

05-071 MAINE STATE BOARD OF EDUCATION

Chapter 115: CERTIFICATION, AUTHORIZATION, AND APPROVAL OF EDUCATION PERSONNEL

SUMMARY: This rule contains the requirements for certification, authorization, and approval of educational personnel who serve in the public and in certain approved private schools of the State of Maine. Standards and procedures for certification, authorization, and approval are included and are intended to provide the highest quality of personnel to help students meet the standards of the system of Learning Results.

PART I: STANDARDS AND PROCEDURES FOR CERTIFICATION, AUTHORIZATION, AND APPROVAL

SECTION 1. GENERAL PROVISIONS

1.1 Introduction

The quality of education personnel is critically important to the successful implementation of the system of Learning Results for each Maine child. This rule governs the certification of teachers, educational specialists, and administrators; the authorization of educational technicians; and the approval of those serving in positions for which certification or authorization is not required. Pursuant to that end, this rule applies to Maine public schools and private schools that are approved in accordance with 20-A M.R.S.A. §2901(2)(B). Sections of the rule addressing approval of personnel also apply to private schools enrolling 60% or more students at public expense. This rule implements 20-A M.R.S.A. Chapter 502, and supersedes all previous rules on the same subject. Other rules relating to certification, authorization or approval include Me. Dept. of Ed. Reg. 13, Qualifying Examinations; Me. Dept. of Ed. Reg. 114, Purpose, Standards and Procedures for the Review and Approval of Educational Personnel Preparation Programs; Me. Dept. of Ed. Reg. 118, Purposes, Standards and Procedures for Educational Personnel Support Systems and Me. Dept. of Ed. Reg. 119, Procedures for Denial, Non-renewal, Suspension, or Revocation of a Certificate, Endorsement, Authorization or Approval.

The establishment of certification, authorization, and approval standards and procedures for education personnel is the responsibility of the State Board of Education. The Commissioner of Education is responsible for implementing the certification, authorization, and approval process. Nothing in this rule shall preclude an employing school administrative unit or private school from establishing requirements in addition to those specified in this rule to meet local needs and expectations.

1.2 Scope of Requirements

A. Certification

1. Individuals who serve as teachers, educational specialists, or administrators shall be certified on or before the first day of service in a school and throughout their period of service.

2. It is the responsibility of an applicant for a professional position in a school to obtain a certificate appropriate to the assignment, to seek timely renewal of the certificate, and to meet certification standards.
3. It is the responsibility of the superintendent of a school administrative unit or the headmaster of an approved private school to ensure that every teacher, educational specialist, and administrator has an appropriate certificate on the first day of service and that appropriate certification is maintained throughout the period of service. Any employment contract offered to or made with a teacher, educational specialist, or administrator shall be contingent upon that individual's timely receipt of appropriate certification and the maintenance of appropriate certification throughout the contract term.
4. Teachers of children in federally funded programs shall hold a valid teacher certificate for the grade level at which they teach, and secondary teachers shall hold a subject area endorsement in at least one area for which they are responsible and shall meet all other federal criteria in each area for which they are responsible. All teachers in schools with school-wide programs shall hold provisional or professional certification.
5. Teachers of children in alternative education programs and teachers of courses for which there is no teacher endorsement shall hold a valid teacher certificate for the grade level at which they teach, and secondary teachers shall hold a subject area endorsement in at least one area for which they are responsible and shall meet all other federal criteria in each area for which they are responsible.
6. Teachers holding a valid 7-12 endorsement may teach adult education courses in the same subject area without holding the adult education endorsement.

B. Authorization

Educational technicians are not required to be certified, but shall meet the requirements for authorization in accordance with Section 10 of this rule.

C. Approval

Approval by the Department is required in accordance with Section 11 of this rule for:

1. Personnel serving in positions where certification or authorization is not required, including substitutes;
2. Individuals who provide educational or support services in the public schools through a contracted services arrangement; and
3. Individuals employed in private schools that enroll more than 60% of students at public expense, unless the individual holds certification or authorization.

1.3 Effective Date

The effective date of Part I and Part II of this rule for all sections shall be August 1, ~~2008~~ 2009

SECTION 2. DEFINITIONS

All definitions contained in 20-A M.R.S.A. §1 shall apply to this rule. In addition, as used in this rule, unless the context otherwise indicates, the following terms shall have the following meanings:

2.1 Administrator: "Administrator" means an individual certified to provide services in any of the following capacities: superintendent, assistant superintendent, principal, assistant principal, teaching principal, administrator of special education, assistant administrator of special education, administrator of career and technical education, assistant administrator of career and technical education, curriculum coordinator, director of adult and community education, or assistant director of adult and community education.

2.2 Affidavit of Employment: "Affidavit of employment" means the form submitted by a superintendent who plans to employ an individual who may be eligible for a conditional certificate, a targeted need certificate, or a transitional endorsement to a certificate.

2.3 Applicant: "Applicant" means any individual seeking initial certification, authorization, or approval, renewal, or reinstatement of a lapsed, surrendered, suspended, or revoked certification, authorization, or approval.

2.4 Appropriate Certification: "Appropriate certification" means the certificate and endorsement that correspond to the actual duties of a teacher, educational specialist, or administrator, irrespective of the individual's title or job description. This definition also includes any waiver issued by the Commissioner in accordance with Section 7 of this rule.

2.5 Approval: "Approval" means the five-year credential issued by the Department to qualified individuals to serve as an employee in a position for which certification or authorization is not required, or as an employee of a contracted service provider.

2.6 Approved Private School: "Approved private school" means a private school that is approved in accordance with 20-A M.R.S.A. § 2901(2)(B) rather than on the basis of accreditation by the New England Association of Colleges and Secondary Schools.

2.7 Approved Study: "Approved study" means semester hours, contact hours, or continuing education units, as defined in this Section, or credits earned through completion of an educational technician apprenticeship program through the Maine Department of Labor.

2.8 Authorization: "Authorization" means the regular five-year credential issued by the Department to qualified individuals to serve as an Educational Technician I, II, or III.

2.9 Category of Certification: "Category of certification" means one of the three categories of teacher, educational specialist, or administrator.

2.10 Certificate: "Certificate" means the credential issued by the Department to qualified individuals to serve as a teacher, educational specialist, or administrator.

2.11 Commissioner: "Commissioner" means the Commissioner of the Maine Department of Education or a designee.

2.12 Complete Application: "Complete application" means an application that includes all of the requirements and supporting documentation as specified for the certificate, authorization, or approval sought, as described in Section 3.1 of this rule.

2.13 Conditional Certificate: “Conditional certificate” means the one-year certificate issued to teachers, educational specialists, or administrators who have not met all of the requirements for a certificate or endorsement, as specified in Sections 4.2.C.1, 5.4, 8.2, and Part II of this rule.

2.14 Contact Hour: “Contact hour” means one hour of time spent in a training and development program or individual study program approved by a support system or by the Department; 15 contact hours is equivalent to 1 credit of approved study.

2.15 Content Area Methods: “Content area methods” means a methods course for specified grade levels and subject area that is offered as a component of an approved teacher preparation program.

2.16 Continuing Education Units: “Continuing education units” (C.E.U.) means units of academic study from an accredited institution of higher education or from a training and development program approved by the Council for the Continuing Education; 1.5 C.E.U. is equivalent to 1 credit of approved study.

2.17 Contracted Service Provider: “Contracted service provider” means an organization or individual that provides services to a school through a paid contractual arrangement or is a contract provider for one or more Child Development Services sites. This includes educational services and services that bring the employees of the provider into direct contact with students.

2.18 Criminal History Records Check: “Criminal History Records Check” means the fingerprint-based records check conducted by the Maine Department of Public Safety, unless otherwise specified in Section 3.2 of this rule.

2.19 Department: “Department” means the Maine Department of Education.

2.20 Educational Specialist: “Educational specialist” means an individual certified to provide professional services in any of the following capacities: athletic director, school counselor, library-media specialist, literacy specialist, school psychological service provider, school nurse, special education consultant, speech-language clinician, or career and technical education evaluator.

2.21 Endorsement: “Endorsement” means a notation on a certificate issued to a teacher that specifies the grades and subject area for which the certificate is valid. A certificate may bear one or more endorsements.

2.22 Fast-track: “Fast-track” means that a person is being recommended for a professional certificate based on a minimum of two years of applicable experience as a teacher or educational specialist, as specified in Section 5.2.B of this rule.

2.23 Holder: “Holder” means an individual who holds a valid certificate, authorization, or approval.

2.24 Interim Superintendent Certificate: “Interim superintendent certificate” means the two-year certificate issued to superintendents who have a superintendent certificate that has lapsed and are not eligible for another superintendent certificate, as specified in Section 5.8 of this rule.

2.25 Interstate Compact: “Interstate compact” means the interstate contract signed with one or more states pursuant to the Interstate Agreement on Qualifications of Educational Personnel, codified at 20-A M.R.S.A. §13901 et seq., as specified in Section 4.2.B.2 of this rule.

2.26 Lapsed: “Lapsed” means a certificate, authorization, or approval that has expired without submission of a complete and timely renewal application by the holder.

2.27 License: “License” means, for purposes of any reference to 5 M.R.S.A. in this rule, the certificate, authorization, or approval issued to an applicant by the Department of Education pursuant to the Department’s exercise of its regulatory powers.

2.28 Paid Applied Employment: "Paid applied employment" means employment that is primarily focused on a specific career and technical education occupation, that covers the scope of the occupation as identified within the career and technical endorsement being sought, and for which all federal and state tax, labor, and other reporting requirements were met.

2.29 Professional Certificate: "Professional certificate" means the five-year certificate by the Department issued to teachers, educational specialists, and administrators after July 1, 1988, as specified in Section 5.2 of this rule.

2.30 Provisional Certificate: "Provisional certificate" means the initial two-year certificate issued by the Department to teachers and educational specialists after July 1, 1988, as specified in Section 5.1 of this rule.

2.31 School: "School" means, for the purposes of this rule, a public school or a private school that is approved by the State in accordance with 20-A M.R.S.A. §2901(2)(B), unless explicitly described otherwise in the rule.

2.32 School Administrative Unit: "School administrative unit" means the state-approved unit of school administration and includes a municipal school unit, school administrative district, community school district, or any other municipal or quasi-municipal corporation responsible for operating or constructing public schools. For the purpose of this rule, an applied technology region shall be considered to be a school administrative unit.

2.33 Semester Hours: "Semester hours" means semester hours from an accredited four-year institution of higher education or professional education in an approved preparation program; 1 semester hour is equivalent to 1 credit of approved study.

2.34 State Board: "State Board" means the State Board of Education of the State of Maine.

2.35 Support System: "Support system" means a locally developed and state-approved system for assisting holders of certification or authorization to meet the requirements of this rule, in accordance with Me. Dept. of Ed. Reg. 118.

2.36 Support Team: "Support team" means a team of professional teachers, administrators, educational specialists, and other educators, within the context of the school administrative unit's support system in accordance with Me. Dept. of Ed. Reg. 118, that is responsible for assisting holders of a targeted need certificate, conditional certificate, provisional certificate, or transitional endorsement, and individuals seeking a master certificate.

2.37 Targeted Need Certificate: "Targeted need certificate" means the one-year certificate issued to teachers and educational specialists who are employed in a shortage area and are not eligible for another certificate, as specified in Sections 4.2.C.2 and 5.5 of this rule.

2.38 Teaching Experience: "Teaching experience" means experience in which a teacher is employed to be responsible for, and has actually conducted the instruction of, students, which may include adult students. Teaching experience does not accrue during short-term or long-term substitute teaching or during work as an educational technician or work as a presenter of workshops.

2.39 Teaching Exceptional Students in the Regular Classroom: "Teaching exceptional students in the regular classroom" means study approved by the Department in accordance with criteria set forth by the Department that emphasizes the education of exceptional students in regular public school programs with the addition of supportive assistance or the modification of teaching methods and instructional materials.

