**05 DEPARTMENT OF EDUCATION**

**071 STATE BOARD OF EDUCATION/COMMISSIONER OF EDUCATION**

**Chapter 125: BASIC APPROVAL STANDARDS: PUBLIC SCHOOLS AND SCHOOL ADMINISTRATIVE UNITS**

**SUMMARY**: This rule establishes school approval standards governing the school administrative units and other public schools of the state and adopts procedures for ascertaining compliance with all applicable legal requirements, as authorized by Title 20-A, *Maine Revised Statutes*, chapter 206. This rule includes that which is required to be in Rule pursuant to 20-A M.R.S. § 4502(5), and that which is not in detail in statute or other Department of Education or Department of Health and Human Services regulations.

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# Section 1. GENERAL OBJECTIVES

## 1.01 Establishment of School Approval Rules

This rule establishes the substantive school approval standards pertaining to public schools. Public schools comprise: schools governed by a school board of a school administrative unit, including authorized public charter schools; career and technical education regions; schools in the Unorganized Territory; magnet schools; the Maine Educational Center for the Deaf and Hard of Hearing and Governor Baxter School for the Deaf; and any school located in or operated by a juvenile correctional facility. This rule establishes procedures for comprehensive reviews of these school administrative units and schools by which the Commissioner will determine compliance with applicable standards and methods of enforcement for ensuring compliance.

Note: Although listed here due to its regional nature, it should be noted that 20-A M.R.S. § 8451 states that a career and technical education region “shall function as an extension of the secondary schools and middle schools located within the region's boundaries.”

## 1.02 School Administrative Unit Responsibilities

Each school administrative unit shall provide a free, public education for its resident students and shall meet all school approval requirements of Title 20-A, *Maine Revised Statutes* (20-A M.R.S.), other statutes, rules applicable to the operation of public schools, and the requirements of this rule.

## 1.03 Parent and Student Responsibilities

Parents shall be responsible for the education of a child not educated at public expense. Students are not required to meet the content standards of the system of Learning Results established in Maine Department of Education Regulation 131 unless enrolled in a public school, a private school approved for attendance purposes pursuant to 20-A M.R.S. § 2902, or in a private school approved for tuition purposes that enrolls at least 60% publicly funded students pursuant to 20-A M.R.S. § 2951(6).

# Section 2. DEFINITIONS

2.01 Assessment: “Assessment” means an educational instrument or activity designed to determine what a student knows and is able to do.

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

2.03 Comprehensive Education Plan: “Comprehensive Education Plan” means a compilation of policies, plans and requirements as defined in this Chapter required under 20-A M.R.S. for public school administrative unit and public school approval. This Plan must address all policies, plans, reports, protocols, and processes required by the Commissioner, which considered together shall comprise the focus for continuous school improvement.

2.04 Curriculum: “Curriculum” means the school administrative unit’s written document that includes the learning expectations for all students for all content areas of the system of Learning Results, as well as for other content areas specified by the local school board. The curriculum shall reflect continuous, sequential and specific instruction aligned with the content areas of the system of Learning Results.

2.05 Department: "Department" means the Maine Department of Education.

2.06 Kindergarten: "Kindergarten" means a one or two-year instructional program aligned with the system of Learning Results, immediately prior to grade one.

2.07 Parent: “Parent” means the parent or legal guardian of a student, or the student if of majority age.

2.08 Provisional Approval: "Provisional Approval" means an approval for a specified period of time during which a school administrative unit must take corrective action to comply with this rule.

2.09 School: "School" means an individual attendance center based on a unique address assignment within a school administrative unit or a public school as outlined in Section 1.01 that includes any combination of grades kindergarten through 12. “School” may also denote instruction delivered virtually, as approved by the Commissioner, the Charter Commission, or other authorizing entity. In the case of a virtual “school,” the organization’s physical office address shall serve as the attendance center of record.

