally in an executive session, it shall enter an order providing for the action to be null and void. Appeals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

3. Proceedings not exclusive. The proceedings authorized by this section are not exclusive of any other civil remedy provided by law.

4. Attorney's fees. In an appeal under subsection 1 or 2, the court may award reasonable attorney's fees and litigation expenses to the substantially prevailing plaintiff who appealed the refusal under subsection 1 or the illegal action under subsection 2 if the court determines that the refusal or illegal action was committed in bad faith. Attorney's fees and litigation costs may not be awarded to or against a federally recognized Indian tribe.

This subsection applies to appeals under subsection 1 or 2 filed on or after January 1, 2010.

History

§ 409. Appeals

Section History

PL 1975, c. 758 (NEW). PL 1987, c. 477, §5 (AMD). PL 2007, c. 695, Pt. C, §1 (AMD). PL 2009, c. 240, §§5, 6 (AMD). PL 2009, c. 423, §1 (AMD). PL 2011, c. 559, Pt. A, §§1, 2 (AMD). PL 2011, c. 662, §6 (AMD). PL 2013, c. 350, §3 (AMD). PL 2015, c. 249, §2 (AMD).

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End of Document

1 M.R.S. § 410

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

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§ 410. Violations

- 1. Civil violation.** An officer or employee of a state government agency or local government entity who willfully violates this subchapter commits a civil violation.
- 2. Penalties.** A state government agency or local government entity whose officer or employee commits a civil violation described in subsection 1 is subject to:
 - A.** A fine of not more than \$500 for a civil violation described in subsection 1;
 - B.** A fine of not more than \$1,000 for a civil violation described in subsection 1 that was committed not more than 4 years after a previous adjudication of a civil violation described in subsection 1 by an officer or employee of the same state government agency or local government entity; or
 - C.** A fine of not more than \$2,000 for a civil violation described in subsection 1 that was committed not more than 4 years after 2 or more previous adjudications of a civil violation described in subsection 1 by an officer or employee of the same state government agency or local government entity.

History

Section History

PL 1975, c. 758 (NEW). PL 1987, c. 477, §6 (RPR). PL 2019, c. 247, §1 (RPR).

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1 M.R.S. § 411

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

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§ 411. Right To Know Advisory Committee

1. Advisory committee established. The Right To Know Advisory Committee, referred to in this chapter as “the advisory committee,” is established to serve as a resource for ensuring compliance with this chapter and upholding the integrity of the purposes underlying this chapter as it applies to all public entities in the conduct of the public’s business.

2. Membership. The advisory committee consists of the following members:

- A.** One Senator who is a member of the joint standing committee of the Legislature having jurisdiction over judiciary matters, appointed by the President of the Senate;
- B.** One member of the House of Representatives who is a member of the joint standing committee of the Legislature having jurisdiction over judiciary matters, appointed by the Speaker of the House;
- C.** One representative of municipal interests, appointed by the Governor;
- D.** One representative of county or regional interests, appointed by the President of the Senate;
- E.** One representative of school interests, appointed by the Governor;
- F.** One representative of law enforcement interests, appointed by the President of the Senate;
- G.** One representative of the interests of State Government, appointed by the Governor;
- H.** One representative of a statewide coalition of advocates of freedom of access, appointed by the Speaker of the House;
- I.** One representative of newspaper and other press interests, appointed by the President of the Senate;
- J.** One representative of newspaper publishers, appointed by the Speaker of the House;
- K.** Two representatives of broadcasting interests, one appointed by the President of the Senate and one appointed by the Speaker of the House;

§ 411. Right To Know Advisory Committee

- L.** Two representatives of the public, one appointed by the President of the Senate and one appointed by the Speaker of the House;
- M.** The Attorney General or the Attorney General's designee;
- N.** One member with broad experience in and understanding of issues and costs in multiple areas of information technology, including practical applications concerning creation, storage, retrieval and accessibility of electronic records; use of communication technologies to support meetings, including teleconferencing and Internet-based conferencing; databases for records management and reporting; and information technology system development and support, appointed by the Governor; and
- O.** One representative having legal or professional expertise in the field of data and personal privacy, appointed by the Governor.

The advisory committee shall invite the Chief Justice of the Supreme Judicial Court to designate a member of the judicial branch to serve as a member of the committee.