2.40 Transitional Endorsement: “Transitional Endorsement” means the endorsement issued to a certified teacher who does not meet all of the requirements for the endorsement, as specified in Sections 4.2.C.3 and 6 of this rule.

2.41 Tutor: “Tutor” means an individual who provides direct instructional intervention or assistance to a student or small group of students as part of regular or special education classes of a school. This instruction may be provided within or outside the school environment on an as-needed basis, and shall be in consultation with a certified teacher. If tutoring for a student exceeds sixty school days in a school year, the tutor shall hold the appropriate authorization or certification and shall receive supervision as required, except as provided in special education rules.

SECTION 3. APPLICATION FOR CERTIFICATION, AUTHORIZATION, OR APPROVAL

3.1 Application

A. Complete Application

1. Each applicant for a certificate, an authorization, or an approval shall submit a complete, accurate, and signed application on the form provided by the Department, including all supporting documentation required for an evaluation of eligibility for the certificate, authorization or approval sought, and, when required, the recommendation of the support system chairperson. Incomplete materials shall not be processed.
2. Each application must include fees when required, in accordance with 20-A M.R.S.A. §13007(1).
3. The Department will analyze each complete application and provide the applicant with a written statement of any remaining eligibility requirements and the timeframe in which each shall be completed.
4. A teacher, educational specialist, or administrator who is currently certified in Maine and is employed as an Educational Technician I, II, or III need not apply for authorization as an educational technician.
5. A teacher, educational specialist, or administrator who is currently certified in Maine or an education technician who is currently authorized in Maine and is employed in a position that requires only a criminal history record check approval need not apply for the approval.

B. College transcripts

1. Each college transcript filed for certification or authorization purposes shall be an official transcript and shall:
 - (a) Bear the seal of the institution and the signature of the registrar or other official designated by the president or board of the institution;
 - (b) Include descriptive titles, credits and grades for all listed courses; and
 - (c) Indicate the type of degree granted and the date the degree was conferred.
2. Transcripts that are not written in English shall include an English translation.
3. The applicant shall provide, at the applicant's expense, an evaluation of transcripts from institutions outside the United States by an agency satisfactory to the Department.

3.2 Criminal History Records Check

A. Requirement

Before issuance of any certificate, authorization, or approval, the Department shall conduct a Criminal History Records Check on all applicants including all conviction data from the Maine State Bureau of Identification, from other states, and from the Federal Bureau of Investigation. Criminal history record information may also be obtained from other sources including self-disclosure. An applicant with a conviction shall provide court documents if requested by the Department.

B. Fingerprinting

Unless excepted due to a specific medical condition, fingerprinting is required for the initial Criminal History Records Check. Fingerprinting may be repeated if there is interrupted service, as determined by Section 3.2.B.5 of this rule, or lapsed certification, authorization, or approval in accordance with Section 13 of this rule. The Maine Department of Public Safety shall take the required fingerprint impressions if the applicant works or lives in Maine. An applicant for certification or authorization who does not work or live in Maine may have fingerprints taken in another State using a method accepted by the Maine State Bureau of Identification; such applicants shall have fingerprints retaken by Maine Department of Public Safety within twenty days of the first day of employment for those employed under a certificate or authorization and within eight weeks for those employed under an approval in a Maine school.

1. Proof of identification prior to the taking of the fingerprints

The applicant shall provide a government-issued, photo identification prior to the taking of the fingerprints, as well as necessary personal identification information, including social security number, date of birth, and current address.

2. Receipt of fingerprints by the Maine State Bureau of Identification

The law enforcement agency or its designee that has taken the fingerprint impressions shall forward the fingerprint impressions directly to the Maine State Bureau of Identification, which shall compare the fingerprints to all fingerprints in Maine's conviction database. Applicant fingerprints shall be compared to new Maine convictions as they occur. Applicant fingerprints shall not be available to law enforcement agencies as part of any criminal investigation.

3. Receipt of fingerprints by the Federal Bureau of Investigation

The Maine State Bureau of Identification shall forward the applicant's fingerprint impressions to the Federal Bureau of Investigation to conduct a national conviction records check. A national check shall be repeated every five years if there is interrupted service.

4. Receipt of Conviction History by the Department

The Maine State Bureau of Identification shall forward State and national conviction records to the Department for its consideration as part of the decision to issue a certificate, authorization, or approval of applicants and holders of a certificate, authorization or approval. If, based on information received through the fingerprint-based criminal history records check, a certificate, authorization, or approval is suspended, revoked, or denied, this shall be done in accordance with Section 14 of this rule.

5. Interrupted Service

For the purpose of determining whether an applicant for renewal of certification, authorization, or approval has interrupted service, school vacations, paid leave, and a change in employment between school units without loss of work days shall not be considered interrupted service. If an applicant submits affidavits from all employing superintendents or headmasters for the previous five years, a national records check may not be repeated for renewal applications.

C. Confidentiality of Criminal History Record Information

The Department shall observe confidentiality of any criminal history records information in accordance with 20-A M.R.S.A. § 6103(3).

Conviction information provided to the Department from the State Bureau of Identification shall not be shared with school personnel, whether or not it results in ~~denial of an applicant's certificate, authorization, or approval~~ adverse action against an applicant or holder of a certificate, authorization or approval.

An applicant or holder may access the applicant's own Criminal History Records Check information by submitting a request in accordance with 20-A M.R.S.A. §6103(8).

3.3 Timeframe for Application

A. General

1. An individual may apply at any time for a certificate as a teacher, educational specialist, or administrator, for an authorization as an educational technician, or for an approval. After it has been determined that all requirements have been met as specified in this rule, the certificate, authorization, or approval shall be issued and shall be valid as of the date that the application package was determined by the Department to be complete.
2. If an application for renewal is denied, or if the complete application for renewal is not timely filed, the applicant's certification, authorization, or approval shall be deemed to have lapsed as of its expiration date and renewal shall be in accordance with Section 13 of this rule.

B. Certification Renewal

1. Application Deadline

To maintain continuous certification, a holder seeking renewal of a certificate shall apply for renewal no later than August 31 of the year the current certificate expires. The Commissioner shall accept late applications only upon satisfactory documentation of the unforeseeable or extenuating circumstances that caused the applicant to miss this deadline. Unavailability to the applicant of a transcript for a recently completed course shall be considered an extenuating circumstance.

2. Effective Date

In the case of complete applications for renewal of certification that are timely filed, the existing certificate shall remain in effect until the application is approved or denied, and a renewal certificate subsequently issued shall be deemed effective as of the July 1 expiration date of the previous certificate.

C. Authorization Renewal

1. To maintain continuous authorization, a holder seeking renewal of an authorization shall apply for renewal no later than February 1 of the year the current authorization expires. The Commissioner shall accept late applications only upon satisfactory documentation of the unforeseeable or extenuating circumstances that caused the applicant to miss this deadline. Unavailability to the applicant of a transcript for a recently completed course shall be considered an extenuating circumstance.
2. In the case of complete applications for renewal of an authorization that are timely filed, the existing authorization shall remain in effect until the application is approved or denied, and a renewal authorization subsequently issued shall be deemed effective as of the February 1 expiration date of the previous authorization.

D. Approval Renewal

1. To maintain continuous approval, a holder seeking renewal of an approval shall apply no later than the date of expiration of the existing approval.
2. In the case of complete applications for approval that are timely filed, the existing approval shall remain in effect until the application is approved or denied, and a renewal approval subsequently issued shall be deemed effective as of the expiration date of the previous approval.

~~E. Issuance in Error~~ (Has been moved to Section 3.5 below)

3.4 Expiration Date and Duration

A. Expiration Date

1. All certificates shall expire July 1 of the year of expiration.
2. All authorizations shall expire February 1 of the year of expiration.
3. All approvals shall expire on the month and day of the fingerprint date of the year of expiration. Renewed approvals shall expire on the month and day of the submission of a completed renewal packet.

B. Duration

1. Certificates issued to new applicants shall be valid as of the date the application package is determined by the Department to be complete. Renewals shall be valid as specified in Section 3.3.B.2 of this rule.
 - (a) The nominal term of the certificate shall be one year, two years, three years, or five years, as specified in Section 5 of this rule, calculated as of July 1 of the year of validation.
 - (b) A certificate issued in January through June of the year of validation will be issued for more than the nominal term. A certificate issued in July through December of the year of validation will be issued for less than the nominal term.
2. All authorizations shall be valid as of the date the application package is determined by the Department to be complete. The nominal term of the authorization shall be five years, calculated as of February 1 of the year of validation. An authorization issued in January of the year of validation will be issued for more than the nominal term. An authorization issued in February through December of the year of validation will be issued for less than the nominal term.
3. All approvals shall be valid for five years from the date the fingerprints were taken.

3.5 Issuance in Error

The holder shall not be entitled to a certificate, authorization, or approval mistakenly issued by the Department. The removal of any certificate, authorization, or approval in accordance with this paragraph shall not result in the penalties set forth in Section 15.3 of this rule for any portion of the academic year during which action was taken. The Commissioner shall give the holder 30 days written notice of the tentative determination of error, the pendency of the reversal of the issuance, and the holder's opportunity to be heard. The notice shall inform the holder that the proposed reversal is final after the expiration of 30 days unless the holder files an appeal as provided in Chapter 119 ~~confer with the applicant in accordance with Section 14.2 of this rule, prior to taking any action under this paragraph.~~

An issuance may be reversed for lack of any requirement for a complete application as defined in Section 3.1 (A) of this rule, including dishonor of a check or credit card, or any other reason causing non-receipt by the Department of the required fee.

SECTION 4. GENERAL ELIGIBILITY FOR CERTIFICATION

4.1 A superintendent, headmaster, or Child Development Services director who employs an individual without certification in violation of this Section shall be subject to penalties in Section 15.3 of this rule. To be certified by the Department of Education, applicants shall meet the following general qualifications:

- A. Furnish evidence ~~Be~~ of good moral character when requested;
- B. Be at least 18 years of age;
- C. Be knowledgeable of physiology and hygiene, with special reference to the effects of alcohol, stimulants and narcotics upon the human system;
- D. Hold a bachelor's degree from an accredited institution, with the following exceptions:
 1. Career and technical education teachers;
 2. School nurses under a conditional certificate; and
 3. Native language teachers receiving certification by means of Chapter 115 Part II Section 1.17.
- E. Satisfactorily complete a state and national Criminal History Records Check based on fingerprints in accordance with Section 3.2 of this rule; and
- F. For teachers and educational specialists, demonstrate that the following standards are met in accordance with Me. Dept of Ed. Reg. 13 or Me. Dept. of Ed. Reg. 114.
 1. Knowledge of the central concepts, tools of inquiry and structures of the discipline that the applicant teaches and the ability to create learning experiences that make these aspects of the subject matter meaningful to students;
 2. The ability to integrate the central concepts, tools of inquiry and structures among the disciplines that the applicant teaches;
 3. Knowledge of the diverse ways in which students learn and develop and the ability to provide learning opportunities that support their intellectual, physical, emotional and social development;
 4. The ability to plan instruction based upon knowledge of the discipline, students and curriculum goals;
 5. Understanding and use of a variety of instructional strategies and appropriate technologies;
 6. The ability to create and maintain a classroom environment that supports and encourages learning;
 7. The ability to support student learning and well-being by engaging students and their families, other school personnel, and the community;
 8. Understanding and use of a variety of formal and informal assessment strategies to evaluate and support the development of the student;
 9. An awareness of and commitment to the ethical and legal responsibilities of a teacher; and
 10. A strong professional ethic and a desire to contribute to the education profession.

4.2 Routes to Initial Certification

Applicants with the qualifications specified in Section 4.1 may obtain a certificate by one of the following methods:

A. Completion of an Approved Preparation Program

Successful completion of a preparation program for educational personnel approved by the State Board with the formal recommendation for certification from the institution, in accordance with Me. Dept. of Ed. Reg. 114.