2.10 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, except that it does not include a career and technical education region. Beginning July 1, 2009, “school administrative unit” means the state-approved unit of school administration and includes only the following:

A. A municipal school unit;

B. A regional school unit formed pursuant to chapter 103-A;

C. An alternative organizational structure as approved by the commissioner and approved by the voters;

D. A school administrative district that does not provide public education for the entire span of kindergarten to grade 12 that has not reorganized as a regional school unit pursuant to chapter 103-A;

E. A community school district that has not reorganized as a regional school unit pursuant to chapter 103-A;

F. A municipal or quasi-municipal district responsible for operating public schools that has not reorganized as a regional school unit pursuant to chapter 103-A;

G. A municipal school unit, school administrative district, community school district, regional school unit or any other quasi-municipal district responsible for operating public schools that forms a part of an alternative organizational structure approved by the commissioner; and

H. A public charter school authorized under chapter 112 by an entity other than a local school board.

2.11 School Calendar: "School calendar" means the schedule of school days adopted in advance of the school year by the school board, pursuant to 20-A M.R.S. § 4801.

2.12 School Personnel: “School personnel” or “personnel” means individuals employed by a school administrative unit or under contract with the unit to provide services to the children enrolled in the schools of the unit.

2.13 School Year: “School year" means the total number of school days in a year as established by the school administrative unit.

2.14 Student Records: "Student records” means those records that are directly related to a student and are maintained by a school or a party acting for the school.

2.15 System of Learning Results: “System of Learning Results” means the guiding principles, content areas, content standards, and performance indicators that specify what students should know and be able to do in grade spans covering kindergarten through grade 12, as specified in Maine Department of Education Regulation 131.

2.16 Teacher: "Teacher" means any person who is regularly employed for the instruction of students in a school and who is certified by the Commissioner for this position.

# Section 3. APPLICABILITY

## 3.01 Applicability

This rule applies to the school administrative units and public schools of the state as outlined in Section 1.01.

For purposes of this rule, all requirements and duties pertaining to a school administrative unit shall also apply to those public schools that are not part of a school administrative unit, except as indicated in Section 3.02. In this rule where reference is made to the superintendent, such requirements and duties shall apply to and be carried out by the chief administrator of the school. In this rule where reference is made to the school board of a school administrative unit, such requirements and duties shall apply to and be carried out by the policymaking entity with responsibility for the school. The Commissioner shall be deemed to exercise the authority of the school board for the schools in the Unorganized Territory. The Commissioner of Corrections shall be deemed to exercise the powers of the school board for schools located in or operated by a juvenile correctional facility.

## 3.02 Exceptions

1. For a school administrative unit that tuitions 100% of its resident students out of the resident unit, the resident unit may work with the receiving public school administrative unit to develop policies and procedures for the population served.
2. The resident unit may not delegate the following requirements and/or policies to be covered under another unit’s policies:
   1. Nondiscrimination/Equal Opportunity and Affirmative Action Plan;
   2. School Finances, Accurate Account, Audit, and Report to School Board;
   3. Disposal of Personal School Property;
   4. Transportation;
   5. Personnel Clearance and Certification;
   6. Personnel Directory and Confidentiality;
   7. Opportunities for CTE Participation;
   8. Section 504 and Special Education Programming;
   9. Response to Intervention;
   10. Student Rosters;
   11. Students Records Policy (FERPA);
   12. Education Records Release Policy; and
   13. Education Records Retention Policy.
3. The resident unit may delegate specific requirements as follows:
4. Lau Plan – may delegate English Learner (EL) services and policy to be provided by receiving public unit, but must participate in EL identification of a resident student;
5. Homeschool Students – may delegate policy to be provided by receiving unit, but must ensure access and attendance, keep records/rosters of homeschoolers, and provide homeschool guidance;
6. Assessment/Curriculum Development and Review Plan – may delegate plan to be provided by receiving unit, but resident unit must ensure access/compliance/reporting; and
7. Dropout Prevention Plan – may delegate plan and Dropout Prevention Committee to be provided by receiving unit, but must maintain knowledge of at-risk students and participate in Dropout Prevention Committee for resident students.
8. A school administrative unit that tuitions 100% of its resident students out of the resident unit may delegate all requirements except as outlined in Sections 3.02(A)(1) and 3.02(A)(2).
9. Career and Technical Education Centers are under the administration of a school administrative unit as determined by Title 20-A M.R.S. Chapter 313 and must be included in the SAU provision of all policies and requirements. Career and Technical Education Regions have a separate administrative structure, but for purposes of School Approval must certify the following.
10. Nondiscrimination/Equal Opportunity and Affirmative Action Plan
11. School Finances Accounting, Audit and Reporting
12. Policy for the Disposal of Personal School Property
13. Facility Maintenance and Capital Improvement Plan
14. Chemical Hazard Communications Plan
15. Emergency Management Plan
16. Bomb Threat Policies
17. Integrated Pest Management Plan
18. Personnel Safety and Bloodborne Pathogens Policy
19. Personnel Clearance and Certification
20. Employee Directory and Confidential Information
21. Lau Plan
22. Student Code of Conduct
23. Concussion Management Policy
24. School Disciplinary Policies
25. Restraint and Seclusion Policy
26. Vision and Hearing Screening
27. Student Medication Administration Policy
28. Protocol for the Management of Life Threatening Allergies
29. Suicide Awareness and Prevention Tracking System
30. Student Records Policy
31. There are no exceptions for schools in the Unorganized Territory.