3. Terms of appointment. The terms of appointment are as follows.

- A.** Except as provided in paragraph B, members are appointed for terms of 3 years.
- B.** Members who are Legislators are appointed for the duration of the legislative terms of office in which they were appointed.
- C.** Members may serve beyond their designated terms until their successors are appointed.

4. First meeting; chair. The Executive Director of the Legislative Council shall call the first meeting of the advisory committee as soon as funding permits. At the first meeting, the advisory committee shall select a chair from among its members and may select a new chair annually.

5. Meetings. The advisory committee may meet as often as necessary but not fewer than 4 times a year. A meeting may be called by the chair or by any 4 members.

6. Duties and powers. The advisory committee:

- A.** Shall provide guidance in ensuring access to public records and proceedings and help to establish an effective process to address general compliance issues and respond to requests for interpretation and clarification of the laws;
- B.** Shall serve as the central source and coordinator of information about the freedom of access laws and the people's right to know. The advisory committee shall provide the basic information about the requirements of the law and the best practices for agencies and public officials. The advisory committee shall also provide general information about the freedom of access laws for a wider and deeper understanding of citizens' rights and their role in open government. The advisory committee shall coordinate the education efforts by providing information about the freedom of access laws and whom to contact for specific inquiries;

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C. Shall serve as a resource to support the establishment and maintenance of a central publicly accessible website that provides the text of the freedom of access laws and provides specific guidance on how a member of the public can use the law to be a better informed and active participant in open government. The website must include the contact information for agencies, as well as whom to contact with complaints and concerns. The website must also include, or contain a link to, a list of statutory exceptions to the public records laws;

D. Shall serve as a resource to support training and education about the freedom of access laws. Although each agency is responsible for training for the specific records and meetings pertaining to that agency's mission, the advisory committee shall provide core resources for the training, share best practices experiences and support the establishment and maintenance of online training as well as written question-and-answer summaries about specific topics. The advisory committee shall recommend a process for collecting the training completion records required under section 412, subsection 3 and for making that information publicly available;

E. Shall serve as a resource for the review committee under subchapter 1-A in examining public records exceptions in both existing laws and in proposed legislation;

F. Shall examine inconsistencies in statutory language and may recommend standardized language in the statutes to clearly delineate what information is not public and the circumstances under which that information may appropriately be released;

G. May make recommendations for changes in the statutes to improve the laws and may make recommendations to the Governor, the Legislature, the Chief Justice of the Supreme Judicial Court and local and regional governmental entities with regard to best practices in providing the public access to records and proceedings and to maintain the integrity of the freedom of access laws and their underlying principles. The joint standing committee of the Legislature having jurisdiction over judiciary matters may report out legislation based on the advisory committee's recommendations;

H. Shall serve as an adviser to the Legislature when legislation affecting public access is considered;

I. May conduct public hearings, conferences, workshops and other meetings to obtain information about, discuss, publicize the needs of and consider solutions to problems concerning access to public proceedings and records;

J. Shall review the collection, maintenance and use of records by agencies and officials to ensure that confidential records and information are protected and public records remain accessible to the public; and

K. May undertake other activities consistent with its listed responsibilities.

7. Outside funding for advisory committee activities. The advisory committee may seek outside funds to fund the cost of public hearings, conferences, workshops, other meetings, other activities of the advisory committee and educational and training

§ 411. Right To Know Advisory Committee

materials. Contributions to support the work of the advisory committee may not be accepted from any party having a pecuniary or other vested interest in the outcome of the matters being studied. Any person, other than a state agency, desiring to make a financial or in-kind contribution shall certify to the Legislative Council that it has no pecuniary or other vested interest in the outcome of the advisory committee's activities. Such a certification must be made in the manner prescribed by the Legislative Council. All contributions are subject to approval by the Legislative Council. All funds accepted must be forwarded to the Executive Director of the Legislative Council along with an accounting record that includes the amount of funds, the date the funds were received, from whom the funds were received and the purpose of and any limitation on the use of those funds. The Executive Director of the Legislative Council shall administer any funds received by the advisory committee.

8. Compensation. Legislative members of the advisory committee are entitled to receive the legislative per diem, as defined in Title 3, section 2, and reimbursement for travel and other necessary expenses for their attendance at authorized meetings of the advisory committee. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses and, upon a demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of the advisory committee.