B. Applicants Certified in Other States

1. Interstate Compact

Successful completion of a preparation program in a state with which Maine is participating in the Interstate Compact, subject to the following:

- (a) 1. Completion of an approved preparation program for the endorsement or certificate being sought with a formal recommendation for certification from the institution; or
 2. In the five years prior to applying for Maine certification, the applicant has three years of successful teaching experience under a valid comparable certificate in the same certification subject area and grade level in a state with which Maine is participating in the Interstate Compact;
- (b) If advanced study or tests are required in Maine, the Commissioner has the right, as specified in the Interstate Compact, to issue only a conditional certificate; and
- (c) The requirement relating to “teaching exceptional students in the regular classroom” shall be met prior to renewal of the first professional certificate.

2. Administrators Certified in Other States

An individual certified in a state other than Maine may be eligible for a one-year, renewable once Maine administrator conditional certificate if the individual meets all of the following requirements:

- (a) Has three years of administrative experience using the type of certification being sought;
- (b) Holds a master’s degree; and
- (c) Holds the same type of certificate from a state other than Maine.

C. Alternative Pathways to Certification

The Department shall conduct an individual evaluation in accordance with the criteria set forth for each endorsement or certificate included in Part II of this rule. Individuals who are not eligible for a certificate or endorsement in accordance with Section 4.2.A or 4.2.B of this rule may be eligible for a certificate through an alternative pathway as set forth in this section. At the sole discretion of the Commissioner, the requirement for student teaching for a teacher endorsement may be waived if the applicant can document substantial teaching experience at a similar grade level of content area for the endorsement sought.

1. Conditional Certificate

Conditional certification provides an alternate pathway to teacher, educational specialist, or administrator certification for individuals who are missing requirements. Specific

requirements for conditional certificates are specified in Part I Section 5.4 and Part II of this rule.

2. Targeted Need Certificate

Targeted need certification provides an alternate pathway to teacher or educational specialist certification for positions designated as having a shortage of fully certified applicants for individuals who are not eligible for any other certificate. Specific requirements for a targeted need certificate are specified in Section 5.5 of this rule.

3. Transitional Endorsement

A transitional endorsement to certification provides an alternate pathway to certification for individuals who hold a provisional or professional teacher certificate but are missing some of the requirements for the additional endorsement sought. Specific requirements for transitional endorsements to certification are described in Part I Section 6 and Part II of this rule.

4.3 Qualifying Examinations for Certification

Issuance of any provisional or professional teacher or educational specialist certificate requires compliance with Me. Dept. of Ed. Reg. 13.

4.4 Degrees or Credits from Accredited Institutions

Any bachelor's degree, graduate degree, or required semester hours of academic study shall have been earned at an accredited four-year institution. For purposes of this rule, an accredited institution is a college, university, or other post-secondary institution accredited by one or more of the following:

A. One of the six regional accrediting agencies:

1. The New England Association of Colleges and Secondary Schools
2. The Middle States Association of Colleges and Secondary Schools
3. The Southern Association of Colleges and Schools
4. The North Central Association of Colleges and Secondary Schools
5. The Northwest Association of Secondary Schools and Higher Education
6. The Western Association of Colleges and Schools

B. The National Council for the Accreditation of Teacher Education

C. Any other national institutional accrediting agency recognized by the U.S. Secretary of Education as an accrediting authority.

D. Required semester hours of academic study shall consist of non-duplicative coursework. Example: For a teacher of students with disabilities endorsement, the 24 semester hours in special education coursework may include only one course that meets teaching exceptional students in the regular classroom.

SECTION 5. CERTIFICATES FOR TEACHERS AND EDUCATIONAL SPECIALISTS

There are five different types of certificates for teachers and educational specialists. The regular certificates for teachers and educational specialists are provisional, professional, and master certificates. Conditional certificates, and targeted need certificates for teachers and educational specialists are also described in this rule.

5.1 Provisional Certificate

- A. **Function:** The provisional certificate is the initial certificate for teachers and educational specialists in Maine. Except in the circumstances set forth in Section 5.4 of this rule, the provisional certificate is the prerequisite for the professional certificate, regardless of the applicant's prior experience, academic preparation, or certification status in another State.
 - 1. For teachers, the provisional certificate is issued with one or more endorsements that specify the subject area and the grade level for which the teacher is deemed qualified.
 - 2. For educational specialists, except for school nurses and school psychological service providers, the provisional certificate is issued with the subject area and grade level for which the educational specialist is deemed qualified. There are no provisional certificates for a school nurse or a school psychological service provider.
- B. **Eligibility:** An applicant becomes eligible for a provisional certificate by meeting the general requirements of Sections 3.1 and 4.1 of this rule, and by meeting the specific requirements for one or more teacher endorsements or educational specialists certificates as described in Part II of this rule.
- C. **Term:** The provisional certificate shall be issued for a two-year period.
- D. **Renewal:** A provisional certificate is not renewable unless the applicant continues to meet the requirements of Sections 3.1 and 4.1, and one of the following applies:
 - 1. **For Individuals Employed**
 - (a) If the approved certification support system or the superintendent of the school administrative unit or approved private school recommends another provisional certificate, the teacher or educational specialist may renew for an additional one-year or two-year term. If there is an inconsistency between the recommendations of the superintendent and the support system, the Commissioner may hold a fact-finding hearing in the school administrative unit where the teacher is employed. At the hearing, the Teacher Action Plan, superintendent's recommendations and the support system recommendations must be presented. With the consent of the teacher, the hearing may be open to the public.
 - (b) If the teacher or educational specialist is employed in a private school that has been approved for attendance purposes only and does not have an approved certification support system, the teacher or educational specialist may renew for an additional two-year term.
 - 2. **For Individuals Not Employed**
 - (a) If the teacher or educational specialist is not employed in a Maine school or has been employed for less than 2 consecutive school years while holding a provisional certificate, the teacher or educational specialist may renew for an additional two-year term.

- (b) If the teacher or educational specialist certificate has lapsed, the teacher or educational specialist may renew for an additional two-year term.

5.2 Professional Certificate

- A. **Function:** The professional certificate is the standard certificate for teachers and educational specialists in Maine. For teachers, the professional certificate shall be issued with one or more endorsements that specify the subject area and the grade level for which the teacher is deemed qualified. For educational specialists, the professional certificate shall be issued with the subject area and grade level for which the educational specialist is deemed qualified.
- B. **Eligibility:** An applicant becomes eligible for a professional certificate as a teacher or educational specialist by meeting one of the following seven sets of requirements:
1. **Option 1:**
 - (a) Meets the requirements of Sections 3.1 and 4.1.A through 4.1.E of this rule;
 - (b) Holds a provisional certificate under which they are employed in Maine;
 - (c) Has been employed under the provisional certificate for two school years;
 - (d) Meets the standards for professional growth leading to competency established in Me. Dept. of Ed. Reg. 118; and
 - (e) Provides a positive recommendation from the certification support system following completion of an action plan for an initial professional certificate, which is based on a demonstrated proficiency of Maine's standards for a teaching certificate.
 2. **Option 2: Fast-track**
 - (a) Meets the eligibility requirements to hold a provisional certificate;
 - (b) Has at least two school years of teaching experience or educational specialist experience;
 - (c) Has taught less than two school years in Maine under a provisional certificate; and
 - (d) Provides a positive recommendation from the certification support system following a minimum of one observation.
 3. **Option 3:**
 - (a) Meets the eligibility requirements to hold a provisional certificate;
 - (b) Has at least two school years of teaching experience or educational specialist experience under a conditional certificate; and
 - (c) Provides a positive recommendation from the certification support system.
 4. **Option 4:**
 - (a) Meets the eligibility requirements of Sections 3.1 and 4.1.A through 4.1.E, of this rule; and
 - (b) Meets the requirements of Section 13.2.C, of this rule.

5. Option 5:

- (a) Meets the eligibility requirements of Sections 3.1 and 4.1.A through 4.1.E, of this rule; and
- (b) Has five or more years of experience teaching in the endorsement area within the seven years prior to application under a valid certificate in another state and who graduated from a state-approved preparation program that utilizes the standards of a national association of state directors of teacher education and certification or a National Council for Accreditation of Teacher Education or a national board certificate issued by the National Board for Professional Teaching Standards, or its successor organization, or with the exception of the national teachers exam, meets entry-level standards for the endorsement.

6. Option 6:

- (a) Meets the eligibility requirements of Sections 3.1 and 4.1.A through 4.1.E, of this rule; and
- (b) Meets the endorsement requirements of Part II of this rule for adult education, early childhood (birth to age 5) or teacher of students with disabilities (birth to school age 5).

7. Option 7:

- (a) Meets the eligibility requirements of Sections 3.1 and 4.1.A through 4.1.E, of this rule;
- (b) Meets the certificate requirements of Part II of this rule for school nurse; and
- (c) The holder of a school nurse certificate must maintain a valid ~~Maine~~ license to practice as a Registered Professional Nurse in Maine without interruption during the term of the school nurse certificate.

8. Option 8:

- (a) Meets the requirements of Sections 3.1 and 4.1.A through 4.1.E of this rule;
- (b) Holds an Interim Superintendent's certificate; and
- (c) Has completed six credits of approved study during the lifetime of the Interim Superintendent's certificate.

C. Term: The professional certificate shall be issued for a five-year term.

D. Renewal: A professional certificate is renewable for five-year terms. To renew a professional certificate, an applicant shall:

Meet the requirements of Sections 3.1 and 4.1.A through 4.1.E of this rule, and either:

- 1. Prepare and complete a renewal plan for six credits of approved study and obtain a positive recommendation from the support system that the professional certificate be renewed; or

2. In the absence of an approved certification support system, successfully complete six credits of approved study during the term of the certificate. These six credits may not have been used previously to renew the same certificate.

NOTE: If a holder is employed in a school with an approved support system, the renewal must be processed through the support system.

3. For the renewal of a school nurse certificate, the holder must also submit a copy of a valid ~~Maine~~ license to practice as a Registered Professional Nurse in Maine.

- E. Appeal: An applicant for professional certification who has received a negative recommendation from the certification support system may appeal this recommendation to the Commissioner, pursuant to Me. Dept. of Ed. Reg. 119.

5.3 Master Certificate

- A. Function: The master certificate is the certificate for teachers and educational specialists in Maine that indicates that the holder is especially capable and knowledgeable.
- B. Eligibility: An applicant becomes eligible for a master certificate by meeting 1 through 6 of the following:
 1. Meet the requirements of Sections 3.1 and 4.1.A through 4.1.E of this rule;
 2. ~~Demonstrate exemplary professional skills in classroom teaching or in an educational specialty area in the standards for professional growth leading to competency contained in Me. Dept. of Ed. Reg. 118;~~
 3. ~~Be knowledgeable in the current theories of effective instruction;~~
 4. ~~Have demonstrated outstanding contributions to the profession in one or more of the following areas:~~
 - (a) ~~Curriculum;~~
 - (b) ~~Personnel training and effective staff development;~~
 - (c) ~~Clinical supervision of a student teacher or peer observation of teachers, or~~
 - (d) ~~Educational leadership;~~
 2. Demonstrate the standards for professional growth based on the standards for National Board Certification.
 - 5 ~~3~~. Provide a positive recommendation from the certification support system that a master teacher certificate be issued, based on completion of an action plan for a master certificate, in accordance to Me. Dept. of Ed. Reg. 118; and
 - 6 ~~4~~. Hold a valid professional certificate in the same certification area for which the master certificate is sought.
 7. ~~Holding National Board Teacher Certification shall be considered evidence that an applicant for a Master Certificate meets eligibility requirements 2, 3, and 4 of this subsection.~~
- C. Term: The master certificate shall be issued for a five-year period.
- D. Renewal: A master certificate is renewable for five-year terms. Standards for renewal are the same as those for initial issuance of the certificate.

- E. Appeal: An applicant for master certification who has received a negative recommendation from the certification support system may appeal this recommendation to the Commissioner, in accordance with Me. Dept. of Ed. Reg. 119.