# Section 4. REQUIREMENTS AND COMPREHENSIVE EDUCATION PLAN

## 4.01 Purpose

The purpose of a Comprehensive Education Plan is to document the development and implementation of the required statutory compendium of school approval resources and requirements by each school administrative unit or other public school. A unit will not submit its Plan to the Commissioner unless requested or in accordance with Sections 6 and 7.

## 4.02 Development of the Comprehensive Education Plan

Each school administrative unit shall have one Comprehensive Education Plan to guide the schools and the school administrative unit.

A. The Comprehensive Education Plan shall include an assessment of needs conducted at least every five years, based on ongoing collection and analysis of data related to indicators of student performance and development. The Comprehensive Education Plan shall reflect current educational research and practices that relate to student achievement of the content standards of the system of Learning Results, will be focused on the learning of all students, and oriented to continuous improvement to ensure that each student enrolled in a Maine public school is provided with a quality education. The superintendent shall be responsible for the continuous improvement process in each school administrative unit and shall convene a School Approval stakeholder group representative of the school and community.

B. The school administrative unit shall determine the format of the Comprehensive Education Plan. The unit’s Comprehensive Education Plan shall address all documentation and data required by the Department to meet state and federal requirements. This may be done by integrating the multiple requirements or by including each required plan or requirement as a distinct component of the Comprehensive Education Plan.

C. The Comprehensive Education Plan shall address the shared vision of the school administrative unit, and establish goals and strategies that are equally inclusive and reflective of all schools in which the unit’s resident students are educated.

## 4.03 Annual Update of the Comprehensive Education Plan

Each school administrative unit shall annually update its Comprehensive Education Plan, adopted according to the procedure outlined in Section 7.01. It shall be the responsibility of the superintendent to report annually to the citizenry on the ongoing school improvement process and the updated Comprehensive Education Plan. Citizen recommendations shall be considered prior to annual school board action on the Plan. The superintendent shall certify progress on the Plan to the Commissioner on an annual basis.

## 4.04 Approval of the Comprehensive Education Plan

When a school administrative unit is on provisional approval status in accordance with Section 7.02, the Comprehensive Education Plan shall be subject to approval by the Commissioner.

## 4.05 Comprehensive School Approval Requirements Reference

The Comprehensive Education Plan shall address the statutory and regulatory requirements of 20-A M.R.S. § 4502 and other applicable laws and rules, as summarized in the chart on the Department’s Public School Approval web page.

# Section 5. OTHER MINIMUM REQUIREMENTS

This Section establishes minimum requirements in areas required under 20-A M.R.S. § 4502(5).

