

**MAINE COMMISSION ON
PUBLIC DEFENSE SERVICES**

June 16, 2026

**Commissioner's
Meeting Packet**

MAINE COMMISSION ON PUBLIC DEFENSE SERVICES

JUNE 16, 2026 MEETING AGENDA

- 1) Approval of May 19, 2026 Commission Meeting Minutes
- 2) Executive session pursuant to 1 MRS § 405(6)(E) to discuss pending or contemplated litigation
- 3) Report of the Executive Director
 - a. Operations report
 - b. Staffing update
 - c. Intern training
 - d. Audit discussion
 - e. Employed caseload and evaluation standards
 - f. Daily arraignment request
- 4) Update from District Defenders
- 5) Biennial budget discussion
- 6) Rulemaking discussion / Chapter 6
- 7) Set Date, Time and Location of Next Regular Meeting of the Commission
- 8) Public Comment

Maine Commission on Public Defense Services
Commission Meeting May 19, 2026

Commissioners Present: Donald Alexander, Randall Bates, Anne Jordan, Taylor Kilgore, Kelly O'Connor, David Soucy, and Roger Katz.

PDS Staff Present: Frayla Tarpinian (Executive Director) and Ellie Maciag (Deputy Executive Director).

Agenda Item	Discussion / Outcome
Approval of Minutes	The minutes from the April 14, 2026, meeting were reviewed and approved unanimously following a motion by Commissioner O'Connor, seconded by Commissioner Jordan.
Executive Session	Commissioner Alexander moved to go into executive session pursuant to 1 MRS § 4056(E) to discuss pending or contemplated litigation. Commissioner O'Connor seconded. All voted in favor. Motion by Commissioner Alexander, as a result of the executive session, to give authority to the Executive Director, with the assistance of a commissioner of her choosing, to engage in settlement discussions about this case and agree to settlement terms. Motion seconded by Commissioner O'Connor. All voted in favor.
Operations Report of the Executive Director	Operations Report: • New cases remained down about 5.6% year-to-date. • Decrease in the number of vouchers since March. • Year-to-date, paid vouchers are up 20.7% with an increase of 10.1% in the total amount paid. Price per voucher is down. • Paid hours are up 8.4% over last year. • PDS had 360 annual renewals and 38 new applicants.
Staffing Report	Staffing Report • The Capitol Region District Defender Office is in the process of filling a paralegal position. • There was an open position in Aroostook. However, that position closed without any applicants. It will be reposted as a position for several offices including Aroostook, Bangor, and Augusta. • PDS is having difficulty filling positions in Aroostook. There is a nationwide recruiting event that Toby Jandreau will attend with the hope of bringing more qualified applicants to Maine. • There is currently a Central Office position that will be changed to an auditing position. • Shortly, PDS will post a District Defender and investigator position for the Casco Bay Office. • Interns have begun in various offices. PDS is collaborating with the Maine Indigent Defense Center to provide extensive onboarding programming.
Employed Case Load Evaluation	Employed Case Load Evaluation Standards • Executive Director Tarpinian will resend materials that were unable to be opened by some commissioners.

Standards	- Executive Director Tarpinian proposes to bring forward recommendations to the commission about caseload standards that delicately balance the need for employee privacy and public accountability. - In crafting the recommendations, Executive Director Tarpinian would like to be delegated the authority to produce guidelines for the offices and monitor each office for compliance. - Commissioner Kilgore and Commissioner O'Connor support giving Executive Director Tarpinian this authority.
Weapon Restriction Order Appointment and Payment of Counsel	Weapon Restriction Orders/Mental Health - Executive Director Tarpinian met with a member of the Administrative Office of the Courts to discuss appointments and payment of attorneys for these case types. - It was determined that PDS would process all of the vouchers and the judicial branch would reimburse PDS for those payments on a determined schedule. - The Maine Judicial Branch (MJB) will draft a Memorandum of Understanding and Executive Director Tarpinian will provide it to the Commission for approval. - It was agreed that both the MJB and PDS would continue to work for a legislative fix during the next session. - PDS will continue to provide training for these case types. - Commissioner Alexander: The law court determined that indigent people had the right in probate court to have the assistance of counsel.
District Defender Report	Newsletter from the District Defenders was distributed prior to the meeting.
Rulemaking: Regulatory Agenda	Regulatory Agenda - Need a vote to approve the regulatory agenda. - Motion by Commissioner Soucy to approve the regulatory agenda. Seconded by Commissioner O'Connor. All voted in favor.
Rulemaking Chapter 6	Appeals of the Decision of the Executive Director - The amendments rename in compliance with the new name. - Sets forth the appeal process for decisions of the Executive Director. - Sets forth a timeframe for appeals and who will preside over the proceedings. - Defines the terms of the individuals involved. - Establishes timelines for when decisions get made and appealed. - Deputy Director Maciag: Noted that there were substantive changes that were made by the Commission. Suggested that the rule be amended prior to putting it out to public comment. - Commissioner Alexander suggested that substantive changes be made and then put it out for public comment. All suggestions should be made a week prior to the next commission meeting. - All comments will be circulated to all commissioners.

Rulemaking: Chapter 7-D	Paralegal and Secretarial Compensation - Public comment ended on April 27, 2026 and there were no comments received. - Motion to move for the final adoption of the rule and adopt the basis statement. Commissioner Katz moved and it was seconded by Commissioner Jordan. All in favor. Motion passed.
Public Comment	Attorney Rob Ruffner: - Lawyer of the Day: At the end of last month, there was an individual who was arrested due to alleged violations of conditions of release. - It turned out that the individual was not out on bail. - Attorney Ruffner was able to get the case dismissed before the appearance that afternoon. - However, the individual was in jail from Monday until Wednesday because the system does not address the cases daily. This could have been avoided if the court schedule saw in-custody individuals daily. - Any amount of incarceration is harmful, especially those who are arrested and never charged. - Would like PDS to put this on an agenda with the MJB and advocate for those in-custody to be seen the next day. - Commissioner Alexander: The annual report discussed ways to expedite this process.
Next Meeting	June 16, 2026, at 3:00 PM in a hybrid format.

MAINE COMMISSION ON PUBLIC DEFENSE SERVICES

May 2026 Operations Report

- 2,094 new cases were opened in the defenderData system. This was a 102 case decrease from April. Year to date, new cases are down by 6.7% from last year, from 26,929 at this time last year to 25,121 this year.
- The number of vouchers submitted electronically was 4,447, an increase of 279 vouchers from April, totaling \$4,126,507, an increase of \$221,966 from April. Year to date, the number of submitted vouchers is up by 17.3% from 41,442 at this time last year to 48,650 this year, with the total amount for submitted vouchers up 6.5%, from \$42,891,599 at this time last year to \$45,698,685 this year.
- We paid 4,200 electronic vouchers totaling \$3,711,011 representing an increase of 761 vouchers and an increase of \$668,857 compared to April. Year to date, the number of paid vouchers is up 18.4%, from 40,833 vouchers at this time last year to 48,350 this year, and the total amount paid is up 7.5%, from \$42,127,861 this time last year to \$45,287,733 this year.
- The average price per voucher was \$883.57, down \$1.03 per voucher from April. Year to date, the average price per voucher is down 9.2%, from \$1,031.71 at this time last year to \$936.66 this year.
- Probate and Petition for Discharge or Release had the highest average voucher total. There were 7 vouchers exceeding \$10,000 paid in May. See attached addendum for details.
- We issued 165 authorizations to expend funds: 70 Private investigators, 75 for experts, and 20 for miscellaneous services such as interpreters, transcriptionists, polygraph exams, and paralegals. We paid \$315,918 for experts and investigators, etc. None were denied.
- There were no attorney suspensions.
- In the All Other Account, the total expenses were \$4,359,307. Approximately \$337,669 was devoted to the Commission's operating expenses.
- In the Personal Services Accounts, we had \$800,984 in expenses.
- In the Revenue Account, the Judicial Branch transferred \$53,699 for counsel fee payments.
- As of June 8, 2026, there are 187 rostered attorneys of which 128 are available for trial court level work.
- For the first 11 months of this fiscal year, paid hours are up 7% over the same 11-month period last year. May 2026 paid hours are 5.7% lower than May 2025 paid hours.

Paid Hours													
	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Yearly Total
FY22	27215	20122	23699	19917	20289	14422	15689	21060	30339	19984	19176	21343	253,255
FY23	19654	22596	21511	21151	20771	19576	23786	18811	22669	19232	27112	22334	259,203
FY24	21550	25799	21317	25400	19983	16857	31200	25274	23804	28726	24288	22486	286,684
FY25	24574	24296	20907	29382	26430	28126	24409	24710	23162	27051	26447	26588	306,081
FY26	30347	26144	29265	26275	21122	29574	27069	25410	38542	20562	24935		299,245

Vouchers over \$10,000 - May 2026

Comment	Voucher Total	Case Total
Homicide	\$24,044.50	\$37,344.14
Homicide	\$15,176.00	\$15,176.00
Aggravated Trafficking	\$14,030.00	\$15,110.00
Domestic Violence Terrorizing	\$13,931.66	\$13,931.66
Protective Custody Appeal	\$12,870.00	\$12,870.00
Juvenile Forgery	\$12,082.50	\$12,082.50
Gross Sexual Assault	\$11,226.00	\$11,226.00

MAINE COMMISSION ON PUBLIC DEFENSE SERVICES

Activity Report by Case Type

5/31/2026

DefenderData Case Type	May-26						Fiscal Year 2026			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
Appeal	16	55	\$91,655.81	55	\$ 116,270.08	\$2,114.00	189	603	\$ 1,191,009.67	\$1,975.14
Central Office Resource Counsel	0	2	\$810.00	2	\$ 1,005.00	\$502.50	0	25	\$ 16,485.00	\$659.40
Child Protection Petition	87	527	\$571,057.74	509	\$ 571,352.47	\$1,122.50	1,447	6,963	\$ 8,344,374.47	\$1,198.39
Drug Court	6	21	\$49,551.96	23	\$ 45,233.88	\$1,966.69	63	209	\$ 448,446.26	\$2,145.68
Emancipation	6	7	\$8,134.58	7	\$ 4,903.44	\$700.49	59	91	\$ 63,820.95	\$701.33
Felony	596	1,563	\$1,737,664.20	1,424	\$ 1,417,527.88	\$995.45	6,570	15,839	\$ 17,356,361.21	\$1,095.80
Involuntary Civil Commitment	0	5	\$2,405.52	5	\$ 2,317.50	\$463.50	221	393	\$ 251,448.17	\$639.82
Juvenile	86	165	\$164,430.95	173	\$ 155,243.09	\$897.36	1,116	1,772	\$ 1,750,196.63	\$987.70
Lawyer of the Day - Custody	283	258	\$186,850.90	287	\$ 196,825.34	\$685.80	3,119	3,036	\$ 2,037,569.95	\$671.14
Lawyer of the Day - Juvenile	1	1	\$450.00	0			26	26	\$ 11,610.00	\$446.54
Lawyer of the Day - Walk-in	125	128	\$80,605.29	144	\$ 95,824.18	\$665.45	1,379	1,357	\$ 889,638.29	\$655.59
PDS Provided Training	32	70	\$36,540.68	85	\$ 63,684.95	\$749.23	743	705	\$ 836,081.20	\$1,185.93
Misdemeanor	713	1,378	\$1,016,441.29	1,241	\$ 890,010.95	\$717.17	8,337	13,911	\$ 9,438,322.17	\$678.48
Petition, Modified Release Treatment	2	2	\$1,673.00	1	\$ 2,520.00	\$2,520.00	12	40	\$ 49,375.44	\$1,234.39
Petition, Release or Discharge	0	0		0			0	4	\$ 19,621.17	\$4,905.29
Petition, Termination of Parental Rights	0	1	\$705.00	1	\$ 705.00	\$705.00	0	12	\$ 58,913.25	\$4,909.44
Post Conviction Review	5	31	\$28,841.23	29	\$ 21,096.22	\$727.46	42	326	\$ 444,695.10	\$1,364.10
Probate	1	4	\$13,996.00	2	\$ 4,604.80	\$2,302.40	7	27	\$ 26,545.74	\$983.18
Probation Violation	134	209	\$122,845.95	194	\$ 108,410.65	\$558.82	1,618	2,528	\$ 1,694,409.48	\$670.26
Represent Witness on 5th Amendment	1	0		1	\$ 2,100.00	\$2,100.00	18	15	\$ 11,901.06	\$793.40
Resource Counsel Criminal	0	5	\$2,993.52	5	\$ 3,248.52	\$649.70	5	52	\$ 36,988.30	\$711.31
Resource Counsel Juvenile	0	2	\$195.00	2	\$ 255.00	\$127.50	2	13	\$ 5,897.76	\$453.67
Resource Counsel Mental Health	0	0		0			2	2	\$ 285.00	\$142.50
Resource Counsel NCR	0	0		0			0	0		
Resource Counsel Protective Custody	0	1	\$750.00	1	\$ 870.00	\$870.00	0	16	\$ 16,200.00	\$1,012.50
Review of Child Protection Order	0	5	\$4,392.36	6	\$ 6,147.36	\$1,024.56	0	80	\$ 136,024.66	\$1,700.31
Revocation of Administrative Release	0	2	\$2,766.88	0			4	12	\$ 5,394.10	\$449.51
Weapons Restrictions Case	0	5	\$750.00	3	\$ 855.00	\$285.00	142	293	\$ 146,118.69	\$498.70
TOTAL	2,094	4,447	\$4,126,507.86	4,200	\$ 3,711,011.31	\$883.57	25,121	48,350	\$ 45,287,733.72	\$936.66

