

Annual List of Rulemaking Activity
Rules Adopted January 1, 2022 to December 31, 2022
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Education
Umbrella-Unit: 05-071
Statutory authority: 20-A MRS §254(5)(A-C); PL ch. 115
Chapter number/title: Ch. 40, Rule for Medication Administration in Maine Schools
Filing number: 2022-057
Effective date: 5/12/2022
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

Statutory revisions which need to be addressed in rule.

Basis statement:

This rule provides directions to public and private schools approved pursuant to 20-A MRSA §2902 in the administration of medication to students during the students' attendance in school programs. It is to assist school administrative units in implementing the provision of the medication statute [20-MRSA §254(5)(A-D)J that provides direction for training of unlicensed school personnel in the administration of medication, requires that students be allowed to carry and self-administer prescribed emergency medications; specifically, asthma inhalers, epinephrine auto-injectors, or prescribed medications or devices for the management of diabetes with health care provider approval and school nurse assessment demonstrating competency. It provides direction for students to use sunscreen as well as provides guidelines for schools who intend to make naloxone available in the case of suspected opioid overdose.

The Department is proposing the current amendments to the rule to comply with statutory changes related to sunscreen and naloxone and improve practices of medication administration in schools statewide.

Fiscal impact of rule:

None.

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Agency name: Department of Education
Umbrella-Unit: 05-071
Statutory authority: Chapter 60 – PL 1999 C.776, §21;
Chapter 61 - 20-A M.R.S.A. §3
20-A M.R.S.A. §405(3)(J)
20-A M.R.S.A. §15905, sub-§4
P.L. 2001, c. 439, Part 0000, §0000-3
P.L. 2007, c. 240, Part MM, Chapter 103-A
P.L. 2008, c.223
Chapter number/title: Ch. 60, New School Siting Approval
Filing number: 2022-089
Effective date: 6/10/2022
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

As the result of Resolve 2021 Chapter 114, the State Board of Education was required to amend rule Chapter 60, 61 and 125 to require standards governing air quality and ventilation for all public schools including schools with mechanical and non-mechanical ventilation systems. Therefore, the State Board proposed in a targeted rulemaking for Chapter 60 to (Insert) New “SECTION 6. Other Considerations” (on page 3) that states “The school administrative unit will utilize the best- available practice national standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) for inspection, maintenance, ventilation and filtration.”

Therefore, the State Board proposed in a targeted rulemaking for Chapter 61 to in SECTION 6 SCHOOL CONSTRUCTION ELIGIBILITY AND APPROVAL PROCESS

2. Eligibility for State Funding

(insert) “I. Ventilation Requirements” (page 15) that states “The school administrative unit will utilize the best- available practice national standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) for inspection, maintenance, ventilation and filtration.”

Therefore, the State Board and the Department of Education proposed in a targeted rulemaking for Chapter 125 to in SECTION 5 OTHER MINIMUM REQUIREMENTS

5.10 Health, Sanitation, and Safety Requirements

D. Air Quality (page 14) (insert) that states “The school administrative unit will utilize the best- available practice national standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) for inspection, maintenance, ventilation and filtration.”

Basis statement:

The school administrative unit will utilize the best available practice national standards of the American Society of Heating, refrigerating and Air Conditioning Engineers (ASHRAE) for inspection, maintenance, ventilation and filtration.

Fiscal impact of rule:

Under Maine statute the school administrative units are to follow national standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) for inspection, maintenance, ventilation and filtration.

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P.L. 2001, c. 439, Part 0000, §0000-3
P.L. 2007, c. 240, Part MM, Chapter 103-A
P.L. 2008, c.223
Chapter number/title: Ch. 61, Rules for Major Capital School Construction Projects
Filing number: 2022-090
Effective date: 6/10/2022
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

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Agency name: Department of Education
Umbrella-Unit: 05-071
Statutory authority: 20-A MRS §13006-A; PL 2021 ch. 228
Chapter number/title: Ch. 115, The Credentialing of Education Personnel
Filing number: 2022-088
Effective date: 6/10/2022
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

Refine Chapter 115 to be more understandable and user friendly. A Consensus rulemaking process was undertaken with members of the Professional Standards Board. A second comment period was undertaken to review three substantial changes to the original proposal:

- Refined some of the grade spans
- Reinstated Adaptive Physical Education (APE) endorsement
- Revised language per P.L.2021, Chapter 348, which requires rules which used the term ‘hearing impaired’ be changed to ‘hard of hearing’.

Basis statement:

LD 1189 was enacted in the House on June 9, 2021 and in the Senate on June 10, 2021. The Governor signed the emergency measure into Public Law 2021, Chapter 228 on June 16, 2021. Further, the Public Law states “**Rulemaking; applicability.** The State Board of Education shall amend Department of Education rule Chapter 115 regarding the credentialing of education personnel in accordance with this Act. Notwithstanding the Maine Revised Statutes, Title 20-A, section 13006-A, subsection 3, a person who is subject to the provisions of Title 20-A, section 13006-A, subsection 3 on the effective date of this Act may choose to be certified either pursuant to the rules effective prior to the effective date of this Act or under the amended rules adopted by the State Board of Education pursuant to this Act. Therefore, the State Board is proposing revisions to Chapter 115, a major substantive rule.