## 5.01 Instructional Time, Including a Minimum School Day and Week

1. A school week is the five days Monday through Friday. Exceptions occur when schools are closed because of holidays, inclement weather, or other extenuating circumstances.
2. A “school day” means a day in which school is in operation as either an instructional day as defined in this Section, or a non-instructional day that may be used for in-service education of teachers, administrative meetings, parent-teacher conferences, records’ days or similar activities.
3. "Instructional day" means a school day during which both students and teachers are present, either in a school or in another setting, and engaged in instructional time.
4. "Instructional time" means that portion of a school day devoted to the teaching-learning process, but not including extra-curricular activities, lunchtime, or recess. Time spent on organized field trips related to school studies may be considered instructional time, but the instructional time counted for extended field trips shall not exceed a normal school day for each day of the field trip. Alternative education programs, multiple pathways, extended learning opportunities, and other innovative programs may allow students to attend outside of the regular instructional day, as outlined in the SAU Comprehensive Education Plan.
5. An instructional day for grades K-12 must be a minimum of three hours in length, and for grades 1-12 must average five hours in length over any consecutive two-week period. Plans to use school days of varying length must be reflected in the Comprehensive Education Plan submitted by the school administrative unit pursuant to 20-A M.R.S. § 4502(1). The instructional day may be extended for students who need more than the minimum day to meet the content standards of the system of Learning Results.
6. Instructional days that are canceled must be rescheduled to meet the minimum school year requirements contained in 20-A M.R.S. § 4801.
7. School administrative units may not schedule make-up instructional time on days identified in 20-A M.R.S. § 4802. Acceptable methods of rescheduling cancelled instructional days include:
8. Rescheduling or shortening scheduled vacation periods;
9. Postponing the scheduled closing date of school;
10. Providing up to 25 one hour extensions of the instructional day to equal a maximum of five 5-hour make-up instructional days in a school year in accordance with a plan approved by the commissioner;
11. Conducting classes on the weekend; and/or
12. Developing other ways to make up school days missed due to weather or emergency closures not included above, which will be incorporated into a plan approved by the Commissioner.
13. If an instructional day must be shortened due to circumstances that involve student health or safety, the day is considered a full day if school has been in session for at least 2.5 hours.

## 5.02 Staffing: Ratios and Qualifications of Personnel

1. The school board of the school administrative unit shall determine the number and allocation of personnel for the unit.
2. Student teacher ratios. The school board of each school administrative unit shall permit maximum student teacher ratios of 25:1 schoolwide for kindergarten to grade 8; and maximum student teacher ratios of 30:1 schoolwide for grades 9 to 12. Except that:
3. Band and chorus instruction may exceed the student-teacher ratio identified above.
4. The number of students enrolled in a laboratory course shall not exceed the number for which the laboratory was designed and is equipped to serve safely.
5. A higher ratio may be allowed for long term non-traditional scheduling or large group instruction in grades 1-12 with approval of the Commissioner.
6. A higher ratio may be allowed without Commissioner approval for occasional short-term instruction at the option of the school board. In cases of enrollments that are unexpectedly large, the maximum ratio for schools and classes may be exceeded for up to 45 calendar days at the discretion of the school board. If the enrollment problem remains unresolved, the superintendent shall submit a written request to the Commissioner for a student-teacher ratio waiver prior to the end of the 45-day period. The Commissioner may grant a waiver of ratios when undue hardship exists due to limited financial, physical, or human resources. Such a waiver shall include stipulated conditions deemed necessary to the health, safety, or education of affected students.
7. Superintendent. The school board of each school administrative unit shall employ a superintendent of schools certified in the State of Maine, whether or not the unit operates a school, pursuant to 20-A M.R.S. Chapter 101.
8. Principal. A principal certified in the State of Maine shall supervise the operation and management of each school and school property, unless it is determined to be unnecessary by the superintendent under policies established by the school board. A superintendent may, on an annual basis, request an exception to the employment of a principal to lead a school and the Commissioner may approve the request, which may be based on hardship due to the small size of a school, a school's geographic location, or other extenuating circumstances.
9. Professional Personnel. Professional personnel, including but not limited to teachers, counselors, library-media specialists, other education specialists, assistant superintendents, curriculum directors, special education directors, assistant principals, and other administrators, shall hold certification appropriate to their assignments and any state licenses required by statute and Maine Department of Education Regulation 115.
10. Support Personnel. Support personnel, including but not limited to educational technicians, secretaries, cooks, custodians, and bus drivers, shall meet all applicable state requirements for authorization or approval, as specified in Maine Department of Education Regulation 115.
11. Attendance Coordinator. Each school board shall appoint an attendance coordinator in accordance with 20-A M.R.S. § 5052-A.
12. School Medical Personnel. Each school board shall appoint, annually, a school physician to advise the school board on school health issues, policies, and practices. The school physician may examine and diagnose but not treat students or employees unless it is necessary to protect the health of the students in the school administrative unit. Each school board shall appoint a certified school nurse to supervise and coordinate health services for the unit. The school board may contract for the services of qualified school medical personnel.