9. Staffing. The Legislative Council shall provide staff support for the operation of the advisory committee, except that the Legislative Council staff support is not authorized when the Legislature is in regular or special session. In addition, the advisory committee may contract for administrative, professional and clerical services if funding permits.

10. Report. By January 15, 2007 and at least annually thereafter, the advisory committee shall report to the Governor, the Legislative Council, the joint standing committee of the Legislature having jurisdiction over judiciary matters and the Chief Justice of the Supreme Judicial Court about the state of the freedom of access laws and the public's access to public proceedings and records.

History

Section History

RR 2005, c. 2, §1 (COR). PL 2005, c. 631, §1 (NEW). PL 2007, c. 576, §1 (AMD). PL 2015, c. 250, Pt. A, §§1, 2 (AMD). PL 2021, c. 313, §§2-4 (AMD).

1 M.R.S. § 412

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

Maine Revised Statutes Annotated by LexisNexis® > TITLE 1. General Provisions (Chs. 1 — 33) > CHAPTER 13. Public Records and Proceedings (Subchs. 1 — 4) > SUBCHAPTER 1. Freedom of Access (§§ 400 — 414)

§ 412. Public records and proceedings training for certain officials, board members and public access officers

1. Training required. A public access officer, a board member and an official subject to this section shall complete a course of training on the requirements of this chapter relating to public records and proceedings. The official, board member or public access officer shall complete the training not later than the 120th day after the date the official or board member assumes the person's duties as an official or board member or the person is designated as a public access officer pursuant to section 413, subsection 1.

2. Training course; minimum requirements. The training course under subsection 1 must be designed to be completed by an official, a board member or a public access officer in less than 2 hours. At a minimum, the training must include instruction in:

- A.** The general legal requirements of this chapter regarding public records and public proceedings;
- B.** Procedures and requirements regarding complying with a request for a public record under this chapter; and
- C.** Penalties and other consequences for failure to comply with this chapter.

An official, a board member or a public access officer meets the training requirements of this section by conducting a thorough review of all the information made available by the State on a publicly accessible website pursuant to section 411, subsection 6, paragraph C regarding specific guidance on how a member of the public can use the law to be a better informed and active participant in open government. To meet the requirements of this subsection, any other training course must include all of this information and may include additional information.

3. Certification of completion. Upon completion of the training course required under subsection 1, the official, board member or public access officer shall make a written or an electronic record attesting to the fact that the training has been completed. The record must identify the training completed and the date of completion. The official or board member shall keep the record or file it with the public entity to which the official or board member was elected or appointed. A public access officer shall file the record with the agency or official that designated the public access officer.

4. Application. This section applies to a public access officer and the following officials:

§ 412. Public records and proceedings training for certain officials, board members and public access officers

- A.** The Governor;
- B.** The Attorney General, Secretary of State, Treasurer of State and State Auditor;
- C.** Members of the Legislature elected after November 1, 2008;
- D.** [2007, ch. 576, § 2 (RP).]
- E.** Commissioners, treasurers, district attorneys, sheriffs, registers of deeds, registers of probate and budget committee members of county governments;
- F.** Municipal officers; municipal clerks, treasurers, managers or administrators, assessors and code enforcement officers and deputies for those positions; and planning board members and budget committee members of municipal governments;
- G.** Superintendents, assistant superintendents and school board members of school administrative units;
- H.** Officials of a regional or other political subdivision who, as part of the duties of their offices, exercise executive or legislative powers. For the purposes of this paragraph, “regional or other political subdivision” means an administrative entity or instrumentality created pursuant to Title 30-A, chapter 115 or 119 or a quasi-municipal corporation or special purpose district, including, but not limited to, a water district, sanitary district, hospital district, school district of any type, transit district as defined in Title 30-A, section 3501, subsection 1 or regional transportation corporation as defined in Title 30-A, section 3501, subsection 2; and
- I.** Members of a board or commission established under Title 5, chapter 379, referred to in this section as “board members.”

History

Section History

PL 2007, c. 349, §1 (NEW). PL 2007, c. 576, §2 (AMD). PL 2011, c. 662, §7 (AMD). PL 2019, c. 300, §1 (AMD). PL 2021, c. 313, §§5-7 (AMD).; 2025 1st Sp. Sess. ch. 187, § 1, effective September 24, 2025.