MAINE COMMISSION ON PUBLIC DEFENSE SERVICES

Activity Report by Court

5/31/2026

Court	May-26						Fiscal Year 2026			
	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	2	1	\$795.00	1	\$ 870.00	\$870.00	24	16	\$18,165.00	\$1,135.31
AUBSC	1	2	\$6,528.00	4	\$ 7,161.40	\$1,790.35	13	47	\$42,977.83	\$914.42
AUGDC	26	47	\$58,343.86	68	\$ 69,750.13	\$1,025.74	241	535	\$965,595.68	\$1,804.85
AUGSC	3	3	\$1,846.50	2	\$ 2,951.00	\$1,475.50	16	46	\$66,625.59	\$1,448.38
BANDC	16	56	\$49,231.95	51	\$ 43,395.00	\$850.88	377	957	\$900,090.88	\$940.53
BANSC	1	2	\$2,772.93	3	\$ 8,568.18	\$2,856.06	12	22	\$83,533.63	\$3,796.98
BATSC	0	1	\$525.00	1	\$ 525.00	\$525.00	1	3	\$1,890.00	\$630.00
BELDC	2	18	\$18,724.12	17	\$ 14,639.75	\$861.16	96	289	\$415,792.76	\$1,438.73
BELSC	0	2	\$930.00	2	\$ 930.00	\$465.00	2	3	\$1,140.00	\$380.00
BIDDC	25	102	\$106,625.31	93	\$ 92,874.58	\$998.65	399	1,283	\$1,177,095.54	\$917.46
BRIDC	10	24	\$26,116.25	19	\$ 28,760.53	\$1,513.71	96	244	\$305,114.53	\$1,250.47
CALDC	0	8	\$4,519.52	8	\$ 5,774.88	\$721.86	32	97	\$70,708.33	\$728.95
CARDC	0	25	\$13,970.66	33	\$ 25,027.90	\$758.42	46	222	\$198,470.68	\$894.01
CARSC	0	0		0			3	8	\$7,995.00	\$999.38
DOVDC	2	1	\$375.00	1	\$ 375.00	\$375.00	30	97	\$97,571.92	\$1,005.90
DOVSC	0	0		0			1	3	\$2,075.70	\$691.90
ELLDC	9	46	\$43,923.52	45	\$ 39,163.80	\$870.31	102	516	\$445,463.72	\$863.30
ELLSC	0	0		0			0	1	\$322.50	\$322.50
FARDC	8	26	\$14,465.62	31	\$ 23,058.40	\$743.82	121	320	\$331,484.53	\$1,035.89
FARSC	1	0		0			5	3	\$2,452.65	\$817.55
FORDC	0	5	\$4,155.00	6	\$ 5,580.00	\$930.00	16	100	\$81,364.20	\$813.64
HOUDC	2	2	\$8,115.00	11	\$ 11,668.28	\$1,060.75	48	188	\$173,539.13	\$923.08
HOUSC	0	0		0			0	0		
LEWDC	53	126	\$145,176.78	123	\$ 126,708.45	\$1,030.15	559	1,430	\$1,692,141.11	\$1,183.32
LINDC	1	13	\$10,509.16	11	\$ 11,287.64	\$1,026.15	51	133	\$142,094.74	\$1,068.38
MACDC	0	5	\$2,628.00	8	\$ 8,633.20	\$1,079.15	16	84	\$73,513.86	\$875.17
MACSC	1	1	\$4,755.00	0			3	3	\$10,463.22	\$3,487.74
MADDC	0	0		0			0	7	\$34,468.37	\$4,924.05
MILDC	1	0		0			9	10	\$14,140.36	\$1,414.04
NEWDC	5	12	\$11,965.32	17	\$ 13,001.82	\$764.81	97	253	\$188,270.03	\$744.15
PORDC	25	107	\$114,658.83	112	\$ 113,348.00	\$1,012.04	392	1,415	\$1,306,055.96	\$923.01
PORSC	3	1	\$45.00	1	\$ 45.00	\$45.00	12	29	\$17,265.76	\$595.37
PREDC	3	23	\$10,185.00	21	\$ 12,248.84	\$583.28	60	209	\$196,550.29	\$940.43
RODC	6	15	\$14,874.98	19	\$ 18,187.38	\$957.23	74	217	\$287,561.58	\$1,325.17
ROCSC	4	0		1	\$ 120.00	\$120.00	8	6	\$8,834.02	\$1,472.34
RUMDC	6	30	\$35,994.14	34	\$ 39,383.68	\$1,158.34	68	314	\$369,075.14	\$1,175.40
SKODC	19	57	\$67,653.01	62	\$ 78,113.84	\$1,259.90	211	576	\$785,049.85	\$1,362.93
SKOSC	0	0		0			4	4	\$4,415.72	\$1,103.93
SODUC	6	17	\$16,623.99	16	\$ 10,048.86	\$628.05	79	275	\$238,851.87	\$868.55
SOUSC	0	1	\$915.00	0			8	10	\$92,891.42	\$9,289.14
SPRDC	5	6	\$6,015.00	4	\$ 4,335.00	\$1,083.75	25	42	\$38,257.50	\$910.89
Law Ct	15	52	\$83,805.07	57	\$ 123,768.13	\$2,171.37	179	545	\$1,121,911.47	\$2,058.55
Training	32	72	\$32,774.75	115	\$ 102,074.11	\$887.60	736	747	\$872,813.98	\$1,168.43
YORCD	238	526	\$446,114.10	496	\$ 413,645.74	\$833.96	2,854	5,121	\$4,622,372.78	\$902.63
AROCD	102	217	\$110,946.09	268	\$ 139,934.47	\$522.14	1,320	2,403	\$1,786,801.56	\$743.57
ANDCD	168	367	\$260,107.77	374	\$ 268,181.51	\$717.06	1,838	4,483	\$3,181,836.49	\$709.76
KENCD	140	286	\$252,280.87	300	\$ 259,140.67	\$863.80	1,813	2,674	\$2,353,166.85	\$880.02
PENCD	160	289	\$245,649.62	347	\$ 317,049.83	\$913.69	2,159	4,006	\$3,507,303.90	\$875.51
SAGCD	37	77	\$70,354.91	67	\$ 43,219.75	\$645.07	448	777	\$656,090.19	\$844.39
WALCD	74	138	\$156,492.61	108	\$ 109,942.16	\$1,017.98	720	976	\$887,213.77	\$909.03
PISCD	2	4	\$3,394.80	4	\$ 3,060.00	\$765.00	177	227	\$255,558.72	\$1,125.81
HANCD	66	82	\$60,767.64	70	\$ 59,027.74	\$843.25	534	690	\$586,278.70	\$849.68
FRACD	30	40	\$44,160.34	44	\$ 56,358.52	\$1,280.88	392	581	\$555,380.31	\$955.90
WASCD	61	60	\$64,754.41	72	\$ 75,423.26	\$1,047.55	481	631	\$699,256.12	\$1,108.17
CUMCD	346	796	\$849,025.26	728	\$ 671,187.50	\$921.96	4,365	8,518	\$7,772,198.91	\$912.44
KN OCD	121	184	\$211,458.62	149	\$ 146,987.18	\$986.49	782	1,019	\$1,187,824.61	\$1,165.68
SOMCD	104	130	\$112,610.33	137	\$ 108,153.33	\$789.44	1,022	1,246	\$1,120,749.66	\$899.48
OXFCD	70	147	\$160,406.14	195	\$ 148,365.14	\$760.85	961	1,983	\$1,583,420.39	\$798.50
LINCD	27	84	\$60,415.19	59	\$ 44,654.79	\$756.86	468	709	\$671,854.71	\$947.61
WATDC	15	31	\$28,790.44	38	\$ 28,648.20	\$753.90	156	325	\$372,234.97	\$1,145.34
WESDC	13	37	\$40,642.15	41	\$ 40,618.61	\$990.70	167	375	\$369,861.42	\$986.30
WISDC	0	6	\$6,662.92	6	\$ 5,880.24	\$980.04	10	102	\$120,362.56	\$1,180.03
WISSC	1	0		0			3	2	\$3,331.80	\$1,665.90
YORDC	7	15	\$6,029.54	13	\$ 6,609.94	\$508.46	47	93	\$50,298.30	\$540.84
TOTAL	2,094	4,447	\$4,126,507.86	4,532	\$4,000,858.16	\$882.80	25,121	48,350	\$45,287,733.72	\$936.66

STATEMENT OF ALLOTMENTS/BUDGET
Maine Commission on Public Defense Services
FY26 As of 05/31/2026

Fund Approp Account Name		Quarter 1		Quarter 2		Quarter 3		Quarter 4		Total	
GENERAL		1		2		1		2		1	
010 Z11201		PS		AO		PS		AO		PS	
Object Class		1		2		1		2		1	
		PS		AO		PS		AO		PS	
Budget/Allotme		2,338,782.00	15,234,914.00	2,654,103.00	12,433,665.00	2,383,159.00	15,317,146.00	2,860,735.00	12,595,528.00	10,236,779.00	55,581,253.00
Expenditures to date		(2,338,781.78)	(14,188,190.33)	(2,654,102.90)	(12,530,668.23)	(2,383,158.69)	(15,542,010.29)	(1,614,227.63)	(7,991,545.39)	(8,990,271.00)	(50,252,414.24)
Encumbrances			(1,046,722.31)		97,003.22		224,865.22		35,004.22		(689,849.65)
Total Available Allotment		0.22	1.36	0.10	(0.01)	0.31	0.93	1,246,507.37	4,638,986.83	1,246,508.00	4,638,989.11