## 5.03 Physical Facilities

1. Adequacy of Facilities. School facilities shall have adequate space with respect to student enrollment, the instructional program, and necessary administrative and supporting services.
2. Each classroom or laboratory shall be adequate to safely serve the specific purpose for which it is intended and shall have sufficient area to accommodate each student.
3. Each school shall maintain a designated area that affords access to library-media resources, as appropriate to the age of students in the school.
4. Storage space shall be provided so that materials and equipment may be securely stored in a space other than in student instructional areas. Storage of hazardous materials shall be in accordance with OSHA requirements.
5. Areas used for the provision of student services and health services shall be adequate to provide for the privacy and confidentiality of such services.

## 5.04 Requirements for Equipment and Libraries

1. Each school shall maintain a library-media program that includes books, written materials, online Internet resource materials, multimedia materials, and information technology that supports the curriculum. Resources shall be appropriate to the ages of the children served by the school. A certified library-media specialist shall oversee the library-media program in a school administrative unit. However, this shall not be interpreted to mean that each school within a school administrative unit must have a certified library-media specialist.
2. The library-media resources, including access to the Internet, shall be accessible to all enrolled students and personnel during school hours. The school administrative unit shall have a policy governing access to library resources by students in approved equivalent instruction programs in accordance with state law.
3. The Comprehensive Education Plan shall address updating and maintaining library-media resources.

## 5.05 Minimum School Size

Where a school administrative unit operates a secondary school of fewer than 100 students or an elementary school of fewer than 10 students, it shall annually evaluate, as part of the Comprehensive Education Plan adopted by the school board, whether it is necessary or profitable to maintain the school building, and whether the enrollment of the school is sufficient for students to meet the content standards of the system of Learning Results. The procedures set forth in 20-A M.R.S. § 4102 shall be followed when closing any school.

## 5.06 Grade and Program Organization

The grade and program organization of schools in a school administrative unit that operates one or more schools shall provide a developmental continuum that gives students the opportunity to meet the content standards of the system of Learning Results. The school organization shall facilitate achievement of the goals in the unit’s Comprehensive Education Plan. If there is more than one school in the unit serving a grade level, the school board shall determine which students attend each school.

Schools shall implement developmentally appropriate educational practices for kindergarten to grade 2 that:

1. Address all domains of development, including cognitive, social/emotional, and physical well-being, across established developmental trajectories;
2. Provide experiential learning across disciplines through both teacher-directed instruction and student-directed engagement with concrete materials;
3. Are culturally relevant to the lives of children in this age/grade span; and
4. Are guided by formative assessment practices, including teacher observation.

## 5.07 Assessment and Evaluation of Student Performance for School Improvement

School administrative units shall demonstrate how school and student assessment data are used to evaluate, develop, and improve curriculum, instruction, and assessment.

## 5.08 Student Support Services

Each school administrative unit shall have a Comprehensive School Counseling Program.