Fiscal impact of rule:

None.

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Agency name: **State Board of Education** (*Joint rule with the Department of Education*)
Umbrella-Unit: **05-071**
Statutory authority: **Chapter 60** – PL 1999 C.776, §21;
Chapter 61 - 20-A M.R.S.A. §3
20-A M.R.S.A. §405(3)(J)
20-A M.R.S.A. §15905, sub-§4
P.L. 2001, c. 439, Part 0000, §0000-3
P.L. 2007, c. 240, Part MM, Chapter 103-A
P.L. 2008, c.223
Chapter number/title: **Ch. 125**, Basic Approval Standards
Filing number: **2022-091**
Effective date: 6/10/2022
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

As the result of Resolve 2021 Chapter 114, the State Board of Education was required to amend rule Chapter 60, 61 and 125 to require standards governing air quality and ventilation for all public schools including schools with mechanical and non-mechanical ventilation systems. Therefore, the State Board proposed in a targeted rulemaking for Chapter 60 to (Insert) New “SECTION 6. Other Considerations” (on page 3) that states “The school administrative unit will utilize the best- available practice national standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) for inspection, maintenance, ventilation and filtration.”

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Agency name: Department of Education
Umbrella-Unit: 05-071
Statutory authority: 20-A M.R.S.
Chapter number/title: Ch. 132, Learning Results: Parameters for Essential Instruction
Filing number: 2022-058
Effective date: 5/12/2022
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

As part of this revision, the Health Education & Physical Education, Visual & Performing Arts, and World Languages standards have been reformatted into the newly designed Maine Learning Results structure. This structure divides each content standards into three stages of development, childhood, pre-adolescence, and adolescence. Within these stages, we have also identified the associated grade levels, elementary, middle, high school. Additionally, we have standardized the language used so that the following three descriptors mean the same for each content area. These descriptors and their corresponding definitions are:

Strand: A body of knowledge in a content area identified by a simple title.

Standard: Enduring understandings and skills that students can apply and transfer to contexts that are new to the student.

Performance Expectation: Building blocks to the standard and measurable articulations of what the student understands and can do.

Basis statement:

The proposed **Health Education & Physical Education** standards have been revised to identify Health Education as a strand and Physical Education as a strand to better delineate the unique standards and performance expectations in each. For the Health Education strand, the proposed draft is closely aligned to the National Health Education Standards and includes minor adjustments to wording for clarification and the combining or elimination of some language in order to be more clear, concise, and appropriate (for the age level or age span). In addition, content topics and examples were removed from the Performance Expectations as the committee felt they were limiting the content by implying those were the only topics to be addressed. For the Physical Education strand, several standards were renamed and/or restructured and the performance expectations reworded to better meet the needs of Maine educators.

The proposed **Visual & Performing Arts** standards have been adapted from the National Core Arts Standards while still including those items that Maine arts educators felt are specific to their work with Maine students.

The two biggest changes to the document include the addition of **Media Arts** standards, a rapidly developing field of the creative economy that includes audio, video, digital design, and mixed media creations, and the realignment of strands that separate each arts discipline into its own collection of unique standards and performance expectations (previously, three of the five arts standards were universal across all arts disciplines; now, they are individualized for each discipline.) Although some disciplines share the same standards, their performance expectations are unique.

The proposed **World Languages** standards are in alignment to national standards (ACTFL World-Readiness Standards for Learning Languages), which were published in 2012, and are designed to meet the needs of Maine educators. Whereas the current standards include four strands, in the proposed draft, they have been reorganized into five strands, consistent with the five goal areas represented in the national standards. To make this shift,

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concepts included in the four original strands were retained but categorized differently in order to align with the five goal areas. For example, language comparisons appears in the Communication strand in the current standards, while in the proposed draft it appears in the Comparisons strand.

Another substantial shift is the inclusion of proficiency levels in addition to grade spans. The current standards represent a full pre-K to Grade 12 progression of language learning. The proposed draft also offers this full progression, while at the same time providing multiple entry points by directing educators to begin at the current level of proficiency of their students. For example, if a program begins in Kindergarten, the educator will start by addressing the Kindergarten/Novice Low performance expectations. If the program begins in 7th grade, the educator will start with the performance expectations in the same Kindergarten/Novice

Low level, in order to appropriately target instruction to students' current proficiency level. Finally, a third shift is within the performance expectations themselves. In the current standards, performance expectations direct educators to focus on specific topics and skills within the standard. However, the proposed draft mirrors the national standards in its intention to provide general, universally applicable performance expectations that can be tailored to all languages, whether modern, classical, or signed. Supplemental resources will provide greater guidance on how to tailor them to specific languages, particularly classical and signed languages, which differ from modern languages in terms of uses, communities of speakers/users, and cultures.

It is also important to note that the NCSSFL-ACTFL Can-Do Statements, which include general Communication and Intercultural Communication, provided the basis for the performance expectations in the proposed standards. The performance expectations in the Communication strand are based on the Can-Do Statements for interpersonal, interpretive, and presentational communication. For the four remaining strands, performance expectations were established based primarily on the Intercultural Communication Can-Do Statements.

Fiscal impact of rule:

None.