5.4 Conditional Certificate

- A. Function: A conditional certificate is a certificate for teachers and educational specialists who have not met all of the requirements for a provisional or professional certificate. The superintendent, Child Development Services Director (or headmaster of a private school) shall submit an affidavit of employment certifying that the school administrative unit actively sought to employ a provisionally or professional certified candidate but was unable to do so and that the individual is being nominated for a teaching or educational specialist position.
- B. Eligibility: The Commissioner shall issue a conditional certificate upon receipt of the affidavit of employment and if the applicant meets the following:
1. Requirements
 - (a) Sections 3.1 and 4.1 of this rule.
 - (b) Requirements set forth for the particular endorsement or certificate specified in Part II of this rule. For renewal of a conditional certificate, the applicant shall provide evidence of progress towards attainment of the requirements specified in Part II of this rule, as specified in Section 5.4.D, below.
 - (c) During the term of a conditional certificate, the holder must complete six credits of approved study and any additional requirements for the issuance of a professional certificate.
 2. No more than three conditional teacher or educational specialist certificates shall be issued to an individual, unless otherwise permitted under Part II of this rule.
 3. A conditional certificate shall not be suspended or revoked by the Commissioner due to the holder's failure to achieve qualifying scores on an assessment taken in accordance with Me. Dept. of Ed. Reg. 13.
- C. Term: The conditional certificate shall be issued for a one-year term.
- D. Renewal Requirements for Conditional Certificates or Endorsements Requiring a Bachelor's Degree

The Commissioner shall renew a conditional certificate upon receipt of the affidavit of employment from the superintendent, Child Development Services Director or headmaster and if the applicant meets the following criteria.

1. The applicant shall meet the following requirements to be eligible for a second conditional certificate:
 - (a) Completion of a minimum of six semester hours of the requirements for the area in which the certificate or endorsement is issued or, if fewer than six semester hours are required, completion of all required coursework;
 - (b) The Basic Skills Test requirements in reading, writing, and mathematics in accordance with Me. Dept. of Ed. Reg. 13;
 - (c) Approval from the support system of an action plan for conditional certificate holders; and

- (d) A completed renewal application, including a recommendation by the support system chair that a second conditional certificate be issued.
- 2. The applicant shall meet the following requirements to be eligible for a third conditional certificate:
 - (a) Completion of a minimum of six semester hours of the requirements for the area in which the certificate or endorsement is issued or, if fewer than six semester hours are required, completion of all required coursework; and
 - (b) One of the following requirements:
 - i. Content area assessment in accordance with Me. Dept. of Ed. Reg. 13;
 - ii. Pedagogical knowledge and skills assessment in accordance with Me. Dept. of Ed. Reg. 13; or
 - iii. Successful completion of an approved alternative professional studies program.
 - (c) Approval from the support system of an action plan for conditional certificate holders; and
 - (d) A completed renewal application, including a recommendation by the support system chair that a third conditional certificate be issued.
- 3. The applicant must meet the following during the third and final conditional certificate:
 - (a) Any of the following not previously completed:
 - i. All required coursework;
 - ii. Content area assessment in accordance with Me. Dept. of Ed. Reg. 13; and
 - iii. The pedagogical knowledge and skills assessment in accordance with Me. Dept. of Ed. Reg. 13, or successful completion of an approved alternative professional studies program.
 - (b) Approval from the support system of an action plan for conditional certificate holders; and
 - (c) A completed renewal application, including a recommendation by the support system chair that a provisional or professional certificate be issued.
- E. Renewal for Conditional Certificates or Endorsements Not Requiring a Bachelor's Degree

The Commissioner shall renew a conditional certificate upon receipt of the affidavit of employment from the superintendent and if the applicant meets the following criteria.

- 1. The applicant shall meet the following to be eligible for a second conditional certificate:
 - (a) A minimum of three semester hours of the requirements for the area in which the certificate or endorsement is issued or, if fewer than three semester hours are required, completion of all required coursework;
 - (b) The Basic Skills Test in reading, writing, and mathematics in accordance with Me. Dept. of Ed. Reg. 13;
 - (c) Approval from the support system of an action plan for conditional certificate holders; and
 - (d) A completed renewal application, including a recommendation by the support system chair that a second conditional certificate be issued.

2. The applicant shall meet the following to be eligible for a third conditional certificate:
 - (a) A minimum of three semester hours of the requirements for the area in which the certificate or endorsement is issued or, if fewer than three semester hours are required, completion of all required coursework;
 - (b) One of the following requirements:
 - i. Content area assessment in accordance with Me. Dept. of Ed. Reg. 13;
 - ii. Pedagogical knowledge and skills assessment in accordance with Me. Dept. of Ed. Reg. 13; or
 - iii. Successful completion of an approved alternative professional studies program.
 - (c) Approval from the support system of an action plan for conditional certificate holders; and
 - (d) A completed renewal application, including a recommendation by the support system chair that a third conditional certificate be issued.
3. The applicant shall meet the following during the third and final conditional certificate in order to be eligible for a provisional or professional certificate:
 - (a) Any of the following not previously completed:
 - i. Any remaining required coursework;
 - ii. Content area assessment in accordance with Me. Dept. of Ed. Reg. 13; and
 - iii. The pedagogical knowledge and skills assessment in accordance with Me. Dept. of Ed. Reg. 13, or successful completion of an approved alternative professional studies program.
 - (b) Approval from the support system of an action plan for conditional certificate holders; and
 - (c) A completed renewal application, including a recommendation by the support system chair that a provisional or professional certificate be issued.

5.5 Targeted Need Certificate

- A. Function: The targeted need certificate is the certificate for teachers and educational specialists who are not otherwise eligible for a certificate and who have a current offer of employment in a Maine school. This certificate is intended to respond to shortages of fully certified applicants. The Commissioner shall annually designate shortage areas for the State or, at the discretion of the Commissioner, shall provide for a targeted need certificate in another endorsement or certificate area in which a superintendent documents an emergency that results in an immediate shortage. The targeted need certificate shall be issued with one or more endorsements that specify the grade level and subject area for which the certificate is issued.
- B. Eligibility: The Commissioner shall issue a targeted need certificate upon receipt of the affidavit of employment from the superintendent, Child Development Services Director or headmaster and if the applicant meets conditions 1 through 5 below. A targeted need certificate shall not be suspended or revoked by the Commissioner due to the holder's failure to achieve qualifying scores on an assessment taken in accordance with Me. Dept. of Ed. Reg. 13.
 1. Holds a bachelor's degree from an accredited college or university;
 2. Is not eligible for any other certificate;

3. Provides a superintendent's, Child Development Services Director's or headmaster's affidavit of employment in a designated shortage area; and
4. Meets the general eligibility requirements of Sections 3.1 and 4.1 of this rule; and
5. Has completed a minimum of six semester hours of the liberal arts or content areas relevant to the certificate or endorsement.

C. Term: The targeted need certificate shall be issued for a one-year term.

D. Renewal: The targeted need certificate may be renewed a maximum of two additional terms. A targeted need certificate shall only be renewed upon receipt of the affidavit of employment and if the applicant:

1. Has a support team and a teacher action plan;
2. Has completed of a minimum of six semester hours of the requirements for the area in which the certificate or endorsement is issued or, if fewer than six semester hours are required, completion of all required coursework;
3. Has met the qualifying scores for reading, writing, and math on the Pre-Professional Skills Test prior to the issuance of a second targeted need certificate;
4. Has met the qualifying scores for all assessments prior to the issuance of a third targeted need certificate; and
5. Remains ineligible for a conditional, provisional, or professional teaching certificate or transitional endorsement.
6. Holders must have completed a minimum of six semester hours of the liberal arts or content areas relevant to the certificate or endorsement.
7. Additional targeted need certificates may be issued if the applicant meets all of the following:
 - a. Remains ineligible for a conditional, provisional, professional certificate or a transitional endorsement.
 - b. Annually attempts to meet the qualifying scores for reading, writing and math of the Pre-Professional Skills Test prior to the issuance of a new targeted need certificate, whichever is appropriate;
 - c. Documents to the Department that English is not their first language; and
 - d. Annually documents they are being tutored in reading, writing, or math, whichever is appropriate.

5.6 School Psychological Service Provider Certificate

A. Advisory Committee of School Psychological Service Providers

8. Pursuant to 20-A M.R.S.A. §13022, the Advisory Committee on School Psychological Services is established.
9. Duties of the Advisory Committee on School Psychological Service Providers

Pursuant to 20-A M.R.S.A. §13022, the Advisory Committee on School Psychological Services shall:

B. Eligibility

1. Meets the requirements for School Psychological Service Provider Certificate in Section 2.7 of Part II, of this rule.
2. A school psychological service provider shall comply with Code of Ethics of the National Association of School Psychologists.
10. A school psychological service provider shall abide by the “good practice” developed by the National Association of School Psychologists as it pertains to the delivery of appropriate and comprehensive school psychological services for program development and professional practice on a federal, state, and local level.
11. School psychological service provider certificate holders who hold the National School Psychology Certificate issued by the National School Psychology Certification Board or a valid license issued by the Board of Examiners of Psychologists of Maine must maintain the license without interruption during the term of the school psychological service provider certificate.

C. Term: The school psychological service provider certificate shall be issued for a three-year term.

D. Renewal: A school psychological service provider certificate may be renewed for three-year terms. To renew a certificate, the applicant must:

1. Meet the requirements of Sections 3.1 and 4.1.A through 4.1.E of this rule; and
2. Hold a valid National School Psychology Certificate issued by the National School Psychology Certification Board or a valid license issued by the Board of Examiners of Psychologists of Maine.

SECTION 6. TRANSITIONAL ENDORSEMENT

6.1 Function: A transitional endorsement is any endorsement listed in Part II of this rule for which the applicant does not meet all of the requirements. A transitional endorsement shall be issued only if the applicant holds a provisional or professional teacher certificate and has been assigned to teach the subject or grade level for which the transitional endorsement is sought.

6.2 Eligibility

A. Holders of Professional Certificates

1. A teacher who holds a professional certificate with one or more endorsements may apply for a transitional endorsement, subject to the following:
 - (a) Holders of a professional certificate with career and technical and/or adult education endorsements shall not be eligible for transitional endorsements, unless they also hold another birth to age 5, K-3, K-8, 5-8, 7-12 or K-12 endorsement.
 - (b) Holders must have completed a minimum of six semester hours of the liberal arts or content areas relevant to the certificate or endorsement.
 - (c) There are no transitional endorsements for career and technical education endorsements.
 - (d) There are no transitional endorsements for adult education endorsements.
2. The superintendent, Child Development Services Director or headmaster shall submit an affidavit of employment certifying that the individual is being nominated for the position.
3. Upon receipt of an application including all supporting documentation, the Commissioner shall notify the applicant of the coursework and other requirements necessary for the applicant to meet the standards of the endorsement listed in Part II of this rule. The following requirements are waived for a transitional endorsement:
 - (a) The Basic Skills Test in reading, writing, and mathematics; and
 - (b) The pedagogical knowledge and skills assessment for the transitional endorsement..
4. The Commissioner may issue three one-year transitional endorsements.
 - (a) The holder must complete a minimum of six semester hours of the requirements specified for the endorsement in Part II of this rule each school year.

A transitional endorsement shall not be suspended or revoked by the Commissioner due to the holder's failure to achieve qualifying scores on the content area assessment.
5. The applicant must meet the following during the third or final transitional endorsement:
 - (a) Any of the following not previously completed:
 - i. All required coursework; and
 - ii. Content area assessment in accordance with Me. Dept. of Ed. Reg. 13.
 - (b) A completed renewal application, including a recommendation by the support system chair that a provisional or professional certificate be issued.

B. Holders of Provisional Certificates

A teacher who holds a provisional certificate must meet the requirements of Section 6.2.A, above, to be eligible for a transitional endorsement. A provisionally certified teacher may not teach more than one subject area on the basis of a transitional endorsement.