## 5.09 Records, Record Keeping and Reporting Requirements

Records, record keeping and reporting requirements shall be maintained according to 20-A M.R.S. Chapter 221, and § 1055. A roster of resident, tuition, and transfer students will be maintained as outlined in this Section.

1. The superintendent of each school administrative unit shall maintain a roster of all resident and tuition students attending schools operated by the unit.
2. The superintendent of each school administrative unit shall maintain a roster of all students eligible to attend school within the unit who are receiving equivalent instruction in an approved or non-approved private school, or in an approved equivalent instruction program.
3. The superintendent of each school administrative unit shall maintain a roster of all students who have been expelled by school board action, who have dropped out of the unit, who have withdrawn from the unit, or who are truant.
4. The superintendent of each school administrative unit shall maintain a roster of all students who have been approved for transfer into the unit or to another unit.

## 5.10 Health, Sanitation and Safety Requirements

1. Health and Safety Requirements. Health and safety requirements shall include water and sanitation requirements per Maine Department of Health and Human Services Regulations. All school facilities, which shall include buildings, grounds, and equipment necessary for the provision of instructional programs, shall be operated and maintained in safe, healthful, and sanitary condition.
2. Water. Drinking water from sanitary fountains shall be available in each school.
3. Sanitary Facilities. Each school building shall be provided with an adequate number of toilets that are clean, private, well supervised, of the flush water type and connected to a sewage disposal system approved by the Department of Health and Human Services. Toilet rooms with a single toilet cannot be designated as “female” or “male.” Toilet rooms shall include wash sinks that are connected to an adequate, pressurized water supply. The sanitary conditions of each school shall be inspected regularly.
4. Air Quality. Each room used for instructional purposes shall have sufficient air changes to produce healthful conditions and to avoid odors or concentrations of toxic substances or dust particles. Temperatures shall be kept at a level that provides a comfortable environment for employees and students. If the heating, ventilating, and air-conditioning (HVAC) systems are mechanically driven, they shall be maintained and in compliance with HVAC regulations and rules.
5. School Inspections. Fire and safety inspections shall be conducted in the school, in compliance with State code, at least once every five years. The school board shall cause any deficiencies to be corrected in the timeframes specified.

## 5.11 Training and Development of All Personnel

Each school board shall establish a system for training and development of all personnel that is aligned with the system of Learning Results as established in 20-A M.R.S. § 6209. School boards shall establish a system of professional training and development that fosters continuous improvement and is differentiated to be relevant to all personnel.

## 5.12 Restraint and Seclusion

School boards and school personnel shall recognize the proper use of physical restraint and seclusion as an emergency intervention when the behavior of a student presents a risk of injury or harm to the student or others. Restraint and seclusion shall be administered in accordance with requirements adopted by the department.

## 5.13 Medication Administration

School administrative units shall have a written local policy and implement training for all unlicensed personnel who administer medication in accordance with the requirements under 20-A M.R.S. § 254(5).

## 5.14 Reintegration Planning Training

School administrative units shall have a written local policy and implement training for all school counselors and school personnel who administer reintegration planning pursuant to 20-A M.R.S. § 4502 (5)(O), who participate on a reintegration team, and who have access to confidential criminal justice information regarding juveniles pursuant to 20-A M.R.S. § 1055(12).

## 5.15 Family Outreach and Support Programs

School administrative units shall provide family outreach and support programs designed to improve parent engagement and parent-school relations consistent with 20-A M.R.S. § 4252(8). Programs shall have written policies and procedures that demonstrate intentional, strength-based practices designed to foster strong reciprocal relationships with families. These practices include, but are not limited to: open houses, parent conferences, parent education opportunities, newsletters, family events, and program evaluations. Policies and procedures are to be translated in languages understandable to parents.

## 5.16 Promotion, Retention, Acceleration and Graduation of Students

School administrative units shall have policies to guide promotion, retention, and graduation of students.