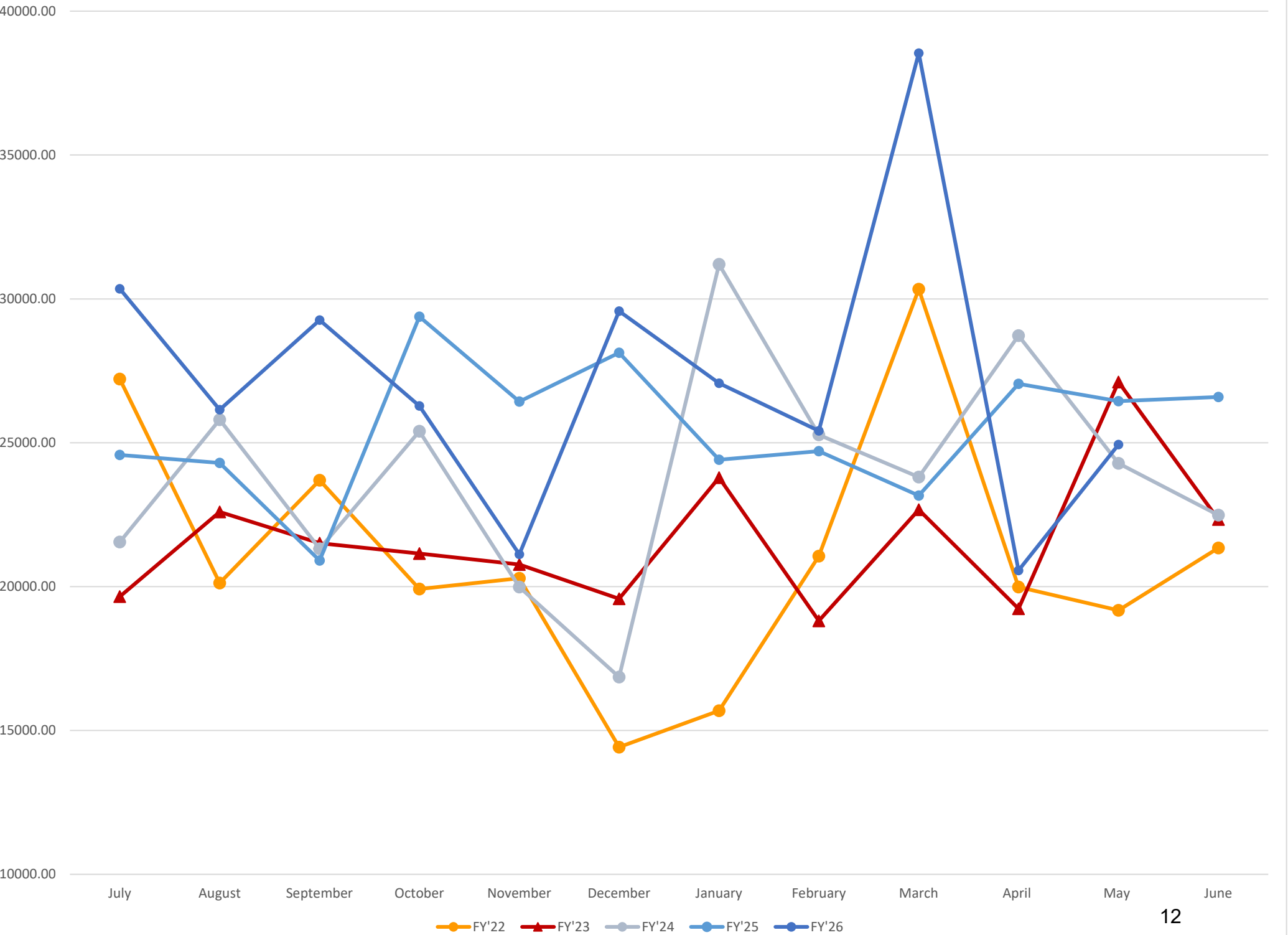
MAINE COMMISSION - INDIGENT LEGAL SVCS	
Dept	95F
Fund	010
Approp	Z11201
Expenses through	5/31/2026
Period	11
% of budget	92%
SFY	2026

		PS	All Other Expenditures																			Total All Other	Expenditures		
			PROF. SERVICES, BY STATE	PROF. SERVICES, BY STATE	TRAVEL EXPENSES, IN STATE	EXPENSES, OUT OF STATE	UTILITY SERVICES	RENTS	REPAIRS	INSURANCE	GENERAL OPERATIONS	EMPLOYEE TRAINING	COMMODITIES -				EQUIPMENT AND TECHNOLOGY	OFFICE & OTHER SUPPLIES	HIGHWAY MATERIAL S	LABOR AND IN-SOURCE BENEFITS	ASSISTANCE AND RELIEF GRANT			CHARGES TO ASSETS AND LIAB.	TELECOMMUNICATIONS
													FOOD	TECHNOLOGY	CLOTHING	55									
		31-39	40	41	42	43	45	46	47	48	49	50	51	53	54	55	56	58	65	67	90	95			
Budget		10,236,779.00	35,336,015.00	18,698,571.00	229,990.00	-	-	75,000.00	-	3,760.00	58,850.00	7,900.00	-	1,103,513.00	-	18,979.00	43,673.00	-	-	-	-	5,000.00	55,581,253.00	65,818,032.00	
Jul-25	1	958,692.39	5,088,111.07	24,744.24	3,113.42	-	-	26,368.72	-	9,502.81	141,664.30	1,125.00	7,222.55	103,018.06	-	-	4,905.12	-	-	-	785.00	2,167.00	5,412,727.29	6,371,419.68	
Aug-25	2	671,020.24	3,858,989.20	33.00	7,349.04	-	-	818.50	-	-	109,415.38	820.64	12,275.35	23,839.20	-	600.00	14,989.31	-	45.89	-	300.00	-	4,029,474.51	4,700,494.75	
Sep-25	3	709,069.15	3,907,907.85	-	2,427.68	-	-	-	16.00	-	225.00	11,980.93	4,600.00	56,361.87	144.50	-	7,934.97	-	-	-	150.00	-	4,745,988.53	5,455,057.68	
Oct-25	4	764,732.76	3,957,517.65	24,744.24	5,489.51	-	-	-	-	18.15	114,727.39	900.00	-	89,781.72	156.44	224.97	7,018.35	-	-	-	-	147.15	4,200,725.57	4,965,458.33	
Nov-25	5	779,329.10	3,229,029.34	-	11,383.59	1,110.23	40.88	32,894.97	15.12	-	152,567.30	7,689.26	28,907.59	18,358.00	-	(109.98)	12,738.81	-	-	48.25	-	3,494,673.36	4,274,002.46		
Dec-25	6	1,110,041.04	4,553,885.61	-	8,130.86	157.68	-	31,517.01	-	-	180,570.40	(650.00)	-	57,550.87	-	-	4,105.87	-	-	-	1.00	-	4,835,269.30	5,945,310.34	
Jan-26	7	779,733.63	4,483,473.98	24,744.24	4,807.35	-	-	286,011.15	-	-	124,442.31	94.07	-	49,004.54	-	-	5,695.84	-	-	-	2.00	-	4,978,275.48	5,758,009.11	
Feb-26	8	797,417.30	3,926,908.37	-	3,284.17	-	-	32.00	54,948.22	-	148,425.08	8,970.00	-	55,518.33	-	-	106,548.44	28.39	-	11.45	-	-	4,304,785.45	5,102,202.75	
Mar-26	9	806,007.76	6,038,507.03	-	3,543.34	-	-	-	-	-	158,712.55	-	-	51,515.99	-	2,684.98	3,848.40	-	-	137.07	-	6,258,949.36	7,064,957.12		
Apr-26	10	813,243.61	3,212,023.48	77,390.73	10,149.76	3,635.17	16.00	40,172.30	-	-	211,360.17	1,996.84	9,277.91	46,383.47	77.75	4,836.25	14,934.84	-	-	28.00	-	3,632,282.67	4,445,526.28		
May-26	11	800,984.02	3,904,891.67	-	3,585.00	1,747.36	-	109,642.70	-	-	119,281.39	-	-	203,051.44	-	-	16,985.66	-	-	77.50	-	4,359,262.72	5,160,246.74		
Jun-26	12																								
Total Expenditures		8,990,271.00	46,814,244.25	151,656.45	63,263.72	6,650.44	104.88	582,373.57	15.12	9,745.96	1,574,156.97	25,575.81	57,683.40	754,583.45	378.69	8,236.22	199,705.61	28.39	45.89	402.27	1,249.00	2,314.15	50,252,414.24	59,245,682.24	
Encumbrances			377,635.26	-																					