6.3 Term: A transitional endorsement shall be issued for a one-year term.

6.4 Renewal: For each renewal, the superintendent, Child Development Services Director or headmaster must submit an affidavit of employment certifying that the individual is being nominated for the position and the applicant must:

- A. Provide the support system and the Commissioner with documentation of compliance with the requirements in Section 6.2 of this rule;
- B. Provide approval from the support system of an action plan for transitional endorsement holders, in accordance with Me. Dept. of Ed. Reg. 118; and
- C. Submit a completed renewal application, including a recommendation by the support system chair, in accordance with Me. Dept. of Ed. Reg. 118, that the transitional endorsement be renewed or that an endorsement be issued.

SECTION 7. CERTIFICATION WAIVERS

7.1 Waiver for Teachers, Educational Specialists and Administrators

- A. The Commissioner may grant a waiver of certification to a teacher or educational specialist in an emergency situation when:
 1. The position is essential to implementation of Maine's system of Learning Results; or
 2. The inability of the school unit to obtain a properly certified individual for the position was unforeseeable; or
 3. In order to be in compliance with state or federal laws.
- B. A waiver shall be issued only for the minimum length of time the Commissioner deems necessary for the school to hire a properly certified individual and on such other terms as the Commissioner deems necessary to assure quality instruction for students. A visiting teacher shall be eligible for a waiver. Individuals serving under a waiver of certification must be in compliance with Section 3.2 of this rule.
- C. Employment of an individual without the appropriate certification, except in strict accordance with the terms of this Section, shall be a violation of Section 15 of this rule.
- D. A waiver shall be granted to an applicant who receives inaccurate, incomplete or untimely information or action from the Department, a local support system or a regional support system. The waiver must be for a reasonable period of time to permit the applicant time to complete certification requirement.

7.2 Course Waivers and Exceptions

- A. The "teaching exceptional students in the regular classroom" may be documented through completion of an approved course through in-service or a two-year college.
- B. For initial certification a maximum of six semester hours of course requirements may be met through documenting, to the satisfaction of the Commissioner, that the applicant has taught the course at a post-secondary college or university for at least two semesters.
- C. A maximum of six semester hours of course requirements may be met through CLEP Exam(s) with a minimum score of 60 on subject examinations for courses not already taken.
- D. A course requirement shall be waived if the requirement was a pre-requisite to a course for which the applicant received credit from a four-year accredited college or university.
- E. A course requirement may be met through a two-year community college, if a minimum grade of 'C-' was received for the course and the specific course is part of an articulated agreement with a regionally accredited four-year college or university. The articulation agreement would be that the specific course would be accepted as a transfer credit towards a bachelor's degree. The certification candidate is responsible for providing the Department with documentation meeting the criteria.
- F. Student teaching may be waived upon documentation of one school year of successful teaching in Maine in the endorsement area, as long as the Commissioner has granted a waiver to teach prior to the end of the school year and if the applicant has had a support team.

SECTION 8. ADMINISTRATOR CERTIFICATES

8.1 Professional Certificate

- A. **Function:** The professional administrator certificate is the standard certificate awarded to eligible applicants for service in one of the following capacities: superintendent of schools, assistant superintendent, principal, assistant principal, teaching principal, administrator of special education, assistant administrator of special education, administrator of career and technical education, assistant administrator of career and technical education, curriculum coordinator, director of adult and community education, and assistant director of adult and community education. Administrator certificates shall designate the capacity for which they are issued.
- B. **Eligibility:** Holders of an administrator certificate shall meet the requirements specified in Sections 3.1 and 4.1 of this rule as well as the requirements in Part II of this rule for the specific administrator certificate for which the application is made, except that applicants who cannot document compliance with the "teaching exceptional students in the regular classroom" requirement at the time of initial application must do so prior to the first renewal of the administrator certificate.
- C. **Term:** The professional administrator certificate is valid for a five-year term.
- D. **Renewal:** Administrator certificates are renewable as follows:
1. Holders employed in Maine under the administrator certificate to be renewed shall:
 - (a) Meet the requirements specified in Sections 3.1 and 4.1 of this rule;
 - (b) Provide documentation of graduate degrees earned as required in Part II of this rule; and
 - (c) Meet the requirements of an approved administrator action plan in accordance with Me. Dept. of Ed. Reg. 118.
 2. Holders not employed in Maine under the administrator certificate to be renewed shall:
 - (a) Meet the requirements specified in Sections 3.1 and 4.1 of this rule;
 - (b) Provide documentation of graduate degrees earned as required in Part II of this rule; and
 - (c) Provide documentation of six credits of approved study completed before the expiration of the certificate.
- E. **Administrator Certificate Extensions**

At the discretion of the Commissioner and based upon extenuating circumstances as recommended by the administrator's support system, the Commissioner may grant a one-time, one year extension of a professional administrator certificate who meets the requirements of Sections 8.1.D.1(a) and 8.1.D.1(b) in order to complete requirements of Section 8.1.D.1(c) of this rule.

8.2 Conditional Administrator Certificate

- A. **Function:** A conditional administrator certificate provides an opportunity for individuals who have not met all of the requirements for a professional administrator certificate but can

reasonably be expected to meet all requirements for professional administrator certification within two years while working as an administrator.

B. Eligibility:

The Commissioner shall issue a conditional administrator certificate upon receipt of an affidavit of employment from the superintendent and if the applicant meets the requirements of Section 3.1 and Section 4.1 of this rule, as well as the requirements set forth for the particular certificate specified in Part II of this rule.

C. Term: The conditional administrator certificate is issued for a one-year term.

D. Renewal:

No more than two conditional administrator certificates shall be issued to an individual for the same administrator certification area, unless otherwise indicated under Part II of this rule. The applicant must complete the following requirements to be eligible for a second conditional certificate:

- (a) A minimum of six semester hours of the requirements for the area in which the certificate is issued or, if fewer than six semester hours are required, completion of all required coursework; and
- (b) A completed renewal application.

8.3 Interim Superintendent Certificate

A. Function: The interim superintendent certificate is the certificate for superintendents who are not otherwise eligible for a professional superintendent's certificate. This certificate is intended to respond to shortages of fully certified applicants for superintendent positions.

B. Eligibility: The Commissioner shall issue an interim superintendent if the applicant meets conditions 1 through 4 below.

1. Has held a Maine superintendent's certificate that has lapsed;
2. Is not eligible for another professional superintendent certificate;
3. Has met the requirement of a minimum of 30 additional credits of approved study or equivalent professional development beyond the master's degree; and
4. Meets the general eligibility requirements of Sections 3.1 and 4.1 of this rule.

C. Term: The Interim superintendent certificate shall be issued for a two-year term.

D. Renewal: The interim superintendent certificate may not be renewed.

1. Holders will be issued a professional superintendent certificate upon completion of a minimum of six credits of approved study taken during the lifetime of the interim superintendent certificate.

8.4 Alternate Administrative Pathways

The guidelines in this Section apply to those individuals who elect to use equivalent training experiences or the appropriate Interstate School Leaders Licensure Consortium (ISLLC) standards to address the knowledge areas required for administrator certificates specified in Part II of this rule.

A. Equivalent Training Experiences

1. Equivalent training experiences may not be used to satisfy the knowledge area requirements “teaching exceptional students in the regular classroom” and “federal and Maine civil rights and education laws,” both of which may be satisfied only by completion of specialized courses approved by the Commissioner.
2. Applicants with at least three years of prior administrator experience in public or private schools in Maine or elsewhere may use equivalent training experiences to satisfy any of the knowledge area requirements other than those specified in Section 8.3.A.1.
3. Applicants with less than three years of administrative experience in public or private schools may use equivalent training experiences to satisfy no more than four knowledge area requirements other than those specified in Section 8.3.A.1.
4. Permissible Activities: Equivalent training experiences are subject to approval by the Commissioner and must be documented in a portfolio. Equivalent training experiences may include the following:
 - (a) Consulting services and/or training;
 - (b) Community based activities and projects;
 - (c) Publications;
 - (d) Research;
 - (e) Building-based or district-wide training;
 - (f) Workshops, seminars, or institutes;
 - (g) Grant development or coordination;
 - (h) Additional education related activities;
 - (i) Teaching experience at the university level; or
 - (j) Completion of specialized courses approved or offered by the Department.

B. Interstate School Leaders Licensure Consortium Standards (ISLLC)

1. Qualifying Scores on the ISLLC Examination

For all administrator certificates the applicant must achieve the required scores on the appropriate assessment based on the ISLLC standards, as specified in Me. Dept. of Ed. Reg. 013.
2. Documentation that the applicant meets the following ISLLC Standards:
 - (a) Facilitating the development, articulation, and stewardship of a vision of learning that is shared by the school community;
 - (b) Advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional growth;
 - (c) Ensuring management of the organization, operations, and resources for a safe and effective learning environment;
 - (d) Collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;

- (e) Acting with integrity, fairness, and in an ethical manner; and
- (f) Understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context.

SECTION 9. OTHER CERTIFICATE RENEWAL

9.1 Certificate Renewal for Holders of Multiple Certificates

A. Multiple Certificates in the Same Category

1. Conditional Certificates

Administrators, teachers, and educational specialists employed under a conditional certificate must complete the requirements in accordance with Sections 5.4 or 8.2 of this rule.

2. All Other Certificates

For all other certificates, administrators, teachers, and educational specialists are required to complete one action plan or renewal plan every five years, regardless of the number of certificates or endorsements held.

B. Multiple Certificates in Different Categories

1. General Requirements

Individuals holding certificates in more than one category may satisfy the approved study or action plan requirement for renewal of all certificates they possess by completing a renewal plan or action plan for the certificate that applies to their current employment. The plan must contain a minimum of six credits of approved study.

2. Change in Employment

As soon as practicable, upon a change in employment to a different certificate category, the holder shall commence a renewal plan or action plan in the new category. All renewal work completed by the holder under the previous renewal or action plan within the five years preceding expiration of a certificate shall be considered by the Commissioner when the holder applies for renewal of the certificate in the new category.

3. Graduate Study for Administrator Certificate Holders

Notwithstanding Sections 9.1.B.1 and 9.1.B.2, administrator certificates shall only be renewed if graduate study requirements are met, regardless of the employment of the holder. The support system for teachers and educational specialists is permitted, but is not required, to recognize graduate study required for administrator certification as part of a renewal plan or action plan for teachers and educational specialists.

C. Certificate Expiration Dates

At the request of the holder, at the time of renewal of the certificate under which the individual is employed the majority of the school year, all five-year professional certificates and endorsements shall be issued with the same expiration date.

9.2 Certificate Renewal for Certain Professional Certificate Holders

A. Applicability

This Section applies to holders of professional certificates as follows:

1. Holders employed in a Maine school but not within the scope of any certificate they hold;
2. Holders employed as educational technicians or substitute teachers;

3. Holders employed in a capacity not under the scope of any certificate;
4. Holders of an endorsement in adult education who are employed solely as adult educators; and
5. Holders not employed in a school.

B. Renewal Requirements

1. Approved Study without a Support System to include retired teachers, retired educational specialists and retired administrators

Holders described in Section 9.2.A, above, may renew their certificates upon demonstration to the Commissioner of a minimum of six credits of approved study in the five years preceding submission of the application. The credits may relate to any certificate held. The holder need not work through a support system until such time as that individual becomes employed within the scope of one of the certificates held.

2. Changes in Employment

As soon as practicable, upon commencement of employment within the scope of one of the certificates held, the holder shall submit a renewal plan or action plan to the appropriate support system. All renewal work completed by the holder prior to submission of the plan and in the five years preceding expiration of the certificate shall be considered by the Commissioner when the holder applies for renewal of that certificate.

3. Graduate Study for Administrator Certificate Holders

Notwithstanding 9.2.B.1 and 9.2.B.2, administrator certificates shall not be renewed unless graduate study requirements are met, regardless of the employment of the holder.

9.3 Certificate Renewal for Holders Employed in Private Schools Without Approved Support Systems

A. Provisional Certificate Holders

Provisional certificate holders employed without an approved support system shall renew directly through the Department. The renewal requirements shall be the same as for someone not employed under a provisional certificate, as specified in Section 5.1.D.2 of this rule.