## 5.17 Lockdown Drills and Emergency Evacuation Drills

Schools are required to conduct lockdown drills as well as emergency evacuation drills. Written procedures for emergency evacuation drills shall be posted in all buildings. Written procedures for lockdown drills shall not be posted. Schools at all levels K-12 are required to hold two drills during the first two weeks of school. Schools enrolling grades K-4 shall hold an additional eight drills during the year; schools enrolling grades 5-8, an additional six drills; and schools enrolling grades 9-12, an additional four drills. Schools enrolling any combinations of these grade levels shall hold the additional number of drills required of the lowest grade level within the span, except that the local fire chief may increase the number of drills required. Results shall be recorded and deficiencies noted and corrected using local code compliance forms. School personnel shall receive an annual orientation in drill requirements. SAUs must develop and maintain Comprehensive Emergency Management Plans that require school board approval pursuant to 20-A MRS

## 5.18 Multi-tiered System of Support

All school administrative units are required to develop and implement a multi-tiered system of support, kindergarten to grade 12, that provides each child with differentiated learning experiences and/or assistance to achieve social and emotional development, meet the content standards of the system of Learning Results, and graduation requirements. These supports must be specific, timely, and based upon ongoing formative assessments that continuously monitor student progress.

A multi-tiered system of support has three distinct levels of intervention available to general education students:

Tier I – Universal Supports. This tier begins with the implementation of core, curriculum-based instruction, including strategies to assist student development and learning. Typically, these supports are differentiated based on student need and provided to all students within the classroom. Tier I supports continue when Tier II or Tier III interventions are added.

Tier II – Targeted Supports. Supplemental instruction or supports provided to students in addition to Tier 1. These may be provided by qualified staff, including, but not limited to, the classroom teacher, an intervention specialist, or an authorized Educational Technician. Targeted support may involve more intensive practice and/or monitoring of regular classroom activities.

Tier III – Intensive Supports. Intensive instruction or supports provided to students through small group or one-to-one interventions, within the classroom or through an individualized environment, with an increased focus on teaching specific skills.

While there may be variations in how school administrative units develop and implement a multi-tiered system of support, the systems must include:

* Assurance that every child is provided with high quality core (Tier 1) academic instruction and positive behavioral and social/emotional supports;
* A team-based process to review children’s progress and evaluate whether students who are struggling in any academic, behavioral, or social/emotional area may need more intensive Tier II or III support;
* A mechanism for including parents in decision-making about a child’s potential participation in Tier II or III activities;
* A collection of quality, research-based, academic, behavioral, and social/emotional Tier II and III interventions that are available for students who need them;
* A consistent process of screening and progress monitoring to evaluate student progress at all tiers;
* A method to determine whether a child’s assessed challenges are likely the result of trauma, linguistic, and/or cultural experiences; and
* Provisions for supports to continue during any subsequent special education referral.

The parent may request that a full and individual evaluation for possible special education eligibility determination be conducted at any time during the multi-tiered system of support review process.

# Section 6. SCHOOL REVIEWS AND INSPECTIONS

## 6.01 Procedure

The Commissioner shall review or inspect a school administrative unit as provided in this section, and annually review educational programs for juveniles in corrections facilities. Any report written for the Commissioner as part of a review or inspection shall be presented to the school board in a public meeting, unless the privacy rights of personnel or students require that portions of the report be presented in executive session.

## 6.02 School Reviews

##### The Commissioner will initiate a comprehensive review of a school administrative unit when student performance in a school indicates that a review is warranted.

## 6.03 School Inspections

The commissioner shall inspect a school or schools in a school administrative unit and report the findings and recommendations to the school board, addressing the concerns of the petition in light of applicable school approval standards, when:

A. Petitioned by 60% of the parents of the children in one school in the school administrative unit;

B. Petitioned by 20% of the registered voters of the school administrative unit; or

C. Requested in writing by the school board or by the superintendent.

# Section 7. SCHOOL APPROVAL STATUS

## 7.01 Initial Approval Procedures

A. A school administrative unit shall obtain initial approval from the Commissioner prior to opening a new school.

1. A school administrative unit seeking initial approval status for any school shall make this intention known to the Commissioner in writing as soon as possible prior to the initial opening. School units that have received school construction approval from the State Board of Education shall be deemed to have met this notice requirement.