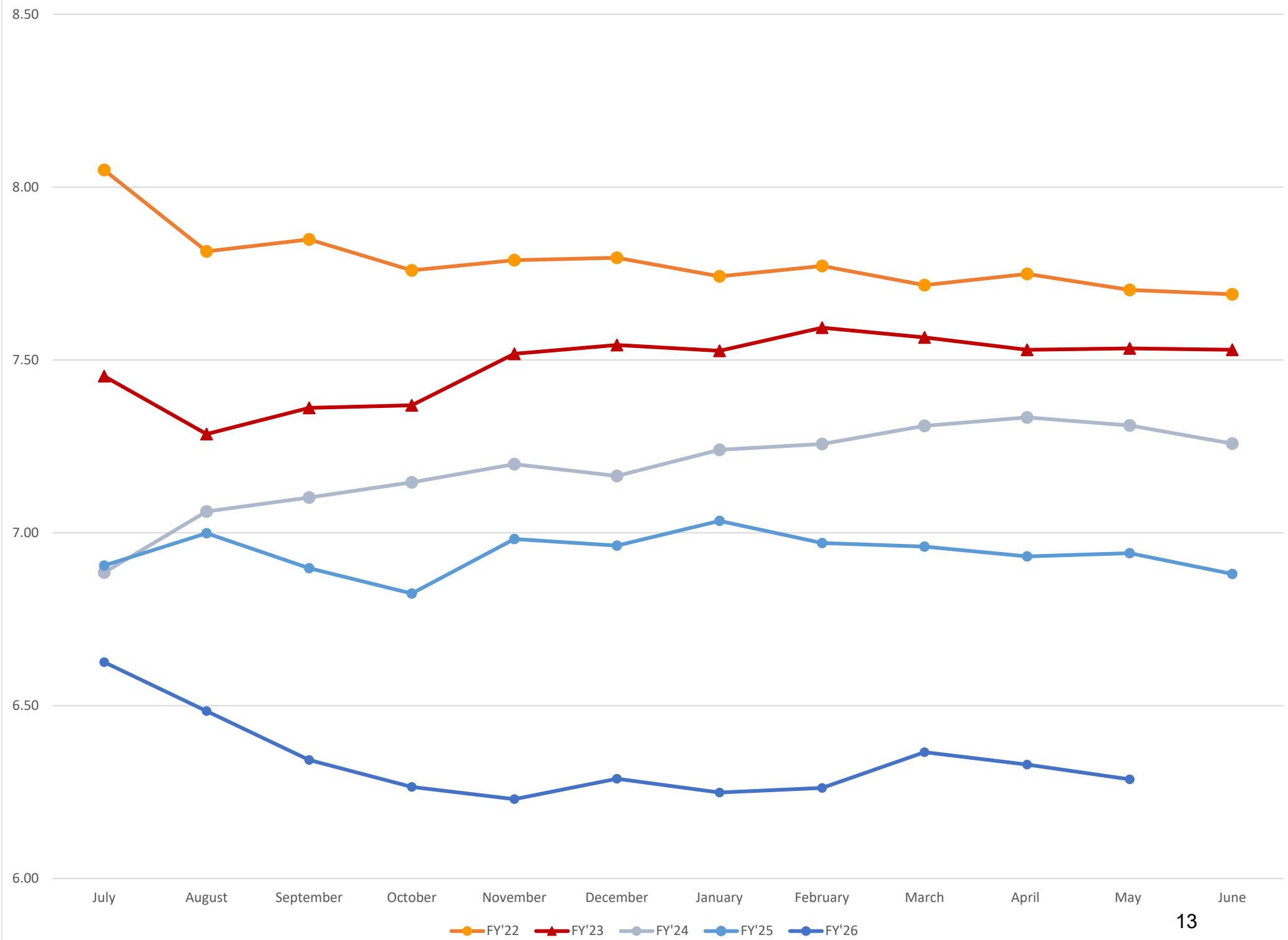
Period	11
Object Class	2

Sum of Expended Amount		Fund 010 Z11201	Approp 014 Z11201	Grand Total
Object Revenue	Object Name			
4003	ACCOUNT & AUDIT SERVICES	5,807.50		5,807.50
4005	READER & INTERPRETER SERV	22,050.29		22,050.29
4031	INSPECT & INVESTIGATION	41,192.52		41,192.52
4036	INSTRUCTOR & SPEAKER SERV	-		-
4040	COURT APPOINTED ATTORNEYS	3,711,011.31		3,711,011.31
4047	PSYCHOLOGICAL EXAMINATION	97,685.85		97,685.85
4095	MEDICAL REPORTS	67.77		67.77
4099	MISC PROF FEES & SPEC SRV	25,897.59		25,897.59
4270	AUTO MILEAGE-GEN IN STATE	2,228.80		2,228.80
4273	HOTEL ROOM & LODGING	1,228.00		1,228.00
4274	MEALS AND GRATUITIES	128.20		128.20
4360	AIR FARE OUT OF STATE	807.36		807.36
4606	RENT BUILDINGS AND OFFICE	109,201.70		109,201.70
4651	MISC RENTS	441.00		441.00
4911	POSTAGE	926.86		926.86
4913	INTRAGOVERNMENTAL SERVICE	46.22		46.22
4930	TRANSCRIPTS	8,561.75		8,561.75
4946	ADVERTISING NOTICES	875.84		875.84
4959	EXPERT WITNESS FEES	108,620.72		108,620.72
4983	DUES	250.00		250.00
5301	OIT PROFESSIONAL CHARGES	6,187.44		6,187.44
5302	TELEPHONE SERVICE	8,573.97		8,573.97
5304	CELLULAR PHONE SERVICE	2,658.39		2,658.39
5310	IT END USER SERVICES	50,308.64		50,308.64
5312	IT CONSULTING-NON STATE	58,773.00		58,773.00
5315	IT APPLICATIONS-BY STATE	11,387.41		11,387.41
5319	WEB SITE MAINTENANCE	481.25		481.25
5331	NETWORK ACCESS	420.82		420.82
5341	LEASE PURCHASE HARDWARE/SYSTEM	3,735.81		3,735.81
5355	SOFTWARE MAINT / LICENSES	57,435.97		57,435.97
5370	MINOR IT EQUIPMENT	3,088.74		3,088.74
5600	OFFICE & OTHER SUPPLIES	77.18		77.18
5602	OFFICE SUPPLIES	3,487.02		3,487.02
5627	PURCHASE OF BOOKS	5,326.78		5,326.78
5656	MODULAR FURNITURE	8,094.68		8,094.68
6755	MEDICAL REPORTS/RECORDS	77.50		77.50
8511	TRANS TO GEN FUND STACAP		44.87	44.87
4049	SUBPOENA SERVICE	1,178.84		1,178.84
4385	MISCELLANEOUS EXPENSE	940.00		940.00
Grand Total		4,359,262.72	44.87	4,359,307.59