B. Professional Certificate Holders

Professional certificate holders without an approved support system shall renew directly through the Department. The renewal requirements shall be the same as for someone not employed under a professional certificate, as specified in Section 9.2.B.1 of this rule.

SECTION 10. AUTHORIZATION OF EDUCATIONAL TECHNICIANS

10.1 Function

Educational technicians provide supportive educational services to certified personnel in K-12 schools or to certified/credentialed personnel in early childhood educational or developmental programs from birth to school age 5 for children with disabilities. There are three levels of authorization for the increasing levels of responsibility for planning and supervision of students. A superintendent, headmaster or a Child Development Services director who employs an individual as an educational technician in violation of this Section shall be subject to penalties in Section 15.3 of this rule. An authorization specifies the applicable levels: 9-12 for career and technical education, K-12, or birth to school age 5. Tutors shall meet the requirements of educational technicians, with the level determined by the amount of responsibility and level of supervision that is provided for the position, as specified in this section.

A. Educational Technician I

1. Permitted Responsibilities

- (a) Review and reinforce learning previously introduced by the classroom teacher or appropriate content specialist, or assist in drill or practice activities;
- (b) Perform non-instructional, non-evaluative functions;
- (c) Assist in the preparation of instructional materials; and
- (d) Provide classroom management functions.

2. Required Supervision

- (a) Be assigned instructional duties that are directly supervised by the classroom teacher or appropriate content specialist in the classroom; or
- (b) Serve under general administrative supervision when performing non-instructional student-related duties.

B. Educational Technician II

1. Permitted Responsibilities

- (a) Perform all of the duties of an Educational Technician I; and
- (b) Introduce new learning preplanned in collaboration with the classroom teacher or appropriate content specialist.

2. Required Supervision

- (a) Meet with the classroom/program teacher or appropriate content specialist and receive direction on a regular basis, whenever possible on a daily basis;
- (b) Perform short-term instruction in small groups under the direct supervision of the teacher or appropriate content specialist in the classroom; or
- (c) Conduct one-on-one or small group instruction with indirect supervision.

C. Educational Technician III

1. Permitted Responsibilities

- (a) Perform all of the duties of an Educational Technician I or II;

- (b) Introduce new learning preplanned in consultation with the classroom teacher or appropriate content specialist; and
 - (c) Supervise small groups of students in community-based programs.
2. Required Supervision
- (a) Meet with the classroom/program teacher or appropriate content area specialist and receive direction, whenever possible on a twice weekly basis; or
 - (b) Perform short-term instruction in small classes or in community-based programs with indirect supervision.

10.2 Eligibility

A. General Eligibility

Individuals authorized by the Department of Education must meet the following general qualifications:

1. Be of good moral character;
2. Be at least 18 years of age;
3. Submit an application in accordance with Section 3.1 of this rule;
4. Meet the preparation requirements for the authorization sought from this Section; and
5. Satisfactorily complete a Criminal History Records Check in accordance with Section 3.2 of this rule.

B. Specific Eligibility Requirements

1. Educational Technician I: hold a high school diploma or GED.
2. Educational Technician II: document a minimum of 60 credits of approved study in an educationally related field; or, for career and technical education authorization, document a minimum of two years of paid applied employment within the field of assignment.
3. Educational Technician III: document a minimum of 90 credits of approved study in an educationally related field; or, for career and technical education authorization, document a minimum of three years of paid applied employment within the field of assignment.
4. Eligibility Exception for Educational Technician II and III

Individuals who were designated as an Educational Technician II or III at the time of the transition to the system of authorization of educational technicians without meeting the minimum preparation requirements, may continue to hold this authorization under the following conditions:

- (a) The individual continues to be employed in the same school administrative unit or approved private school;
- (b) The individual has no interruption in service, excluding normal school vacations and paid leave; and
- (c) The position held is not subject to additional federal requirements.

10.3 Term: Educational technician authorization shall be for a five-year term.

- A. All authorizations shall be valid as of the date the application package is determined by the Department to be complete, and shall expire February 1 of the year of expiration.

- B. The nominal term of the authorization shall be calculated as of February 1 of the year of validation, in accordance with Section 3.4.B.2 of this rule.

10.4 Renewal

- A. A holder seeking renewal of authorization shall apply no later than February 1 of the year the existing authorization expires.
- B. In the case of complete applications that are timely filed, the existing authorization shall remain in effect until the application is acted upon.
- C. In the case of complete applications that are timely filed, a renewal subsequently issued shall be effective as of the February 1 expiration date of the previous authorization.
- D. Documentation of a minimum of three credits of approved study during the life of the authorization is required for renewal of the authorization.
- E. Educational technicians employed by a school administrative unit without an approved Educational Technician Authorization System shall submit directly to the Department a completed renewal application with documentation of approvable training and development activities.
- F. Educational technicians employed in a school administrative unit with an approved educational technician authorization system shall apply for renewal of authorization in one of the following ways:
 - 1. Provide the local system with transcripts of coursework and documentation of other completed training and development activities, including contact hours, for approval, and submit to the Department the local system's renewal recommendation with required documentation; or
 - 2. In accordance with Section 10.4.E above.

SECTION 11. APPROVAL

11.1 Function: All individuals paid to work in a school in positions that do not require certification or authorization must be issued an approval by the Department. All individuals paid to work in a Child Development Services site in positions that do not require certification or authorization must be issued an approval by the Department. One approval enables the holder to work in any applicable position. A superintendent or headmaster who employs or contracts with an individual without approval in violation of this Section shall be subject to penalties in Section 15.3 of this rule. A Child Development Services site director who employs or contracts with an individual without approval in violation of this Section shall be subject to penalties in Section 15.3 of this rule. This Section applies to the following groups of individuals:

- A. Personnel employed in a public school or an approved private school as a regular or substitute employee;
- B. Personnel in a private school that enrolls more than 60% of its students at public expense;
- C. Personnel employed by or serving the school administrative unit as a contracted service provider; and
- D. Personnel employed by or serving a Child Development Services site as a contracted service provider.

11.2 Eligibility: Individuals issued an approval by the Department shall meet the following general eligibility requirements:

- A. Be of good moral character;
- B. Be at least 18 years of age; and
- C. Satisfactorily complete a Criminal History Records Check in accordance with Section 3.2 of this rule.

11.3 Term: Approval shall be for a five-year term beginning on the date the fingerprints were taken.

11.4 Renewal: An approval is renewable for five years. To renew an approval the holder must submit a renewal application in accordance with Section 3.1 of this rule, and meet the requirements of Section 3.2 of this rule, including documentation of continuity of service.

SECTION 12. SUBSTITUTE PERSONNEL

12.1 Function

- A. Substitute personnel may serve on a day-to-day basis in schools to fill short-term vacancies caused by the absence, resignation, inability to employ, or termination of a certified, authorized, or approved employee.
- B. A superintendent or headmaster who employs a substitute in violation of this Section shall be subject to the penalties of Section 15.3 of this rule.

12.2 Eligibility: Department Approval

- A. All substitute personnel must hold approval in accordance with Section 3.2 of this rule within eight weeks of the first day of employment as a substitute. Additional requirements for substitute personnel in positions requiring certification or authorization are specified in parts B and C of this subsection.

- B. Substitute Teachers and Educational Specialists

- 1. Certified Within Certification Area

- A certified teacher or educational specialist may serve as a substitute with no time limit, provided that the teaching certificate bears an endorsement for the grade and subject being taught, or the educational specialist certificate is appropriate to the employment.

- 2. Certified Outside Certification Area

- Certified teachers may substitute outside the scope of their certificates for no more than 90 teaching days in any one teaching assignment during a school year, regardless of whether the teaching days are consecutive or non-consecutive. The Commissioner may extend this 90-day limitation only upon a determination that calendar considerations, the benefits of continuity of instruction, or other special circumstances justify an extension. The Commissioner may attach conditions to an extension of the 90-day limitation, such as appropriate training for the substitute teacher.

- 3. Individuals with Two or More Years of College

- Individuals with two or more years of college may serve as substitute teachers for no more than 60 teaching days in any one teaching assignment during a school year, regardless of whether the teaching days are consecutive or non-consecutive. The Commissioner may extend this 60-day limitation only upon a determination that calendar considerations, the benefits of continuity of instruction, or other special circumstances justify an extension. The Commissioner may attach conditions to an extension of the 60-day limitation, such as appropriate training for the substitute teacher.

- 4. High School Graduates

- (a) Career and Technical Education Centers and Regions: A high school graduate with two or more years of trade experience in the subject being taught may serve for no more than 60 teaching days in any one teaching assignment during a school year, regardless of whether the teaching days are consecutive or non-consecutive. The Commissioner may extend this 60-day limitation only upon a determination that calendar considerations, the benefits of continuity of instruction, or other special circumstances

justify an extension. The Commissioner may attach conditions to an extension of the 60-day limitation, such as appropriate training for the substitute teacher.

- (b) All Other Schools: A high school graduate may serve as a substitute teacher in emergency situations for no more than 10 teaching days in any one teaching assignment during a school year, regardless of whether the teaching days are consecutive or non-consecutive. The Commissioner may extend this 10-day limitation only upon a determination that calendar considerations, the benefits of continuity of instruction, or other special circumstances justify an extension. The Commissioner may attach conditions on an extension of the 10-day limitation, such as appropriate training for the substitute teacher. A high school graduate may not exceed a total of 60 teaching days as a substitute teacher in any school year in any one school unit.

C. Substitute Educational Technicians

Whenever possible a substitute educational technician should hold the same level of authorization as the position for which a substitute educational technician is needed. When this is not possible, the following conditions apply:

1. A teacher, educational specialist, or administrator who is currently certified in Maine may serve as a substitute Educational Technician I, II, or III with no time limit;
2. An individual with 90 credits of approved study in an educationally related field or three years of paid applied employment in a career and technical education setting may serve as a substitute Educational Technician I, II, or III for no more than 90 days during a school year;
3. An individual with 60 credits of approved study in an educationally related field or two years of paid applied employment in a career and technical education setting may serve as a substitute Educational Technician I or II for no more than 60 days during a school year or as a substitute Educational Technician III for no more than 10 days during a school year; and
4. An individual with high school diploma or a GED may serve as a substitute Educational Technician I for no more than 30 days during a school year or as a substitute Educational Technician II or III for no more than 10 days during a school year.

SECTION 13. REINSTATEMENT OF A LAPSED CERTIFICATE, AUTHORIZATION, OR APPROVAL

13.1 General Eligibility

Reinstatement of any certificate, authorization, or approval that has lapsed requires a current Criminal History Records Check in accordance with Section 3.2 of this rule. This may involve the re-taking of fingerprints.

13.2 Reinstatement of a Lapsed Certificate

- A. A holder of a professional teacher or educational specialist certificate that has been expired for more than five years shall be issued a provisional certificate upon submission of a complete application package, documentation of compliance with any additional requirements for the expired certificate, and documentation of completion of six credits of approved study that relate to the certificate sought and that have been completed within the five years prior to application.
- B. A holder of a provisional certificate issued since July 1, 1988 that has expired shall be issued a provisional certificate upon submission of a complete application package.
- C. A holder of a professional teacher or educational specialist certificate that has been expired less than five years shall be issued a professional certificate upon submission of a complete application package, documentation of additional requirements for the expired certificate, and documentation of completion of a minimum of six credits of approved study that relate to the certificate sought and that have been completed within the five years prior to application.
- D. A holder of a school psychological service provider certificate that has expired shall be issued a school psychological service provider certificate upon submission of a complete application package.
- E. A holder of an administrator certificate that has expired shall be issued a professional certificate upon submission of a complete application package, documentation of additional requirements for the expired certificate, and documentation of completion of a minimum of six credits of approved study that relate to the certificate sought and that have been completed within the five years prior to application.

13.3 Reinstatement of a Lapsed Authorization

A holder of an educational technician authorization that has expired shall be issued an authorization upon submission of a complete application package, and documentation of completion of a minimum of three credits of approved study that relate to the authorization sought and that have been completed within the five years prior to application.