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1 M.R.S. § 413

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

Maine Revised Statutes Annotated by LexisNexis® > TITLE 1. General Provisions (Chs. 1 — 33) > CHAPTER 13. Public Records and Proceedings (Subchs. 1 — 4) > SUBCHAPTER 1. Freedom of Access (§§ 400 — 414)

§ 413. Public access officer

1. Designation; responsibility. Each agency, county, municipality, board or commission established under Title 5, chapter 379, school administrative unit and regional or other political subdivision shall designate an existing employee as its public access officer to serve as the contact person for that agency, county, municipality, board or commission, school administrative unit or regional or other political subdivision with regard to requests for public records under this subchapter. The public access officer is responsible for ensuring that each public record request is acknowledged within 5 working days of the receipt of the request by the office responsible for maintaining the public record requested and that a good faith estimate of when the response to the request will be complete is provided according to section 408-A. The public access officer shall serve as a resource within the agency, county, municipality, board or commission, school administrative unit and regional or other political subdivision concerning freedom of access questions and compliance. The public access officer may serve as the contact person for more than one board or commission if the boards or commissions are within the same office or agency.

2. Acknowledgment and response required. An agency, county, municipality, board or commission established under Title 5, chapter 379, school administrative unit and regional or other political subdivision that receives a request to inspect or copy a public record shall acknowledge and respond to the request regardless of whether the request was delivered to or directed to the public access officer.

3. No delay based on unavailability. The unavailability of a public access officer may not delay a response to a request.

4. Training. A public access officer shall complete a course of training on the requirements of this chapter relating to public records and proceedings as described in section 412.

History

Section History

§ 413. Public access officer

PL 2011, c. 662, §8 (NEW). PL 2015, c. 317, §2 (AMD).; 2025 1st Sp. Sess. ch. 187, §§ 2, 3, effective September 24, 2025.

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End of Document

1 M.R.S. § 414

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§ 414. Public records; information technology

An agency shall consider, in the purchase of and contracting for computer software and other information technology resources, the extent to which the software or technology will:

1. **Maximize public access.** Maximize public access to public records; and
2. **Maximize exportability; protect confidential information.** Maximize the exportability of public records while protecting confidential information that may be part of public records.

History

Section History

PL 2011, c. 662, §8 (NEW).

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1 M.R.S. § 431

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

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§ 431. Definitions

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

- 1. Public records exception.** “Public records exception” or “exception” means a provision in a statute or a proposed statute that declares a record or a category of records to be confidential or otherwise not a public record for purposes of subchapter 1.
- 2. Review committee.** “Review committee” means the joint standing committee of the Legislature having jurisdiction over judiciary matters.
- 3. Advisory committee.** “Advisory committee” means the Right To Know Advisory Committee established in Title 5, section 12004-J, subsection 14 and described in section 411.

History

Section History

PL 2003, c. 709, §3 (NEW). PL 2005, c. 631, §2 (AMD).

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1 M.R.S. § 432

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

*Maine Revised Statutes Annotated by LexisNexis® > TITLE 1. General Provisions (Chs. 1 — 33)
> CHAPTER 13. Public Records and Proceedings (Subchs. 1 — 4) > SUBCHAPTER 1-A. Public Records Exceptions and Accessibility (§§ 431 — 434)*

§ 432. Exceptions to public records; review

1. Recommendations. During the second regular session of each Legislature, the review committee may report out legislation containing its recommendations concerning the repeal, modification and continuation of public records exceptions and any recommendations concerning the exception review process and the accessibility of public records. Before reporting out legislation, the review committee shall notify the appropriate committees of jurisdiction concerning public hearings and work sessions and shall allow members of the appropriate committees of jurisdiction to participate in work sessions.