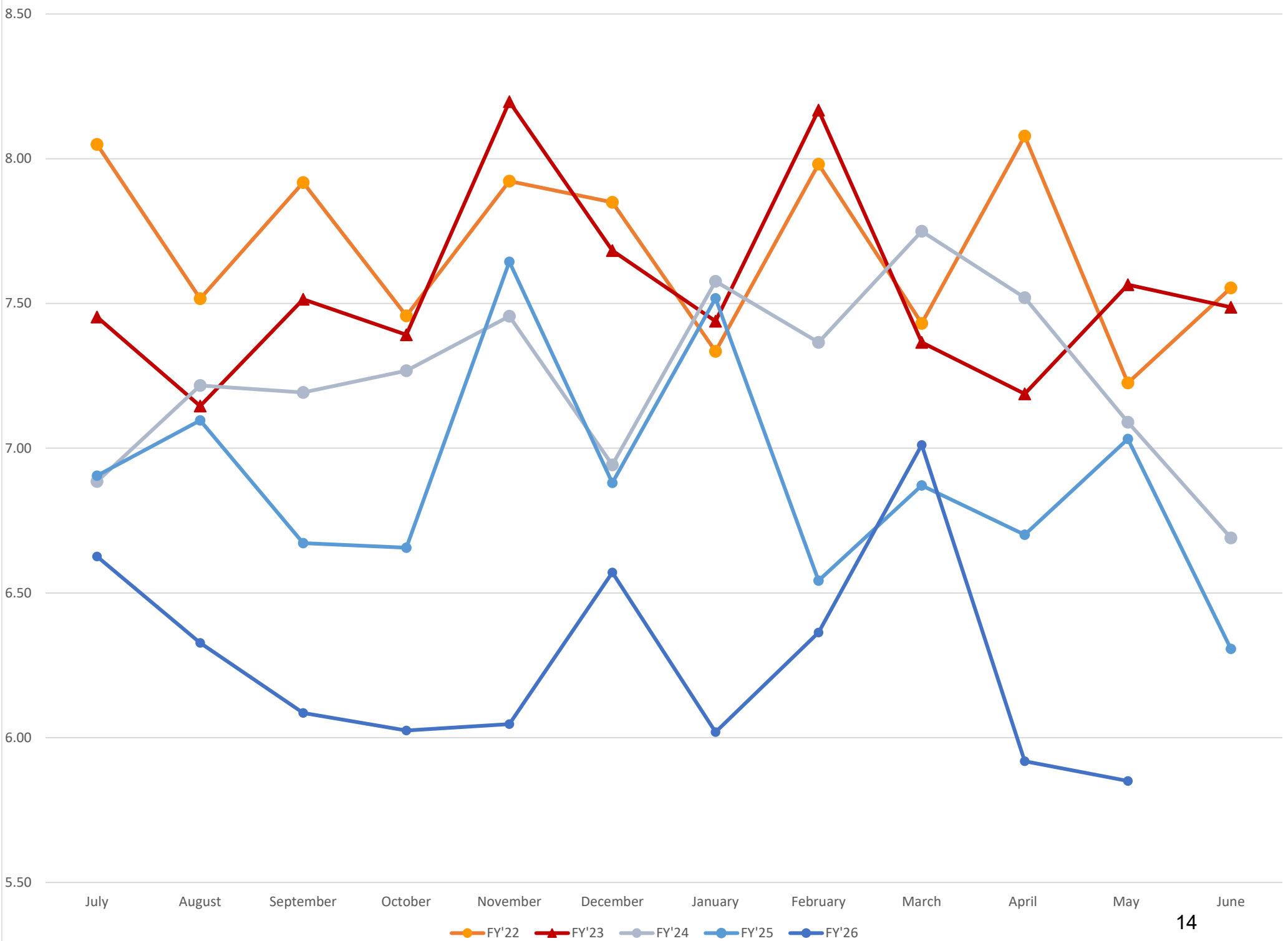
Paid Hours Amount



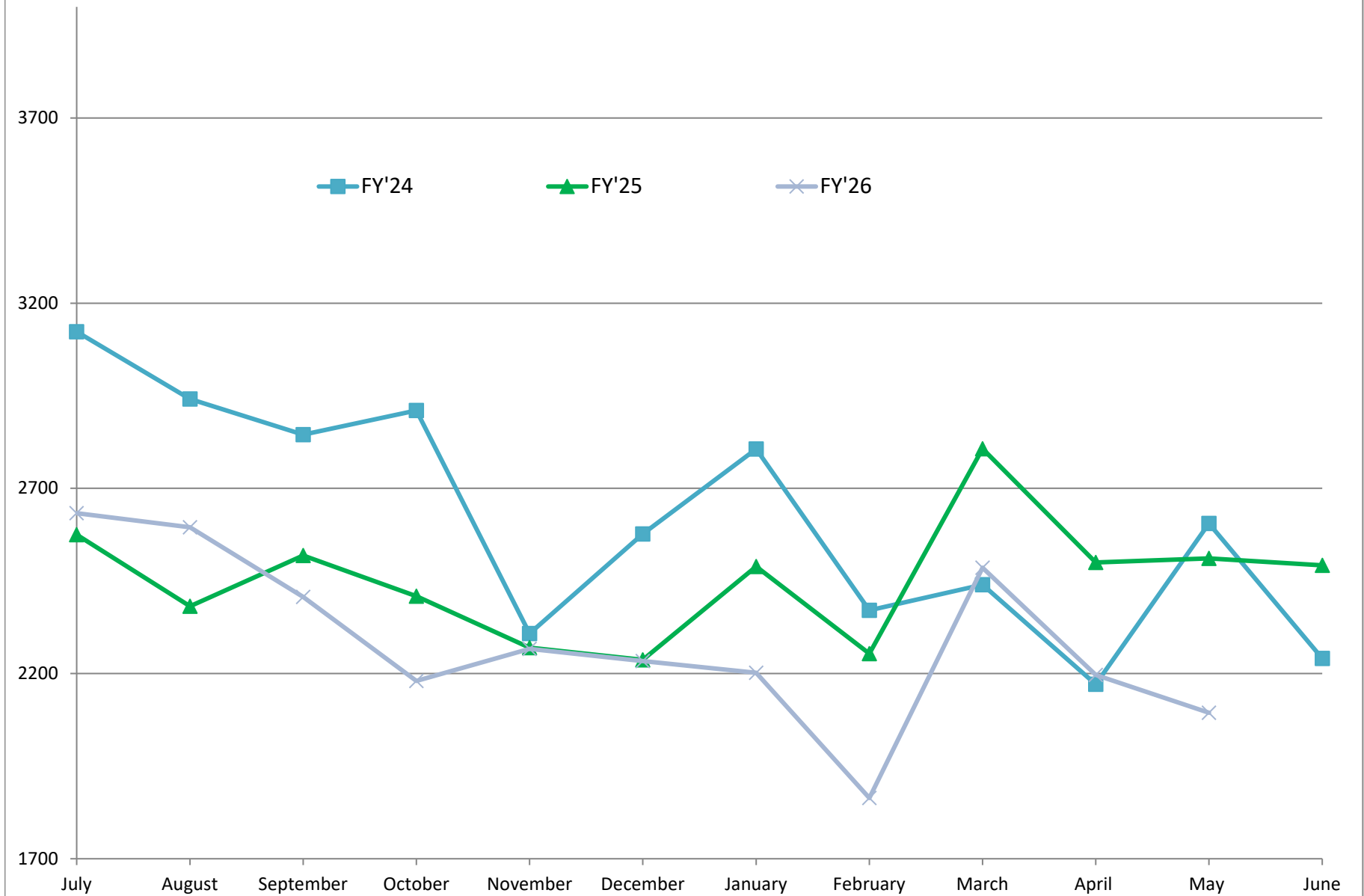
Average Hours per Voucher FYTD



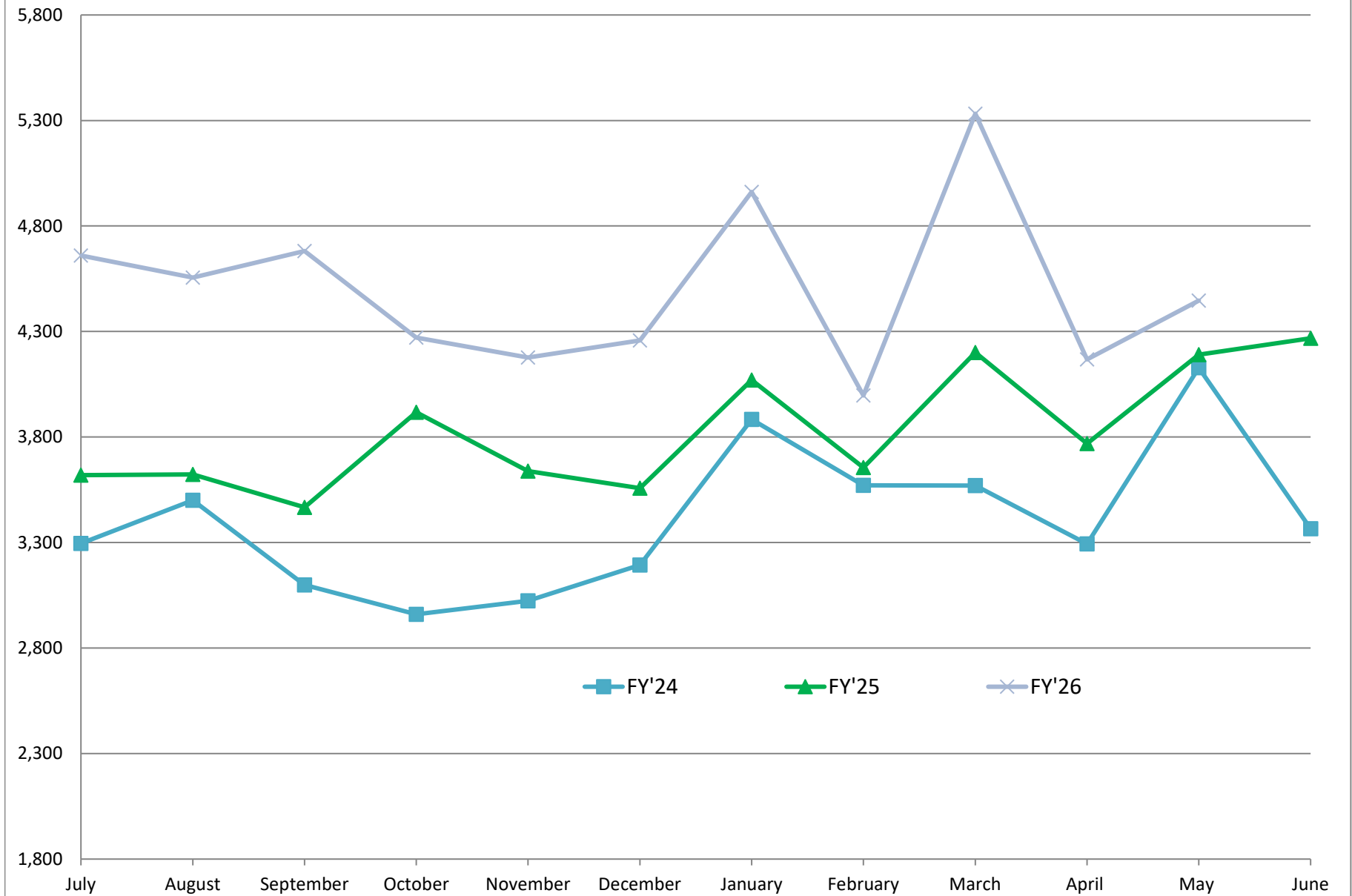
Monthly Average Hours per Voucher



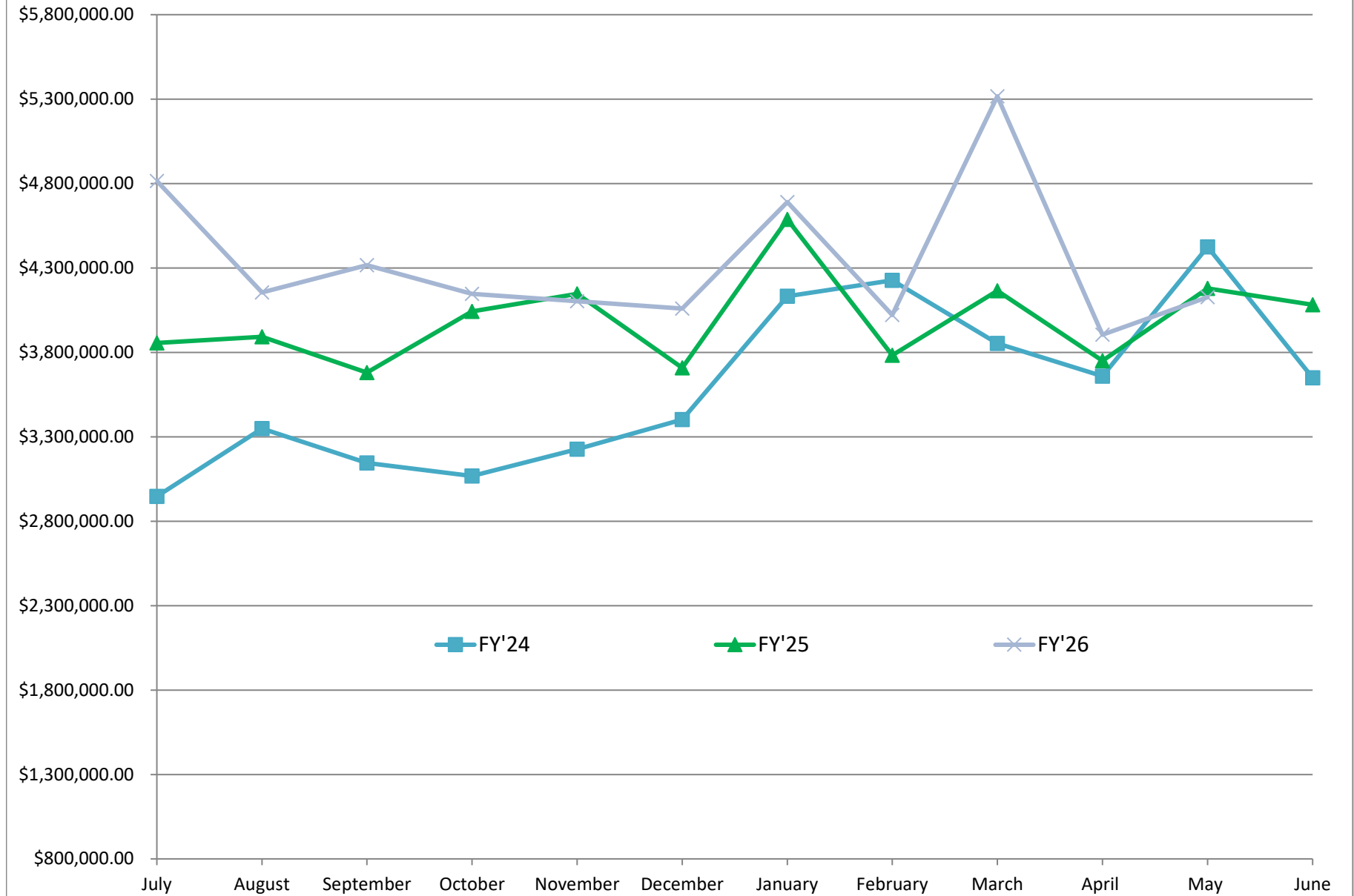
NEW CASES



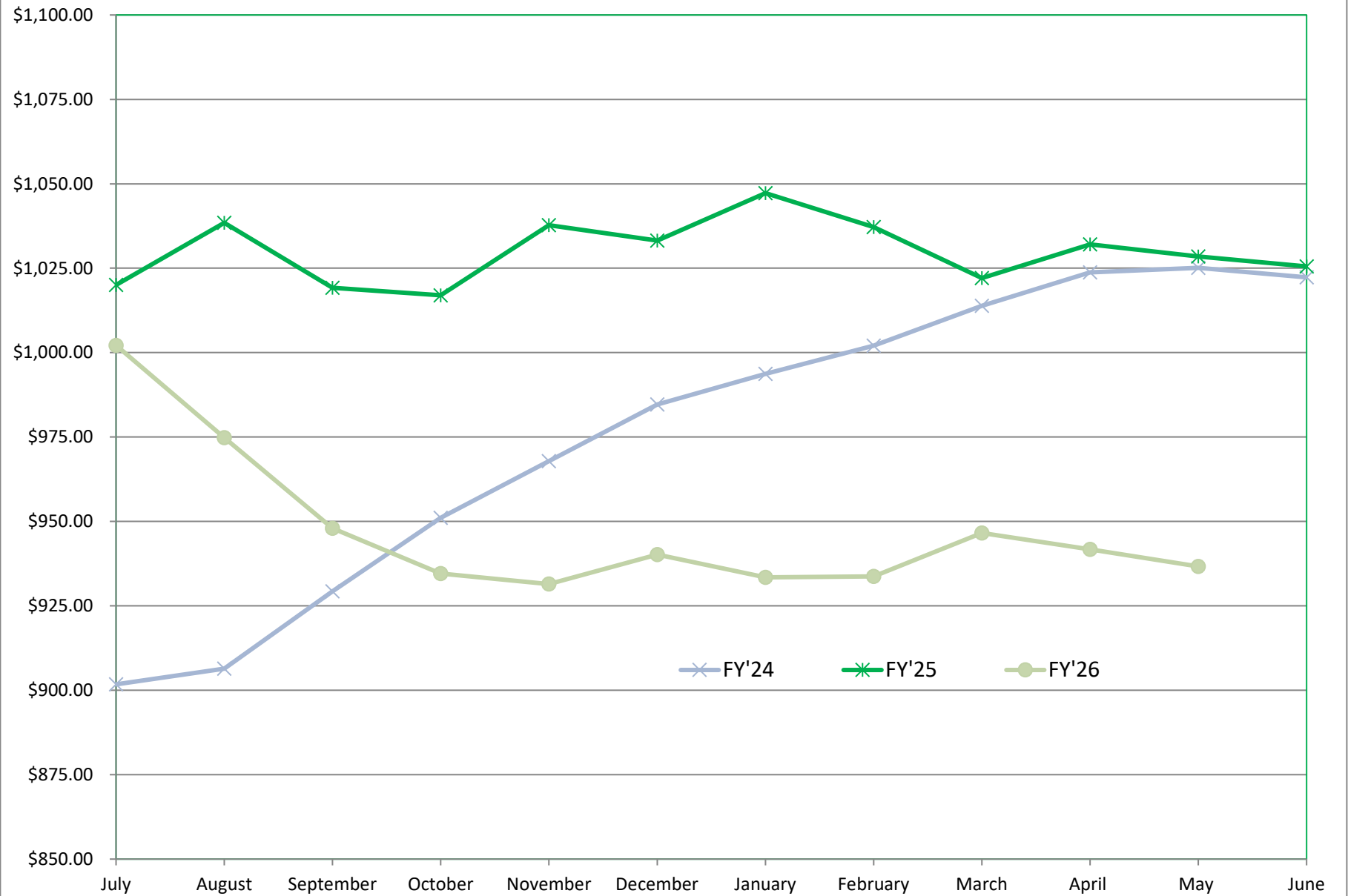
Submitted Vouchers



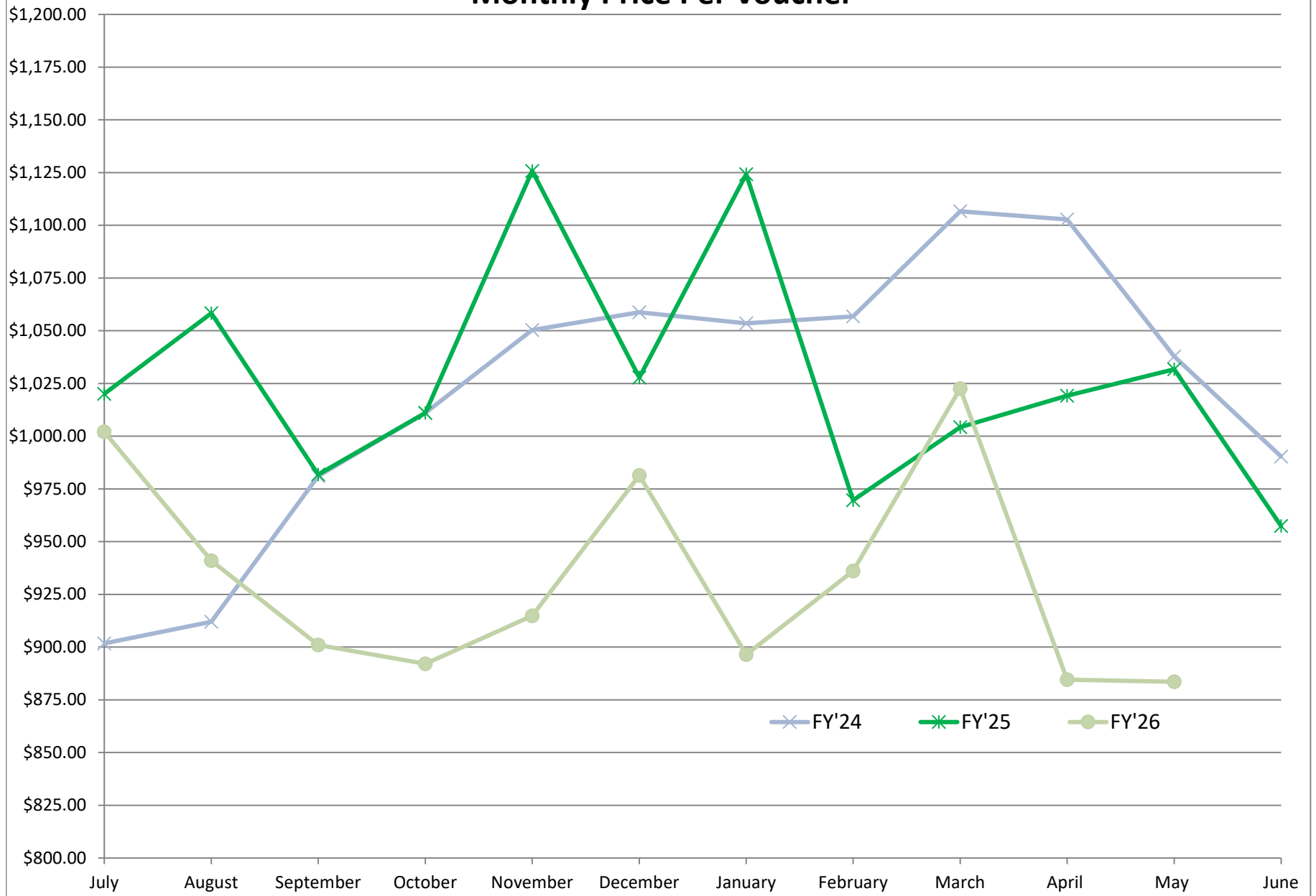
Submitted Voucher Amount



Average Voucher Price Fiscal Year to Date



Monthly Price Per Voucher



Pending UCD Cases as of June 5, 2026

UCD	FELONY				MISDEMEANOR				CIVIL VIOLATION			ALL CASES			
	Pending	On DD	No IA	% No IA	Pending	On DD	No IA	% No IA	Pending	No IA	% No IA	Pending	On DD	No IA	% No IA
Androscoggin	686	136	111	16.2%	1,149	235	482	41.9%	82	59	72.0%	1,917	371	652	34.0%
Aroostook	477	114	39	8.2%	699	230	154	22.0%	24	12	50.0%	1,200	344	205	17.1%
Caribou	103	26	9	8.7%	141	47	44	31.2%	9	6	66.7%	253	73	59	23.3%
Fort Kent	50	21	4	8.0%	122	52	22	18.0%	2	1	50.0%	174	73	27	15.5%
Houlton	145	19	8	5.5%	216	66	45	20.8%	6	3	50.0%	367	85	56	15.3%
Presque Isle	179	48	18	10.1%	220	65	43	19.5%	7	2	28.6%	406	113	63	15.5%
Cumberland	1,196	204	79	6.6%	2,594	433	478	18.4%	71	29	40.8%	3,861	637	586	15.2%
Bridgton	19	6	1	5.3%	193	46	37	19.2%	6	3	50.0%	218	52	41	18.8%
Portland	1,168	196	78	6.7%	2,190	339	404	18.4%	51	21	41.2%	3,409	535	503	14.8%
West Bath	9	2	0	0.0%	211	48	37	17.5%	14	5	35.7%	234	50	42	17.9%
Franklin	119	26	32	26.9%	266	116	94	35.3%	13	10	76.9%	398	142	136	34.2%
Hancock	229	28	18	7.9%	449	64	113	25.2%	30	21	70.0%	708	92	152	21.5%
Kennebec	653	109	133	20.4%	1,475	239	527	35.7%	47	39	83.0%	2,175	348	699	32.1%
Augusta	624	101	127	20.4%	990	144	385	38.9%	26	21	80.8%	1,640	245	533	32.5%
Waterville	29	8	6	20.7%	485	95	142	29.3%	21	18	85.7%	535	103	166	31.0%
Knox	233	28	19	8.2%	438	118	83	18.9%	5	0	0.0%	676	146	102	15.1%
Lincoln	200	40	24	12.0%	375	113	97	25.9%	16	0	0.0%	591	153	121	20.5%
Oxford	341	102	61	17.9%	655	192	244	37.3%	17	8	47.1%	1,013	294	313	30.9%
Bridgton	44	17	15	34.1%	81	18	25	30.9%	4	2	50.0%	129	35	42	32.6%
Rumford	56	22	1	1.8%	129	43	36	27.9%	2	1	50.0%	187	65	38	20.3%
South Paris	241	63	45	18.7%	445	131	183	41.1%	11	5	45.5%	697	194	233	33.4%
Penobscot	571	27	63	11.0%	1,373	45	393	28.6%	43	30	69.8%	1,987	72	486	24.5%
Bangor	551	27	57	10.3%	1,058	31	297	28.1%	9	6	66.7%	1,618	58	360	22.2%
Lincoln	7	0	3	42.9%	97	6	35	36.1%	4	1	25.0%	108	6	39	36.1%
Newport	13	0	3	23.1%	218	8	61	28.0%	30	23	76.7%	261	8	87	33.3%
Piscataquis	20	1	1	5.0%	77	1	37	48.1%	8	5	62.5%	105	2	43	41.0%
Sagadahoc	110	24	4	3.6%	288	108	47	16.3%	14	3	21.4%	412	132	54	13.1%
Somerset	361	76	81	22.4%	677	99	296	43.7%	18	11	61.1%	1,056	175	388	36.7%
Waldo	193	31	10	5.2%	285	89	51	17.9%	5	3	60.0%	483	120	64	13.3%
Washington	200	10	8	4.0%	258	53	30	11.6%	13	7	53.8%	471	63	45	9.6%
Calais	72	3	4	5.6%	128	28	14	10.9%	3	1	33.3%	203	31	19	9.4%
Machias	128	7	4	3.1%	130	25	16	12.3%	10	6	60.0%	268	32	26	9.7%
York	758	121	153	20.2%	2,580	549	885	34.3%	105	60	57.1%	3,443	670	1,098	31.9%
TOTAL	6,347	1,077	836	13.2%	13,638	2,684	4,011	29.4%	511	297	58.1%	20,496	3,761	5,144	25.1%

Columns

Pending	Number of cases having at least one charge without a disposition, and without a currently active warrant.
On DD	Number of pending cases with an Order of Deferred Disposition entered.