13.4 Reinstatement of a Lapsed Approval

A holder of a Criminal History Records Check approval that has expired shall be issued an approval upon submission of a complete application package.

SECTION 14. REVOCATION, SUSPENSION, DENIAL, AND NONRENEWAL OF CERTIFICATES, AUTHORIZATIONS, AND APPROVALS

14.1 Grounds for Revocation and Suspension

The following shall be grounds for revocation or suspension:

- A. Evidence that a holder has injured the health or welfare of a child through physical, or sexual abuse or exploitation shall be grounds for revocation or suspension of a certificate, authorization, or approval. Notwithstanding Title 5, Chapter 341, a certified court record that a person certificated under this Title was convicted in any state or federal court of a criminal offense involving the physical or sexual abuse or exploitation of a child within the previous 5 years shall be sufficient grounds for revocation or suspension of that person's certificate.
- B. Evidence of a criminal conviction pursuant to 5 M.R.S.A. §§ 5301-5303: This applies to conviction information received by the Department through the Criminal History Records Check or any other means. It is the applicant's burden to prove to the Commissioner's satisfaction that he or she is sufficiently rehabilitated to warrant the public trust.
- C. The practice of fraud, deceit, or misrepresentation in obtaining a certificate, authorization, or approval from the Commissioner, or in connection with any services rendered within the scope of the certificate, authorization, or approval, shall be grounds for revocation or suspension of the certificate, authorization, or approval. This includes an applicant that answers "no" to the question on the application, "Have you ever been convicted of any crime other than a minor traffic offense?" when subsequent evidence indicates that there is a conviction. The Commissioner may refer cases of fraud to the Attorney General's Office for possible criminal prosecution.

Failing or refusing without good cause to comply with any request or directive of the Commissioner or the Commissioner's designee that is made for the purpose of carrying out the Commissioner's duties pursuant to 20-A MRSA §13020.

- D. Gross Incompetence: Gross incompetence shall be grounds for revocation or suspension of a certificate, authorization, or approval. Gross incompetence includes, but is not limited to, conduct violating subsections A, B, and C, above, or that shows a lack of good moral character, and the following:
 - 1. Conduct evidencing a clear and substantial lack of knowledge, ability, or fitness to perform the services rendered within the scope of the certificate, authorization, or approval.
 - 2. Conduct evidencing a negligent disregard for the mental or physical health, safety, or welfare of children or that creates a substantial risk of injury as a result of physical or sexual abuse or exploitation.
 - 3. Negligent or fraudulent completion or filing of any school reports required pursuant to the provisions of state or federal law or regulation.
 - 4. A mental or physical condition, as diagnosed by a physician or other professional competent to make such a diagnosis, that has resulted in the holder performing required duties in a manner endangering the health, safety, or welfare of children, or in the holder's inability to satisfactorily perform the services rendered within the scope of the certificate, authorization, or approval.

5. Refusal to perform, or repeated negligent disregard of, duties required to be performed by the provisions of state or federal law or regulation.
 6. Habitual intemperance in the use of alcohol or habitual use of narcotic or hypnotic or other substances, the use of which has resulted in, the holder performing required duties in a manner endangering the health, safety, or welfare of students or in the holder's inability to satisfactorily perform the services rendered within the scope of the certificate, authorization, or approval.
 7. Harassment on the basis of sex, including unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature in the following situations:
 - (a) Submission to such conduct is made either explicitly or implicitly a term, condition, or basis for decisions on educational benefits for a student; or
 - (b) Such conduct has the purpose or effect of substantially interfering with a student's academic performance or creating an intimidating, hostile, or offensive educational environment.
- E. Suspension or revocation of a certificate in another jurisdiction: Where a Maine certificate has been issued upon the basis of a reciprocal certification agreement, the Maine certificate shall be revoked or suspended upon evidence, in the form of a certified copy, that the authority issuing the original certificate has revoked or suspended the certificate.
- F. Breach of superintendent's duty: The certificate of a superintendent of schools may be suspended or revoked for the knowing employment of personnel who do not hold the appropriate certification, authorization, or approval, or for the knowing assignment of educational personnel to duties for which they do not possess appropriate certification, authorization, or approval, as stated in Section 15.3.E of this rule.
- G. Violation of Code of Ethics and Practice Standards by a school psychological service provider shall be grounds for the revocation or suspension of the provider's certificate.

14.2 Procedures for Revocation or Suspension Action

Except as set forth in subsection (G) and (H), the procedures set forth in this section shall govern the Commissioner's investigation and disposition of matters which may result in the revocation or suspension of any certificate, authorization or approval issued under this Chapter:

- A. Preliminary Inquiry - Upon receipt of a written complaint or upon his or her own motion, the Commissioner may initiate a preliminary inquiry concerning allegations which could lead to revocation or suspension of a certificate, authorization or approval.

If the preliminary inquiry indicates that the allegations are unfounded or that the actual basis of the allegations may be true but is not of sufficient gravity to warrant action, the Commissioner shall notify the certificate holder of the substance of the complaint and any findings. The certificate holder shall be afforded an opportunity to respond in writing to the commissioner's findings.

- B. Notice- of –Revocation or Suspension - If the preliminary inquiry indicates that allegations may be true and are of sufficient gravity to warrant certification action, the Commissioner shall notify the certificate holder that the department will conduct an investigation which could lead to revocation or suspension. The notice shall contain a general summary of the allegations.

- C. Delay of Commissioner's Action - The Commissioner may elect to delay action pending completion of any related criminal proceeding and may rely on a criminal conviction to support certification action prior to resolution of any appeals. For the purposes of this chapter, conviction based on a plea of nolo contendere will have the same effect as a guilty plea.
- D. Determination of Grounds for Action - If the Commissioner determines that there is reason to believe that the factual basis of a complaint or allegation is true and that grounds exist for certification action, the certificate holder shall be notified of the substance of the complaint or allegations and the specific grounds for action. The holder shall have 30 days to respond in writing.
- E. Informal Conference - The Commissioner may request an informal conference with the holder. The certificate holder shall be given adequate notice of the conference and of the issues to be discussed. The holder may be represented by counsel at the informal conference.
- F. Disposition - If after reviewing all available information, including any information provided by the certificate holder, the Commissioner finds that the factual basis of the complaint is true and that grounds exist for revocation or suspension, the commissioner may:
- (1) Enter into a consent agreement with the certificate holder which provides for the surrender, revocation or suspension of the certificate, authorization or approval. The agreement may contain reasonable conditions for the health, safety and welfare of children including, but not limited to, restrictions of grade levels or subjects taught, restriction of school-related extra-curricular activities, provisions for the education, professional improvement or rehabilitation of the certificate holder and terms designating conditions for reinstatement or identifying evidence of professional improvement or rehabilitation to be considered by the Commission on an application for reinstatement.

A consent agreement may be used to terminate a complaint investigation. A consent agreement or consent decree may also be used to terminate a proceeding in the Administrative Court if entered into by the certificate holder and the Attorney General with the approval of the Court.
 - (2) Refer the matter to the Attorney General with a request that a complaint seeking suspension or revocation be filed in Administrative court.
- G. Revocation or Suspension by the Commissioner - The commissioner may suspend or revoke a certificate in the circumstances permitted by 5 M.R.S.A. Chapter §10004 without first following the provisions of subsections (A)-(F).
- H. The procedures set forth in this section shall govern the Commissioner's investigation of alleged violations of the Code of Ethics or practice standards for school psychological service providers which may result in the revocation or suspension of the school psychological service provider's certificate:
- (1) Written complaints alleging violations of the code of ethics or practice standards will be referred by the Commissioner (or his/her designee) to the ethics/complaints consultant of the Advisory Committee of School Psychological Service Providers. The

ethics/ complaints consultant must be a member of the Advisory Committee of School Psychological Service Providers and must be a psychological service provider.

- (2) The ethics/complaints consultant of the Advisory Committee of the School Psychological Service Providers shall review the written complaint. If it is determined that the alleged misconduct, even if true, would not constitute an actual violation of the Code of Ethics, the ethics/complaints consultant shall notify the complainant and the Commissioner's designee of this point.

Then the Commissioner's designee shall notify the individual of the alleged violation of the Code of Ethics and the Commissioner's finding that the alleged violation of the Code of Ethics was not warranted.

- (3) If the ethics/complaints consultant determines the information provided by the complainant is insufficient to make a determination regarding the alleged misconduct, then the ethics/complaints consultant may send a written request to the designee, requesting clarification or additional information.
- (4) If it is determined that the alleged misconduct, if substantiated, would constitute an actual violation of the Code of Ethics and could warrant certification action, then the ethics/complaints consultant will send a letter to the complainant notifying the complainant (and the Commissioner's designee) that the allegation tentatively will be investigated by the ethics/complaints consultant. The complainant shall be asked to sign a release authorizing that his/her name be revealed to the respondent, the individual against whom the complaint was made.
- (5) If the complainant does not execute the release form, the ethics/complaints consultant will consult with the Commissioner's designee, and a decision will be made by the Commissioner regarding whether or not to further proceed.
- (6) The ethics/complaints consultant will, in writing, within 15 days of the receipt of the signed release form, notify the respondent of the complaint as well as copy the Commissioner's designee. The letter shall describe the nature of the complaint as well as indicate the principle(s) that appear to have been violated, and request the respondent's cooperation in obtaining a complete picture of the circumstances which led to the allegations. In the letter, the respondent shall be notified of the investigation which could lead to certification action, and the respondent shall be asked to provide, within 30 days of the date of the letter, a written statement outlining his/her view of the situation. If written permission has been obtained from the complainant, his/her name may be disclosed to the respondent depending on the complaint. A copy of the Code of Ethics may be enclosed.
- (7) The ethics/complaint consultant shall review all available information, including any written information provided by the respondent, in the case and shall prepare a written report, attaching all available documents, for the Commissioner's designee. A copy of this confidential report shall be given to the chair of the Advisory Committee of School Psychological Service Providers. The report shall explain whether or not there appears to be a factual basis to the complaint and shall elaborate on whether or not grounds

which relate to the violation of the Code of Ethics or practice standards seem to exist which would warrant certification action.

- (8) The Commissioner's designee will review all documents that are received from the ethics/complaint consultant. As necessary, consultation will occur between the ethics/complaint consultant and the Commissioner's designee. A recommendation will be made by the Commissioner's designee to the Commissioner regarding whether or not certification action is warranted against the respondent.
- (9) If the Commissioner determines that certification action is warranted, the certificate holder will be notified and the Commissioner will proceed as provided for in these rules.

I. Reinstatement of Surrendered, Suspended or Revoked Certificates, Authorizations or Approvals

An individual may apply for reinstatement of a surrendered, suspended or revoked certificate, authorization or approval subject to the requirements of 20-A M.R.S.A. §13020(4), and to the provisions of any consent agreement, court order or administrative order pursuant to which the individual's earlier certificate, authorization or approval was surrendered, suspended or revoked. A reinstated certificate, authorization or approval shall be effective upon its date of issuance or upon such other designated date that is consistent with 20-A M.R.S.A. §13020(4) and with the provisions of any consent agreement, court order or administrative order pursuant to which the individual's earlier certificate, authorization or approval was surrendered, suspended or revoked.

14.3 Reinstatement of Surrendered, Suspended, or Revoked Certificates, Authorizations, or Approvals

An individual may apply for reinstatement of a surrendered, suspended, or revoked certificate, authorization, or approval subject to the requirements of 20-A M.R.S.A. §13020(4), and to the provisions of any consent agreement, court order or administrative order pursuant to which the individual's earlier certificate, authorization, or approval was surrendered, suspended or revoked. A reinstated certificate, authorization, or approval shall be effective upon its date of issuance or upon such other designated date that is consistent with 20-A M.R.S.A. §13020(4) and with the provisions of any consent agreement, court order or administrative order pursuant to which the individual's earlier certificate, authorization or approval was surrendered, suspended or revoked.