2. Prior to the initial opening, the facility shall complete any local code enforcement requirements and be approved for safety by the State Fire Marshal or local municipal fire department official, and certified as sanitary by the Department of Health and Human Services.

3. For a new school administrative unit or other public school, adoption of a proposed Comprehensive Education Plan shall be on the agenda of at least one meeting of the school board. The school board shall invite participation and discussion of the Plan by parents, citizens, staff, and students. After receiving comments on the proposed Plan, the school board shall review the proposal, make any modifications deemed appropriate, and adopt a final Comprehensive Education Plan prior to the initial opening.

B. Initial approval status shall be awarded when the Commissioner determines that the school is likely to comply with all approval standards.

C. Within six weeks after student occupancy, representatives of the Commissioner may visit the school while it is in session to determine if all applicable school approval standards are being met.

1. If school approval standards are not being met, initial approval status shall continue until compliance is demonstrated or until the end of the school year, whichever is the earlier date.

2. Upon obtaining final approval by the Commissioner, the school administrative unit shall be entitled to operate the school and to receive state subsidy aid to which it is otherwise entitled.

## 7.02 Provisional Approval

A. A school that is determined by the Commissioner not to comply with applicable school approval standards shall be placed on provisional approval. Failure to submit School Approval Reports, other than financial reports, in a timely manner and in accordance with this rule, shall result in provisional approval status. Failure to submit financial reports in a timely manner shall result in a withholding of state subsidy in accordance with Section 7.03.B.

B. When placing a school on provisional approval status, the Commissioner shall take the following actions:

1. The Commissioner shall notify, in writing, the superintendent responsible for any schools placed on provisional approval status and shall include a statement of the reasons for provisional approval status.

2. Representatives of the Commissioner shall meet with the superintendent and shall determine a reasonable deadline for achieving compliance with school approval standards.

3. A school or school administrative unit on provisional approval status shall be required to file with the Commissioner an acceptable written plan of corrective action as part of the Comprehensive Education Plan. The Commissioner may assign a school assistance team in accordance with Maine Department of Education Regulation 127.

4. Failure to file a required plan of corrective action shall result in enforcement action by the Commissioner, pursuant to Section 7.03 of this rule.

C. The Commissioner shall restore full approval status upon the Commissioner’s determination of compliance with school approval standards.

## 7.03 Enforcement Measures

A. Notice of Failure to Comply

The Commissioner shall give written notice of pending enforcement action to the superintendent of any school or school administrative unit that fails to comply with school approval standards by the established deadlines in statute or in the plan of corrective action established in Section 7.02.B.3. Such notice shall include a statement of the laws and regulations with which the school or school administrative unit fails to comply. School administrative units failing to comply with school approval standards shall be given notice and the opportunity for a hearing.

B. Penalties

The Commissioner may impose the following penalties on schools or school administrative units until compliance is achieved:

1. Withhold state subsidy and other state funds from the school or school administrative unit;

2. Refer the matter to the Attorney General, who may seek injunctive relief to enjoin activities not in compliance with the governing statute or seek any other remedy authorized by law; or

3. Employ other penalties authorized in statute or authorized/required by federal law.

# Section 8. WAIVERS

The Commissioner may grant a waiver from compliance with any provision of this rule.

## 8.01 Application

The Commissioner may grant a waiver upon finding that, due to unforeseeable circumstances or undue hardship, the school administrative unit is unable to comply with this chapter and that the compliance plan that the school administrative unit has submitted is reasonable. In such cases the application for a waiver shall contain:

A. Documentation of actions taken to meet the requirements prior to applying for the waiver;

B. A description of the unforeseeable circumstances or undue hardships, including financial hardship, that led to the application;

C. A statement explaining how the waiver requested will not create learning inequities for the students enrolled in the schools in the school administrative unit; and

D. The plan that the school administrative unit will implement to reduce reliance on waivers in subsequent years.