No IA	Number of pending cases with a complaint filed, but not having an initial appearance or arraignment held or waived.
% No IA	Percent of pending cases without an initial appearance/arraignment.

Cases are categorized based on the most serious offense charged. Local ordinance violations filed with the court are not included in the reported counts.

Change in Pending UCD Cases, June 2025 to June 2026

Pending cases as of June 5 of each year

UCD	FELONY			MISDEMEANOR			CIVIL VIOLATION			ALL CASES		
	2025	2026	% Diff	2025	2026	% Diff	2025	2026	% Diff	2025	2026	% Diff
Androscoggin	753	686	-8.9%	1,356	1,149	-15.3%	9	82	811.1%	2,118	1,917	-9.5%
Aroostook	501	477	-4.8%	761	699	-8.1%	21	24	14.3%	1,283	1,200	-6.5%
Caribou	100	103	3.0%	155	141	-9.0%	8	9	12.5%	263	253	-3.8%
Fort Kent	74	50	-32.4%	153	122	-20.3%	3	2	-33.3%	230	174	-24.3%
Houlton	130	145	11.5%	194	216	11.3%	4	6	50.0%	328	367	11.9%
Presque Isle	197	179	-9.1%	259	220	-15.1%	6	7	16.7%	462	406	-12.1%
Cumberland	1,408	1,196	-15.1%	3,310	2,594	-21.6%	102	71	-30.4%	4,820	3,861	-19.9%
Bridgton	24	19	-20.8%	287	193	-32.8%	31	6	-80.6%	342	218	-36.3%
Portland	1,362	1,168	-14.2%	2,696	2,190	-18.8%	43	51	18.6%	4,101	3,409	-16.9%
West Bath	22	9	-59.1%	327	211	-35.5%	28	14	-50.0%	377	234	-37.9%
Franklin	109	119	9.2%	285	266	-6.7%	7	13	85.7%	401	398	-0.7%
Hancock	216	229	6.0%	391	449	14.8%	23	30	30.4%	630	708	12.4%
Kennebec	517	653	26.3%	1,411	1,475	4.5%	14	47	235.7%	1,942	2,175	12.0%
Augusta	494	624	26.3%	887	990	11.6%	13	26	100.0%	1,394	1,640	17.6%
Waterville	23	29	26.1%	524	485	-7.4%	1	21	2000.0%	548	535	-2.4%
Knox	185	233	25.9%	506	438	-13.4%	10	5	-50.0%	701	676	-3.6%
Lincoln	174	200	14.9%	421	375	-10.9%	8	16	100.0%	603	591	-2.0%
Oxford	449	341	-24.1%	822	655	-20.3%	11	17	54.5%	1,282	1,013	-21.0%
Bridgton	52	44	-15.4%	83	81	-2.4%	1	4	300.0%	136	129	-5.1%
Rumford	142	56	-60.6%	267	129	-51.7%	4	2	-50.0%	413	187	-54.7%
South Paris	255	241	-5.5%	472	445	-5.7%	6	11	83.3%	733	697	-4.9%
Penobscot	677	571	-15.7%	1,564	1,373	-12.2%	47	43	-8.5%	2,288	1,987	-13.2%
Bangor	659	551	-16.4%	1,168	1,058	-9.4%	16	9	-43.8%	1,843	1,618	-12.2%
Lincoln	5	7	40.0%	138	97	-29.7%	24	4	-83.3%	167	108	-35.3%
Newport	13	13	0.0%	258	218	-15.5%	7	30	328.6%	278	261	-6.1%
Piscataquis	37	20	-45.9%	92	77	-16.3%	12	8	-33.3%	141	105	-25.5%
Sagadahoc	159	110	-30.8%	397	288	-27.5%	19	14	-26.3%	575	412	-28.3%
Somerset	295	361	22.4%	457	677	48.1%	8	18	125.0%	760	1,056	38.9%
Waldo	185	193	4.3%	369	285	-22.8%	4	5	25.0%	558	483	-13.4%
Washington	187	200	7.0%	298	258	-13.4%	15	13	-13.3%	500	471	-5.8%
Calais	78	72	-7.7%	130	128	-1.5%	6	3	-50.0%	214	203	-5.1%
Machias	109	128	17.4%	168	130	-22.6%	9	10	11.1%	286	268	-6.3%
York	763	758	-0.7%	2,242	2,580	15.1%	52	105	101.9%	3,057	3,443	12.6%
TOTAL	6,615	6,347	-4.1%	14,682	13,638	-7.1%	362	511	41.2%	21,659	20,496	-5.4%

Columns

2025	Number of cases having at least one charge without a disposition, and without a currently active warrant as of June 5, 2025
2026	Number of cases having at least one charge without a disposition, and without a currently active warrant as of June 5, 2026
% Diff	Percent change in pending cases from 2025 to 2026. Red percentages represent an increase, green percentages a decrease.

Cases are categorized based on the most serious offense charged. Local ordinance violations filed with the courts are not included in the reported counts.