14.4 Denial or Nonrenewal of Certification, Authorization, or Approval

- A. The Commissioner may deny an application for the initial issuance or renewal of any certificate, authorization, or approval on the following grounds:
 1. Eligibility or Renewal Standards Considerations: Failure to meet standards set forth in Part I Sections 5, 6, 8, 9, 10, or 11, or Part II of this rule.
 2. Other Grounds: Any ground set forth in Section 14.1 of this rule that could constitute grounds for revocation or suspension. With regard to 14.1.A, of this rule: Evidence that an applicant for initial certification, authorization, approval or renewal has injured the health or welfare of a child through physical or sexual abuse or exploitation is grounds for a denial of a certificate, authorization or approval. Notwithstanding Title 5, Chapter 341, every person, who within 5 years of the application for initial certification or renewal, has been convicted in any state or federal court of a criminal offense involving the physical or sexual abuse or exploitation of a child, may be presumed by the commissioner to lack good moral character for the purposes of this rule. This presumption shall be a rebuttable

presumption. Notwithstanding Title 5, Chapter 341, the commissioner shall be entitled to consider all records of prior criminal convictions involving child abuse or exploitation in determining an applicant's eligibility for a certificate, authorization or approval.

- B. The procedures that govern the Commissioner's investigation and disposition of matters that may result in the denial or non-renewal of an application for certification, authorization, or approval issued under this rule are set forth in Me. Dept. of Ed. Reg. 119.

14.5 Eligibility to Serve in Other Capacity

The Commissioner shall determine whether an individual whose certificate has been surrendered, suspended, revoked, denied, or non-renewed shall be issued an authorization or approval during the period of surrender, suspension, revocation, denial, or nonrenewal of a certificate.

SECTION 15. EMPLOYMENT OF INDIVIDUALS WITHOUT CERTIFICATION, AUTHORIZATION, OR APPROVAL

15.1 Superintendent and Headmaster Responsibility

It is the responsibility of the superintendent of a school administrative unit, headmaster of a private school (including a school enrolling 60% or more students at public expense) or Child Development Services director to determine the certification, authorization, or approval status of each person employed in a school or a Child Development Services site or who serves the school or a Child Development Services site as a contracted service provider. The superintendent or headmaster shall keep on file in a central location a copy of the certificate, authorization, or approval issued by the Department to each individual employed or contracted. The Child Development Services director shall keep on file in a central location a copy of the certificate, authorization, or approval issued by the Department to each individual employed or contracted.

15.2 Prohibition Against Employment and Contracting

A. School administrative units are prohibited from:

1. Employing individuals to serve as teachers, educational specialists, or administrators unless they hold appropriate certification;
2. Employing individuals to serve as educational technicians unless they hold appropriate authorization; or
3. Employing or entering into a contractual relationship with individuals who do not require certification or authorization, unless they hold Department approval.

B. Schools that enroll 60% or more students at public expense are prohibited from employing or entering into a contractual relationship with individuals unless they hold Department approval.

C. School administrative units are prohibited from employing teachers or educational specialists who hold provisional, targeted need, or conditional certificates, or certificates with a transitional endorsement, unless the unit has an approved support system.

15.3 Penalties

A. Loss of State Funding

Pursuant to 20-A M.R.S.A. §6801-A, the Commissioner may, after due notice and opportunity for hearing, reduce the State subsidy to any public school or the direct payment to a private school approved for tuition purposes that violates Section 15.2 of this rule in the amount that represents that State's share of salaries and benefits paid to any individual employed or under contract in violation of Section 15.2 of this rule.

B. Loss of Basic Private School Approval

Violation of Section 15.2 of this rule by a private school may lead to loss of approval status pursuant to 20-A M.R.S.A. §§2904 and 2905.

C. Loss of Salary and Benefits

Individuals employed in violation of Section 15.2 of this rule are barred from receiving any salary and fringe benefits for performing any professional function in a public school and shall forfeit to the employing school administrative unit any salary and fringe benefits received in violation of this Section.

D. Loss of Contract Payment

Contracted service providers who employ individuals in violation of Section 15.2 of this rule are barred from receiving contractual payments by a public school, approved private school, or private school enrolling more than 60% of students at public expense.

E. Certification Action

Employment of, or entering into a contractual relationship with, individuals in violation of Section 15.2 of this rule, or assignment of such personnel to duties for which they do not possess the appropriate certificate, authorization, or approval, shall be grounds for suspension, revocation, or non-renewal of the superintendent's certificate.

SECTION 16. RECORDS AND REPORTS

16.1 Annual Reports by School Officials

Superintendents shall annually file such information regarding the employment of school personnel as the Commissioner may require consistent with Me. Dept. of Ed. Reg. 125. Failure to timely file required reports shall be grounds, following notice and an opportunity for hearing, for the withholding of State subsidy from the school administrative unit and for other disciplinary action against the superintendent.

16.2 Reports of Dismissals

Superintendents shall file with the Department, within 10 days of issuance, the certificate of dismissal issued by the school board for any certified, authorized, or approved personnel.

16.3 Access to Certification, Authorization, and Approval Records

A. Public Access to Records

Any individual, upon written or oral request, shall be informed of the certification status of any individual subject to certification, authorization, or approval requirements. The certification, authorization, or approval status of an individual is deemed to be a public record.

B. Confidential Records

1. Transcripts, recommendations, and other documents submitted in support of an application for certification or authorization and maintained in the Department are confidential and shall not be released without the consent of the individual, subject to the following:
 - (a) The Department may release to school boards and superintendents who employ or are considering employment of the individual any documents except those received by the Department in accordance with the individual's Criminal History Records Check, as specified in Section 3.2 of this rule.
 - (b) Authorized personnel of the Department, including any hearing officer and legal counsel acting for the Department, may have access to all documents in fulfilling their assigned duties.
 - (c) Individuals may examine their own records.
 - (d) Representatives of the individual may examine records upon presentation of written authorization by the individual.
2. Home addresses of holders shall be made available only in response to the following:
 - (a) Formal request from a commissioner or chief executive officer of other State agencies, including the judicial branch, when access to that information is necessary in carrying out an official function; or
 - (b) Formal request by majority vote of any joint standing committee of the Legislature when access to that information is necessary in carrying out an official function.

16.4 Access to Records Relating to Misconduct

- A. Complaints, charges, or accusations made against holders, investigative reports pertaining to those complaints, charges, or accusations, replies to those complaints, charges, or accusations, and any other information that may result in action to deny, to not renew, to revoke, or to

suspend certification, authorization, or approval shall be confidential except such documents in the possession of the Department that are already public records as a matter of law.

- B. Certificates of dismissal, records of other disciplinary actions taken by a school board, transcripts of public hearings held by school boards, and court records and transcripts not under seal are public records when in the possession of the Department.
- C. Any charges or information filed by the Commissioner with the Administrative Court in support of a petition to not renew, to revoke, or to suspend certification, authorization, or approval and any decision of the Court shall be public records.
- D. Any action taken by the Commissioner to deny, revoke or suspend a certificate, authorization, or approval pursuant to 5 M.R.S.A. §10004 shall be a public record.
- E. Although records of criminal convictions may be public records, any information obtained by the Department through fingerprint-based Criminal History Records Checks is confidential. The procedures that must be followed by an applicant to gain access to his/her criminal history record information are specified in Maine statute.
- F. Non-identifiable aggregate data relating to the Criminal History Records Checks Program shall be released only after consultation with the Attorney General of the State of Maine.

SECTION 17. DEVELOPMENT OF NEW ENDORSEMENTS AND NEW CERTIFICATES

17.1 Introduction

The procedures set forth in this Section shall govern the development of new endorsements and certificates. The process consists of five steps: planning, team review, preliminary State Board approval, rule development, and commencement of rulemaking proceedings. The process seeks input and direction from the Department, college and university personnel, local school personnel, and special interest groups.

17.2 Planning

The proponents of a new endorsement or certificate shall notify the Department of the intention to plan for the establishment of a new endorsement or certificate area and shall undertake the following steps:

- A. Formulate the purposes and goals of the endorsement or certificate area;
- B. Document the need, on State and national levels, for the establishment of the new endorsement or certificate;
- C. Seek input from the University of Maine System and other higher education personnel to ascertain the availability of undergraduate and graduate training for individuals in the potential endorsement or certificate area and, at the option of the proponents, seek input from the Maine Higher Education Council; and
- D. Consult with school administrative unit personnel. Local teachers, educational specialists, and administrators may assist in providing information on the need for a particular endorsement or certificate area in a field, as well as the effects of a new endorsement or certificate.
- E. The State Board, at their own discretion, may propose a new endorsement or certificate in order to be in compliance with state or federal law.

17.3 Review Team

Once the information described in Section 17.2, above, has been collected, the Department shall appoint a Review Team to evaluate the proposal. At a minimum, the Review Team shall consist of two representatives from each of the following groups: higher education, teachers, administration, content organizations, and the Department. The Review Team may include additional members from the above-mentioned groups, members of groups not specifically mentioned, or unaffiliated individuals. After evaluating the planning information provided, the Review Team shall present its findings and recommendations to the State Board of Education.

17.4 Preliminary State Board Approval

The State Board shall review the findings and recommendations of the Review Team and either grant preliminary approval or deny the addition of the endorsement or certificate. If preliminary approval is granted, the Department shall proceed with drafting and final development. The Board shall offer such guidance and direction as it deems appropriate.

17.5 Development Team

The Department shall appoint a Development Team to finalize the proposed endorsement or certificate in preparation for rulemaking proceedings. At a minimum, this Team shall consist of representatives of chief academic officers of the University of Maine System and other colleges,

the Department, and appropriate content groups. Individuals who served on the Review Team may also serve on the Development Team. Starting with the findings and recommendations of the Review Team, the Development Team shall be responsible for drafting the actual rule language for the endorsement or certificate. The Team shall also consider current higher education program offerings in the endorsement or certificate area and outline long-range planning for the area.

17.6 Commencement of Rulemaking Proceedings

Once the proposed endorsement or certificate has been developed, the Commissioner shall present it to the State Board for action. The Board shall determine whether to commence rulemaking proceedings for adoption of the endorsement or certificate in accordance with the Maine Administrative Procedure Act. The Board's proposed rule language may vary from the endorsement or certificate proposed by the Development Team.

Section 18. INTERNATIONAL VISITING TEACHER PERMIT

The international visiting teacher permit is for teachers of countries outside the United States.

18.1 Visiting Teacher Permit

- A. Function: The international visiting teacher permit is a non-renewable permit for teachers in Maine.
 - 1. The international visiting teaching permit is issued with one or more endorsements that specify the subject area and the grade level for which the teacher is deemed qualified.
- B. Eligibility: An applicant becomes eligible for a teaching permit by meeting the general requirements of Sections 3.1 and 4.1 of this rule, and by meeting the following requirements.
 - 1. The applicant must be a citizen of another country;
 - 2. The applicant holds a J-1 visa issued by the United States Department of State;
 - 3. The applicant holds the equivalent of a bachelor's degree from an accredited college;
 - 4. The applicant has a minimum of three years of teaching experience in the permit area being sought;
 - 5. The applicant is a participant in a visiting teacher program approved by the Department; and
 - 6. The applicant has an academic major in the permit area being sought or evidence of proficiency in the world language.
- C. Term: The international teaching permit shall be issued for a non-renewable three-year period.
- D. Renewal: The teaching permit is non-renewable.

STATUTORY AUTHORITY: Title 20-A M.R.S.A. §13011(1)

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Section 10-A

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Sections 10.1 & 10.8

September 21, 1992 -

Section 2.2

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changed effective date of last amendment from Dec. 26 to Dec. 21

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minor spelling - Part I pages 82, 117

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Sections 2.4, 10.2, 10.4(E)

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punctuation in last paragraph of Section 2, and Sub-sections 10.2, first paragraph of 10.4, and 10.4(E)

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August 12, 2001 -

Section 8.5 added

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Section 8.5, punctuation only

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July 18, 2007 - Part I, filing 2007-246 (major substantive)

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