2. Process of evaluation. According to the schedule in section 433, the advisory committee shall evaluate each public records exception that is scheduled for review that biennium. This section does not prohibit the evaluation of a public record exception by either the advisory committee or the review committee at a time other than that listed in section 433. The following criteria apply in determining whether each exception scheduled for review should be repealed, modified or remain unchanged:

- A.** Whether a record protected by the exception still needs to be collected and maintained;
- B.** The value to the agency or official or to the public in maintaining a record protected by the exception;
- C.** Whether federal law requires a record to be confidential;
- D.** Whether the exception protects an individual's privacy interest and, if so, whether that interest substantially outweighs the public interest in the disclosure of records;
- E.** Whether public disclosure puts a business at a competitive disadvantage and, if so, whether that business's interest substantially outweighs the public interest in the disclosure of records;
- F.** Whether public disclosure compromises the position of a public body in negotiations and, if so, whether that public body's interest substantially outweighs the public interest in the disclosure of records;
- G.** Whether public disclosure jeopardizes the safety of a member of the public or the public in general and, if so, whether that safety interest substantially outweighs the public interest in the disclosure of records;

§ 432. Exceptions to public records; review

G-1. Whether public access to the record ensures or would ensure that members of the public are able to make informed health and safety decisions;

H. Whether the exception is as narrowly tailored as possible; and

I. Any other criteria that assist the review committee in determining the value of the exception as compared to the public's interest in the record protected by the exception.

2-A. Accountability review of agency or official. In evaluating each public records exception, the advisory committee shall, in addition to applying the criteria of subsection 2, determine whether there is a publicly accountable entity that has authority to review the agency or official that collects, maintains or uses the record subject to the exception in order to ensure that information collection, maintenance and use are consistent with the purpose of the exception and that public access to public records is not hindered.

2-B. Recommendations to review committee. The advisory committee shall report its recommendations under this section to the review committee no later than the convening of the second regular session of each Legislature.

2-C. Accessibility of public records. The advisory committee may include in its evaluation of public records statutes the consideration of any factors that affect the accessibility of public records, including but not limited to fees, request procedures and timeliness of responses.

3. Assistance from committees of jurisdiction. The advisory committee may seek assistance in evaluating public records exceptions from the joint standing committees of the Legislature having jurisdiction over the subject matter related to the exceptions being reviewed. The advisory committee may hold public hearings after notice to the appropriate committees of jurisdiction.

History

Section History

PL 2003, c. 709, §3 (NEW). PL 2005, c. 631, §3 (AMD). PL 2011, c. 320, Pt. D, §§1, 2 (AMD). PL 2021, c. 313, §8 (AMD).

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1 M.R.S. § 433

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§ 433. Schedule for review of exceptions to public records

1. Scheduling guidelines. Repealed

2. Scheduling guidelines. Repealed

2-A. Scheduling guidelines. The advisory committee shall use the following list as a guideline for scheduling reviews of public records exceptions and reporting its recommendations to the review committee:

A. Exceptions enacted after 2004 and before 2013 are scheduled to be reviewed by the review committee no later than 2017;

B. Exceptions codified in the following Titles are scheduled to be reviewed by the review committee no later than 2019:

- (1) Title 1;
- (2) Title 2;
- (3) Title 3;
- (4) Title 4;
- (5) Title 5;
- (6) Title 6;
- (7) Title 7; and
- (8) Title 7-A;

C. Exceptions codified in the following Titles are scheduled to be reviewed by the review committee no later than 2021:

- (1) Title 8;
- (2) Title 9-A;
- (3) Title 9-B;
- (4) Title 10;
- (5) Title 11; and
- (6) Title 12;

§ 433. Schedule for review of exceptions to public records

D. Exceptions codified in the following Titles are scheduled to be reviewed by the review committee no later than 2023:

- (1) Title 13;
- (2) Title 13-B;
- (3) Title 13-C;
- (4) Title 14;
- (5) Title 15;
- (6) Title 16;
- (7) Title 17;
- (8) Title 17-A;
- (9) Title 18-C;
- (10) Title 18-B;
- (11) Title 19-A;
- (12) Title 20-A; and
- (13) Title 21-A;

E. Exceptions codified in the following Titles are scheduled to be reviewed by the review committee no later than 2025:

- (1) Title 22;
- (2) Title 22-A;
- (3) Title 23;
- (4) Title 24; and
- (5) Title 24-A;

F. Exceptions codified in the following Titles are scheduled to be reviewed by the review committee no later than 2027:

- (1) Title 25;
- (2) Title 26;
- (3) Title 27;
- (4) Title 28-A;
- (5) Title 29-A;
- (6) Title 30;
- (7) Title 30-A;
- (8) Title 31; and

§ 433. Schedule for review of exceptions to public records

(9) Title 32; and

G. Exceptions codified in the following Titles are scheduled to be reviewed by the review committee no later than 2029:

(1) Title 33;

(2) Title 34-A;

(3) Title 34-B;

(4) Title 35-A;

(5) Title 36;

(6) Title 37-B;

(7) Title 38; and

(8) Title 39-A.