Change in Pending UCD Cases, June 2019 to June 2026

Pending cases as of June 5 of each year

UCD	FELONY			MISDEMEANOR			CIVIL VIOLATION			ALL CASES		
	2019	2026	% Diff	2019	2026	% Diff	2019	2026	% Diff	2019	2026	% Diff
Androscoggin	361	686	90.0%	1,255	1,149	-8.4%	21	82	290.5%	1,637	1,917	17.1%
Aroostook	348	477	37.1%	657	699	6.4%	30	24	-20.0%	1,035	1,200	15.9%
Caribou	72	103	43.1%	159	141	-11.3%	8	9	12.5%	239	253	5.9%
Fort Kent	37	50	35.1%	112	122	8.9%	8	2	-75.0%	157	174	10.8%
Houlton	103	145	40.8%	137	216	57.7%	7	6	-14.3%	247	367	48.6%
Presque Isle	136	179	31.6%	249	220	-11.6%	7	7	0.0%	392	406	3.6%
Cumberland	810	1,196	47.7%	2,529	2,594	2.6%	160	71	-55.6%	3,499	3,861	10.3%
Bridgton	9	19	111.1%	198	193	-2.5%	37	6	-83.8%	244	218	-10.7%
Portland	784	1,168	49.0%	2,001	2,190	9.4%	96	51	-46.9%	2,881	3,409	18.3%
West Bath	17	9	-47.1%	330	211	-36.1%	27	14	-48.1%	374	234	-37.4%
Franklin	88	119	35.2%	263	266	1.1%	8	13	62.5%	359	398	10.9%
Hancock	188	229	21.8%	473	449	-5.1%	35	30	-14.3%	696	708	1.7%
Kennebec	331	653	97.3%	1,074	1,475	37.3%	54	47	-13.0%	1,459	2,175	49.1%
Augusta	319	624	95.6%	616	990	60.7%	33	26	-21.2%	968	1,640	69.4%
Waterville	12	29	141.7%	458	485	5.9%	21	21	0.0%	491	535	9.0%
Knox	162	233	43.8%	304	438	44.1%	3	5	66.7%	469	676	44.1%
Lincoln	95	200	110.5%	221	375	69.7%	2	16	700.0%	318	591	85.8%
Oxford	208	341	63.9%	491	655	33.4%	18	17	-5.6%	717	1,013	41.3%
Bridgton	21	44	109.5%	69	81	17.4%	3	4	33.3%	93	129	38.7%
Rumford	92	56	-39.1%	199	129	-35.2%	6	2	-66.7%	297	187	-37.0%
South Paris	95	241	153.7%	223	445	99.6%	9	11	22.2%	327	697	113.1%
Penobscot	330	571	73.0%	1,054	1,373	30.3%	78	43	-44.9%	1,462	1,987	35.9%
Bangor	322	551	71.1%	827	1,058	27.9%	64	9	-85.9%	1,213	1,618	33.4%
Lincoln	6	7	16.7%	83	97	16.9%	4	4	0.0%	93	108	16.1%
Newport	2	13	550.0%	144	218	51.4%	10	30	200.0%	156	261	67.3%
Piscataquis	20	20	0.0%	33	77	133.3%	6	8	33.3%	59	105	78.0%
Sagadahoc	100	110	10.0%	266	288	8.3%	20	14	-30.0%	386	412	6.7%
Somerset	146	361	147.3%	466	677	45.3%	14	18	28.6%	626	1,056	68.7%
Waldo	90	193	114.4%	256	285	11.3%	4	5	25.0%	350	483	38.0%
Washington	104	200	92.3%	182	258	41.8%	34	13	-61.8%	320	471	47.2%
Calais	41	72	75.6%	95	128	34.7%	10	3	-70.0%	146	203	39.0%
Machias	63	128	103.2%	87	130	49.4%	24	10	-58.3%	174	268	54.0%
York	782	758	-3.1%	2,346	2,580	10.0%	88	105	19.3%	3,216	3,443	7.1%
TOTAL	4,163	6,347	52.5%	11,870	13,638	14.9%	575	511	-11.1%	16,608	20,496	23.4%

Columns

2019	Number of cases having at least one charge without a disposition, and without a currently active warrant as of June 5, 2019
2026	Number of cases having at least one charge without a disposition, and without a currently active warrant as of June 5, 2026
% Diff	Percent change in pending cases from 2019 to 2026. Red percentages represent an increase, green percentages a decrease.

Cases are categorized based on the most serious offense charged. Local ordinance violations filed with the courts are not included in the reported counts.

DISTRICT DEFENDERS' COMMISSION REPORT

June 2026

Tri-County Dismissals

Charles Burden recently represented a client in a DV Assault charge with facts and witness issues that would be problematic for the State. The State made offers to settle that the client, who was maintaining their innocence, would not take. Due to Charles' advocacy and work on the case, the State ultimately filed a dismissal.

Charles also was able to negotiate a dismissal in a Class B Unlawful Sexual Contact case. This case, although only brought relatively recently, was alleged to have happened over twenty years ago. Statements made by the complaining witness did not align with available evidence. The person who brought the allegation was also not the alleged victim in the case, further complicating matters. At jury selection, the State, citing that it had no contact with the complaining witness, dismissed the matter.

Jen Rhode represented a client in a Refusing to submit case where a police dog viciously attacked the client, leaving scars. Jen brought the video to the State's attention and the matter was dismissed.

Lorne Fairbanks got a dismissal in a Failure to Stop case. After discovery review, there was reason to believe that some of the body cam and dash cam videos were not provided, as required by rule. Lorne requested the audit trail from the body/dash cam program. This audit trail is the digital footprint/itemization of exactly what the system did or did not do. It will illuminate if there was missing footage, if footage was deleted, if the audio was shut off, or if the battery was dead—the most common reason given for missing footage. After receiving the request for the audit trail, the State dismissed the case entirely.

Small Wins Matter....

In our Highlands office, we strive to recognize the "small" wins achieved by our attorneys. Some recent examples of small wins are:

Achieving an unsecured bail order for a client as Lawyer of the Day. In this particular case, the State sought to hold the client with "no bail," on a Motion to Revoke Bail on a Class E theft case which was certified as a "no jail requested" case. This is a situation where the accused, should the court order "no bail," be forced to languish in jail indefinitely, without counsel, or plead to a crime and be released immediately.

Securing a DV Assault dismissal for a disabled client who was born without the part of the brain that connects the two hemispheres of the brain, helping them to communicate with each other.

Getting a three count complaint dismissed for a client who was found competent, but claimed to be a "messenger from God."

Big Wins Matter, too

Highlands also reports a couple of big wins for clients:

At trial on an Aggravated Trafficking case, where the client maintained his innocence since day one, the State's Confidential Informant came into court and could not identify the client as the person that supposedly sold her drugs in a single wire buy organized by MDEA. The case was dismissed with prejudice mid-trial. Our client wept with relief, after standing strong for his innocence despite the threat of the mandatory minimum 4 year sentence hanging over him.

After a hearing on a disputed restitution issue, the court ordered ZERO restitution to be paid by our client despite the State supporting an incredible request by the victim for over \$100,000 related to the alleged theft of a gold chain, which was uninsured, unappraised, and supposedly left in a bag in a panel van overnight.

Aroostook Discovery Issues Result in Dismissals

James Hoeffgen, with the Aroostook County Public Defenders, recently received a dismissal for one of his clients on a four-count indictment of Assault on an Officer, OUI, Assault, and Refusing to Submit to Arrest.

In this case, there were multiple officers present at the time of the alleged incident. James, in reviewing the discovery, found, among other missing pieces of discovery, that the body-cam footage associated with the officer who was alleged to have been assaulted was missing. The officer claimed that his body camera was non-operational due to a dead battery at the time of the arrest.

James requested the audit trail from the State, to confirm that the camera was, in fact, out of battery.

The State refused to produce the audit trail, leaving James little option but to file a Motion to Compel, asking the court to order the State to produce this discoverable information.

On the day that had originally been scheduled for the court to hear the Motion to Compel, the missing video was uploaded to discovery and subsequently viewed by James.

The video showed events that contradicted portions of the original police report from the officer involving the alleged assault on that officer. The attorney for the State, after watching the video, dismissed all four counts against James' client.

Downeast Region Update (with a side of commentary on the state of bail)

The next jury trial docket call in Hancock County is scheduled for August. Washington County will have its next docket call in September. Without jury trials happening over the next few months there is still work to be done and opportunities to serve clients in the Downeast Region. Our defenders have been aggressively and effectively pursuing better outcomes on bail for our clients charged with serious crimes.

It's no exaggeration to say that bail is one of the most consequential aspects of a criminal case. In a world where a trial can be delayed for many months, it makes all the difference whether the client is free on bail or sitting behind bars. The Maine Bail code is excellent. It takes seriously the presumption of innocence and the presumption that people charged with crime ought to remain free and unsanctioned unless and until the state can demonstrate their guilt.

The bail code begins with the presumption that a person will be released on personal recognizance or an unsecured bond. Cash bail or special conditions are only appropriate if the court makes an affirmative finding that release without those conditions would "not reasonably ensure" (1) the appearance of the defendant as required, (2) that the defendant refrain from further criminal conduct, (3) the integrity of the judicial process, or (4) the safety of others in the community. Further, when the court does impose cash bail or special conditions it is required to select the "least restrictive further condition or combination of conditions" to serve the purposes of the bail code. As if this mandate were not clear enough, the bail code expressly forbids imposing "financial conditions" in excess of what is necessary.

In practice we often see bail set in ways that seem unfair, arbitrary, and not in line with the bail code. Although bail is extremely consequential, the initial setting of bail is made with very limited information both from the state and from the defense. The state's initial bail request is usually based on information in a probable cause affidavit. At in-custody arraignment, a lawyer of the day must craft a bail argument based on a quick review of the discovery and a single conversation with the client. A time crunch and less-than-perfect information is not a good recipe for making fair and consistent decisions.

Fortunately, the courts often recognize this problem with bail procedure and will indicate on the record that bail is "reviewable." There is no statutory basis for this practice, but it seems to mean that the court is willing to give the defense another bite at the apple without the need to show a change in circumstances. The bail code also provides for a "De novo determination of bail." This is a powerful tool in the defense toolkit because if your client is in custody the court is required to hold a hearing within 48 hours in front of different judge or justice.

In recent bail review cases our office has been most successful at, the key to victory has been investigation and preparation. Going after the factual basis for the charges can be a good place to start. "The nature of the evidence against the defendant" is a factor to be considered in setting bail. If the court is less convinced of the state's likelihood of success in the prosecution, they may be less willing to impose financial conditions. Investigation can give the court a better picture of who the defendant and their family are. What types of actual ties to the community do they have? Who are their support people? What resources are available?

Giving the court a full picture of the defendant's actual financial resources is also crucial. The bail code expressly forbids excessive financial conditions. For our clients who very often have zero wealth or income, even what some would consider a modest financial condition will mean the difference between liberty and being imprisoned. A cash component ought to be an incentive not to abscond or offend while awaiting trial – not a bar to achieving liberty. We should make the state articulate why they want a high cash bail when they know very well that this defendant does not have the means to post it.

The practice of seeking high cash bail creates a particularly cruel injustice for our indigent clients. In Hancock County recently we had a wealthy high-profile defendant who was alleged to have violated his probation on a number of occasions. The court set cash bail at what many of us would find impossible to pay. The message this sends is that even a known repeat offender in a post-conviction setting can gain his liberty for a price. Setting the same cash bail for a case of a similar nature but with an indigent defendant may seem on its face to be applying justice equally, but there is nothing objectively "safer" about releasing the defendant with means and incarcerating the defendant who is broke. This practice undermines the integrity of our judicial system. Setting cash bail for someone who has no cash is tantamount to denying them the right to pre-trial release for no other reason but that they are poor.

-Maxwell Coolidge, District Defender, Downeast Region Public Defenders



Parents Defense Division Updates

In this newsletter, we often share the big victories after contested hearings when children are reunited with their families, but we don't as often share the other victories - the victories that happen before or on the day of a scheduled contested trial or hearing, the hard fought victories that happen in negotiated agreements or at family team meetings. Given the nature of our work, it's important to celebrate these as well and to acknowledge how much hard work goes into hearing preparation and other negotiations that result in our clients getting closer to reunification without the stress and trauma of a hearing or trial.

This past month, Chelsea Peters helped one of her clients move one step closer to family reunification when she secured dismissal of two of her client's three cases with full restoration of custody to the mother. That same mother's other children, the subject of a separate petition, were returned to her with conditions. When the mother meets those conditions in the coming months, that case will also be dismissed, bringing an end to department intervention with this family. This was a major victory for the client and family and Chelsea put in countless hours to get this result.

