

**STATUTES AND REGULATIONS DESIGNATING CERTAIN
MAINE SCHOOL UNIT RECORDS AS CONFIDENTIAL**

Type of Record/Popular Title	Statutory/Regulatory Citation	Applies To (Explanation)
GENERAL EXCEPTIONS TO PUBLIC RECORDS		
Freedom of Information Act	1 M.R.S.A. § 402(3)(A)	Records designated confidential by statute
	1 M.R.S.A. § 402(3)(B)	Records within the scope of a privilege against discovery recognized by Maine courts
	1 M.R.S.A. § 402(3)(D)	Material prepared for and used specifically in preparation for negotiations, including bargaining proposals and analysis of proposals received
	1 M.R.S.A. § 402(3)(I)	Juvenile records and fire department reports regarding juvenile fire setters
	1 M.R.S.A. § 402(3)(L)	Records describing security plans for purposes of preventing terrorism
	1 M.R.S.A. § 402(3)(M)	Records describing architecture/design etc. of information technology infrastructure and systems
Maine Human Rights Act	5 M.R.S.A. § 4612	Evidence or statements in compromise, settlement negotiations, offers of settlement and final agreements except by consent of parties

Prepared for Maine School Management Association by Drummond Woodsum & MacMahon, July 12, 2004.

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Type of Record/Popular Title	Statutory/Regulatory Citation	Applies To (Explanation)
Public Improvements Statute	5 M.R.S.A. § 1747	Information concerning insufficient resources of contractor bidding on public work or, in some circumstances, plans and specifications
STUDENTS		
<i>Student Education Records</i>		
Family Educational Rights and Privacy Act (FERPA)	20 U.S.C. § 1232g 34 C.F.R. Part 99 20 U.S.C. § 7903 20-A M.R.S.A. § 6205	Records, files, documents and other materials containing information directly related to a student and maintained by the school unit or person acting for school unit (excluding records in the sole possession of a teacher or other school employee or created by designated law enforcement unit for law enforcement purposes) Student assessment data
Maine Student Records Statute	20-A M.R.S.A. § 6001 MDOE Chapter 125(12)	Records covered by FERPA and IDEA Records defined in FERPA and includes academic and disciplinary records; personally identifiable information

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Home Instruction	20-A M.R.S.A. § 6001; 5001-A(4)(c)	Notice of intent to home school; education records of home-schoolers; FERPA directory information on home-schoolers
<i>Special Education Records</i>		
Individuals with Disabilities Act (IDEA)	20 U.S.C. § 1412 et seq. 34 C.F.R. Part 300	Records covered by FERPA Records containing “personally identifiable information” about child with disabilities (name of child, parent and other family members; address of child; personal identifiers (i.e., Social Security number or student number); list of personal characteristics or other information that would make it possible to identify child with reasonable certainty)
	20-A M.R.S.A. § 7202 MDOE Rule Chapter 101(15)	Confidentiality of records in accordance with FERPA, IDEA and state laws
<i>Student Information</i>		
Protection of Pupil Rights Act (PPRA)	20 U.S.C. §1232h	Surveys, analysis or evaluation in eight areas (political affiliations, sex behavior, etc.) Collection, disclosure, use of personal information for marketing/selling purposes

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Juvenile Offense Records	20-A M.R.S.A. §§ 1055; 4502 15 M.R.S.A. §§ 3009; 3308 34-A M.R.S.A. § 1216 MDOE Chapter 125(10.07)	Criminal justice information about juveniles alleged to have committed violent crimes and juveniles reintegrating from correctional facilities provided to Notification Teams
Domestic Violence Records	20 U.S.C. § 7275	(Applies to schools receiving federal grants re domestic violence) Information about students experiencing or witnessing domestic violence
Free or Reduced Lunches	42 U.S.C. § 1758	Information from application for free or reduced price school meals
Equal Educational Opportunity	MDOE/MHRC Rule Chapter 4-A	Predetermination discussions, conciliation efforts, final settlement agreement except by consent of parties
<i>Student Medical/ Counseling Records</i>		
Student Health Records	20-A M.R.S.A. 6357; MDOE Rule Chapters 125(10); MDOE Rule Chapter 126(1) and 7(B); DHS Rule Chapter 281(5)	Health records confidential; defined to include health information and nursing services such as immunizations, health screening and assessment, nursing plans
Communicable Diseases	22 M.R.S.A. § 824; DHS Rule Chapter 258(G)	Information received from health officials re child with notifiable communicable disease

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Student Health Records	20-A M.R.S.A. § 6001-B(2)	Transfer of confidential health records as described in 5 M.R.S.A. §§ 19203-D, 20047; 22 M.R.S.A. § 1711-C; 34-B M.R.S.A. § 1207
Confidentiality of Patient Records statute	42 U.S.C. § 290dd-2 42 CFR Part 2	Identity, diagnosis, prognosis or treatment of person regarding substance abuse
Privileged Communications statute	20-A M.R.S.A. § 4008 MDOE Rule Chapter 129	Information from school counselor or social worker counseling session with student or parent
Consent of Minors for Health Services	22 M.R.S.A. § 1502 et seq.	Confidentiality of health information for which minors have authority to consent
EMPLOYEES		
<i>Employee Records</i>		
Employee/Applicant Records	20-A M.R.S.A. § 6101 MDOE Rule Chapter 125	Certain information relating to any employee and/or immediate family, and applicants (excluding directory information)
Criminal Records	20-A M.R.S.A. § 6103	Criminal history records obtained by MDOE
Certification Records	20-A M.R.S.A. § 13004 MDOE Rule Chapter 13(13.6) MDOE Rule Chapter 115	Records of certification application or verification; teacher addresses (exception: teacher certification status is public)
Support System Records	20-A M.R.S.A. § 13015 MDOE Rule Chapter 118(3)	Teacher action plans Teacher/educational specialist action plans

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Test Scores	20-A M.R.S.A. § 13034	Teacher qualifying exam scores
<i>Employee Medical Records</i>		
Employee Applicant Records	20-A M.R.S.A. § 6101	Medical information of any kind
Americans with Disabilities Act; Maine Human Rights Act	42 U.S.C. § 12112 5 M.R.S.A. §§ 4572(2); 5 M.R.S.A. § 4573	Medical condition or history (to be kept in separate medical files) Records of features regarding physical or mental disability in separate file
Substance Abuse Tests	26 M.R.S.A. § 685(3)	Information acquired in substance abuse testing process
Bus Driver Testing	49 C.F.R. Part 382.405	Bus driver information concerning substance abuse testing
Employee Assistance Programs	Maine Office of Substance Abuse Rule Chapter 6	Information obtained by EAP
Retirement Information	5 M.R.S.A. §17057	Medical information provided to employer by state retirement system
Confidentiality of Patient Records statute	42 U.S.C. § 290dd-2 42 CFR Part 2	Identity, diagnosis, prognosis or treatment of person regarding substance abuse

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