3. Scheduling changes. The advisory committee may make adjustments to the scheduling guidelines provided in subsection 2-A as it determines appropriate and shall notify the review committee of such adjustments.

History

Section History

PL 2003, c. 709, §3 (NEW). PL 2005, c. 631, §§4,5 (AMD). PL 2015, c. 250, Pt. D, §§1-3 (AMD). PL 2017, c. 402, Pt. C, §1 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

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1 M.R.S. § 434

Current through Chapter 604 of the non-emergency legislation and Chapter 764 of the emergency legislation of the 2025 Second Regular Session of the 132nd Maine Legislature.

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> CHAPTER 13. Public Records and Proceedings (Subchs. 1 — 4) > SUBCHAPTER 1-A. Public
Records Exceptions and Accessibility (§§ 431 — 434)*

§ 434. Review of proposed exceptions to public records; accessibility of public records

1. Procedures before legislative committees. Whenever a legislative measure containing a new public records exception is proposed or a change that affects the accessibility of a public record is proposed, the joint standing committee of the Legislature having jurisdiction over the proposal shall hold a public hearing and determine the level of support for the proposal among the members of the committee. If there is support for the proposal among a majority of the members of the committee, the committee shall request the review committee to review and evaluate the proposal pursuant to subsection 2 and to report back to the committee of jurisdiction. A proposed exception or proposed change that affects the accessibility of a public record may not be enacted into law unless review and evaluation pursuant to subsections 2 and 2-B have been completed.

2. Review and evaluation. Upon referral of a proposed public records exception from the joint standing committee of the Legislature having jurisdiction over the proposal, the review committee shall conduct a review and evaluation of the proposal and shall report in a timely manner to the committee to which the proposal was referred. The review committee shall use the following criteria to determine whether the proposed exception should be enacted:

- A.** Whether a record protected by the proposed exception needs to be collected and maintained;
- B.** The value to the agency or official or to the public in maintaining a record protected by the proposed exception;
- C.** Whether federal law requires a record covered by the proposed exception to be confidential;
- D.** Whether the proposed exception protects an individual's privacy interest and, if so, whether that interest substantially outweighs the public interest in the disclosure of records;
- E.** Whether public disclosure puts a business at a competitive disadvantage and, if so, whether that business's interest substantially outweighs the public interest in the disclosure of records;

§ 434. Review of proposed exceptions to public records; accessibility of public records

F. Whether public disclosure compromises the position of a public body in negotiations and, if so, whether that public body's interest substantially outweighs the public interest in the disclosure of records;

G. Whether public disclosure jeopardizes the safety of a member of the public or the public in general and, if so, whether that safety interest substantially outweighs the public interest in the disclosure of records;

G-1. Whether public access to the record ensures or would ensure that members of the public are able to make informed health and safety decisions;

H. Whether the proposed exception is as narrowly tailored as possible; and

I. Any other criteria that assist the review committee in determining the value of the proposed exception as compared to the public's interest in the record protected by the proposed exception.

2-A. Accountability review of agency or official. In evaluating each proposed public records exception, the review committee shall, in addition to applying the criteria of subsection 2, determine whether there is a publicly accountable entity that has authority to review the agency or official that collects, maintains or uses the record subject to the exception in order to ensure that information collection, maintenance and use are consistent with the purpose of the exception and that public access to public records is not hindered.

2-B. Accessibility of public records. In reviewing and evaluating whether a proposal may affect the accessibility of a public record, the review committee may consider any factors that affect the accessibility of public records, including but not limited to fees, request procedures and timeliness of responses.

3. Report. The review committee shall report its findings and recommendations on whether the proposed exception or proposed limitation on accessibility should be enacted to the joint standing committee of the Legislature having jurisdiction over the proposal.

History

Section History

PL 2003, c. 709, §3 (NEW). PL 2005, c. 631, §6 (AMD). PL 2011, c. 320, Pt. D, §3 (AMD). PL 2021, c. 313, §9 (AMD).

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