Chelsea also had a big win when she fought a termination of parental rights petition on behalf of a client who was named a "putative" (or "possible" father). The department was trying to terminate the rights of a person they could not find and who had neither acknowledged nor been tested for paternity. Chelsea successfully argued that the father wasn't properly served with notice of the petition; hadn't been served with notice for paternity testing; and that there was no evidence that the court even had jurisdiction over the father. After considerable preparation, motion filing, and appearances before the court, Chelsea secured a dismissal of her client from the case. This was a major victory for a "possible" father whom the department had no credible evidence was the legal father yet he was facing lifelong consequences if his rights to a "possible" child had been terminated.

In other victories, Molly Owens negotiated a dismissal for two different clients who had each been in protracted cases with DHHS since 2023 and 2024, and one of the parents facing a termination of her parental rights earlier in the case. That client successfully made changes to her life, tirelessly continued fighting for her family, and finally celebrated dismissal and return of her daughter to her custody. In a different case, another parent, who had been battling the department's mistrust of her and the work she put into her family since 2024, was able to celebrate dismissal of three cases with custody of her four children fully restored to her. That case was particularly traumatic for the client as the department's allegations had to do with the client's ex-partner rather than with the client's ability to care for her children. We encounter many cases where the alleged abuse or neglect is by a previous partner, but our clients are being asked to prove they have, essentially, learned their lesson. This is, sometimes, an almost impossible burden to carry since there are no objective measures of whether a client has "learned their lesson" or learned to choose a better partner. These types of cases are frustrating for the parent, the attorney, and traumatic for the children. We will continue to fight those subjective measures and stereotypes in court and when negotiating with the department.

Chapter ~~6201~~: APPEALS OF DECISIONS OF THE EXECUTIVE DIRECTOR

Summary: This Chapter establishes the process for an appeal from a decision of the Executive Director to the Commissioners of the Commission on Public Defense-Indigent Legal Services (~~"Commission"~~) pursuant to 4 M.R.S.A. § 1804(3)(J). ~~It provides for the appointment by the Commission Chair of a Presiding Officer to conduct an appeal process and to prepare a recommended decision for consideration and action by the Commission.~~

SECTION 1. ~~DEFINITIONS~~DEFINITIONS.

- ~~1. 1.~~ Appellant~~Appellant~~. "Appellant~~Appellant~~" means a person who has filed an appeal.
- ~~2. 2.~~ Commission or PDS~~MCILS~~. "Commission" or "PDS~~MCILS~~" means the Maine Commission on Indigent Legal~~Public Defense~~ Services.
- ~~3. 3.~~ Executive Director. "Executive Director" means the Executive Director of the Maine Commission on Indigent Legal~~Public Defense~~ Services or the Executive Director's~~ir~~ decision-making designee.
- ~~4. 4.~~ File or Filing. "File" or "F~~filed~~" means delivery of an original~~an original~~ document to the~~the~~ MCILS-PDS-Central Office. Delivery may be in-hand, by regular mail, by commercial delivery service, or by email to the Executive Director or the like. ~~Delivery may not be by electronic means such as email or facsimile.~~
- ~~5. 5.~~ MCILS-PDS Clerk~~Advisor~~. "MCILS-PDS Clerk~~Advisor~~" means a MCILS-PDS staff member designated by the Commission Chair to act in~~as~~ an administrative role to support the Presiding Officer in discharging their duties~~MCILS-PDS Aadvisor with respect to an appeal.~~
- ~~6. 6.~~ Party. "Party" means the person bringing an appeal and the MCILS-PDS~~Executive~~ Director.
- ~~7. 7.~~ Presiding Officer. "Presiding Officer" means the individual appointed by the Commission Chair to conduct~~preside over~~ the appeal proceedings under this Chapter ~~and make a recommended decision to the Commission.~~
- ~~8. 8.~~ Record. "Record" means those materials required by 5 M.R.S.~~M.R.S.~~ § 9059.

SECTION 2. ~~APPLICABILITY; WHO MAY APPEAL~~APPLICABILITY; WHO MAY APPEAL.

~~1. 1.~~Application.

~~A.~~ This ~~rule~~Chapter applies to appeals to the Commission from decisions of the Executive Director on issues specifically set forth in 4 ~~M.R.S.~~M.R.S. § 1804(3)(J).

A decision of the Executive Director concerning issues not specifically set forth in 4 ~~M.R.S.~~M.R.S. § 1804(3)(J) constitutes final agency action and is not subject to appeal under this Chapter.

~~B.~~

~~2. 2.~~Who may Appeal. A person who has been aggrieved by a decision of the Executive Director pertaining to the issues set forth in 4 ~~M.R.S.~~M.R.S. § 1804(3)(J) may appeal the decision to the Commission. An ~~appellant~~Appellant may be represented by another person ~~—at Appellant’s expense—~~in accordance with 4 ~~M.R.S.~~M.R.S. § 807 or may proceed without representation.

SECTION 3. ~~BRINGING AN APPEAL~~BRINGING AN APPEAL.

~~1. Decision, reconsideration~~reconsideration. Except as stated below, a decision of the Executive Director becomes final if no appeal is filed within the time limits set forth in this ~~Section.~~

~~2. Reconsideration.~~ A person aggrieved by a decision of the Executive Director may, within 10 ~~calendar~~ days after receipt of the decision of the Executive Director, request that the Executive Director reconsider that decision. Such a request must be accompanied by additional materials not previously submitted with respect to the original decision. If a request for reconsideration is filed in accordance with this subsection, the ~~running of that period~~deadline to file an appeal pursuant to Section 3(3) herein, is tolled, and the time for filing a Statement of Appeal shall be 30 calendar days after receipt of the decision on reconsideration.

~~3. Statement of Appeal~~appeal. An individual who wishes to appeal a decision must ~~file~~ a written ~~s~~Statement of ~~Appeal~~appeal with ~~MCIS-PDS~~ within 30 calendar days after receipt of the Executive Director’s decision. For purposes of this section, a statement of appeal is ~~“filed”~~ on the date it is received ~~at the MCILS PDS Central Office by PDS during normal business hours if it is received by PDS by 4:30PM eastern standard time. A statement of appeal that is received by PDS after 4:30PM eastern standard time is Filed on the next business day.~~

~~4. ——— 3. ———~~ Contents of the ~~Statement~~statement of ~~Appeal~~appeal. The ~~s~~Statement

of ~~a~~Appeal shall include, but is not limited to, a copy of the Executive Director's decision, the grounds for the appeal, and a statement of the ~~appellant~~Appellant's position.

~~4. Only issues that have previously been decided by the Executive Director can be appealed.~~

~~5. 5. Assignment to Presiding Officer & PDS Clerk.~~ When a statement of appeal is received, the Commission Chair ~~should~~ assign the appeal to a Presiding Officer ~~and PDS Clerk within 30 calendar days, in accordance with Section 5.~~ Upon assignment of a Presiding Officer, MCILS staff shall notify the appellant in writing of the Presiding Officer's name and contact information and provide the appellant with a copy of this Chapter.

~~6. Assignment of the MCILS PDS AdvisorClerk.~~ When the Commission Chair assigns a Presiding Officer to the appeal ~~Within 10 days of receiving an appeal, the Commission Chair shall also designate the MCILS PDS AdvisorClerk. No person authorized to make decisions subject to the appeal process may be designated as MCILS PDS AdvisorClerk. Upon assignment of a Presiding Officer, the PDS AdvisorClerk shall notify the appellant in writing of the Presiding Officer's name and contact information and provide the appellant with a copy of this Chapter.~~

SECTION 4. ~~CHOICE OF APPEALS PROCESS~~CHOICE OF APPEALS PROCESS.

~~1. 1. Within 170 calendar days of receiving notice of appointment~~assignment as PDS AdvisorClerk, ~~The Presiding Officer~~the PDS AdvisorClerk shall notify the ~~appellant~~Appellant in writing of the option to choose one of two appeal processes:

~~A. A. Expedited Appeal.~~ The ~~appellant~~Appellant may choose to rely solely on the documentary evidence considered by the Executive Director and the Statement of Appeal. The decision to proceed under the Expedited Appeal process is irrevocable once the expedited process has commenced.

~~B. B. Hearing on Appeal.~~ Alternatively, the ~~appellant~~Appellant may request to have a hearing pursuant to 5 ~~M.R.S.~~M.R.S. § 9052.

2. The ~~appellant~~Appellant must respond in writing to the ~~Presiding Officer~~PDS AdvisorClerk as to ~~his or her~~their selection of the type of appeal process within 15 calendar days after the written notice by the ~~Presiding Officer~~PDS AdvisorClerk is received. If the ~~appellant~~Appellant does not respond within the timeframe prescribed herein, ~~unless for good cause shown,~~ the appeal process shall default to Presiding Officer ~~shall commence~~ the Expedited Appeal process set forth in Section 4(1)(A).

3. If the ~~appellant~~Appellant elects a ~~hearing~~Hearing on Appeal process, the Presiding Officer shall notify the ~~appellant~~Appellant in writing of the hearing date ~~and provide notice that if the appellant fails to appear at any hearing, the appeal may be deemed to have been abandoned in accordance with Section 7.~~

SECTION 5. ~~PRESIDING OFFICER~~PRESIDING OFFICER.

1. ~~1.~~1. **Appointment.** The Commission Chair shall appoint a Presiding Officer to perform the duties and exercise the powers set forth in this Chapter. The Presiding Officer must be fair, ~~impartial,~~ ~~unbiased,~~ and able to conduct a fair, ~~efficient and effective~~effective, and efficient appeal process.
2. ~~2.~~2. **Who ~~Can can~~ Serve**serve. The Commission Chair may appoint any Commissioner or other qualified person as the Presiding Officer. The fact that the Presiding Officer is a ~~MCILS PDS~~ rostered attorney does not constitute, by itself, direct or indirect personal or financial interest in an appeal or its outcome.
3. ~~3.~~3. **~~Assignment~~Appointment, Removal, & Replacement**removal, & Replacement.
 - A. ~~A.~~A.—An appeal will be assigned to a Presiding Officer who has no personal or financial interest, direct or indirect, in the appeal or its outcome, and who has not been involved directly or indirectly in the matter that is the subject of the appeal.
 - B. ~~B.~~B.—If a party files a timely charge of bias, prejudice, or personal or financial interest, either direct or indirect, with the Presiding Officer, the Presiding Officer will promptly determine whether to recuse from the appeal and will include that determination in the record.
 - C. ~~C.~~C.—A Presiding Officer may also independently decide to recuse from the appeal if the Presiding Officer cannot be fair, impartial, and unbiased.
 - D. ~~D.~~D.—When a Presiding Officer decides to recuse or cannot continue, the Commission Chair will assign the appeal to a new Presiding Officer pursuant to this Section. The Presiding Officer will continue the ongoing appeal process, unless the Presiding Officer determines that, ~~in order~~ to avoid substantial prejudice to any party, it is necessary to start the process anew.
4. ~~3.~~3. **Duty and ~~powers~~ powers of the ~~Presiding~~ Presiding Officer**Officer. The Presiding Officer has the duty to ~~preside over any hearing in a~~ ~~render a~~ fair and impartial ~~manner~~ ~~recommended decision to the Commission~~ in accordance with ~~Section 12~~this Chapter and has all the powers and duties as set forth in 5 ~~M.R.S.~~M.R.S. § 9062. In addition, it is the duty of the Presiding Officer to disclose, upon the request of any party, the substance of the Presiding Officer's communication with the ~~MCILS PDS~~ AdvisorClerk.

~~5.~~ 4. — Recommended Decision of Presiding Officer.

~~a.~~ A. — If an ~~appellant~~Appellant requests an Expedited Appeal pursuant to Section 4(1)(A), the Presiding Officer shall issue a recommended decision to the Commission, as set forth in Section ~~10412~~, within ~~a reasonable time period~~30 calendar days of the date on which Appellant elected an expedited appeal.

~~A.~~

~~B.~~ If an ~~appellant~~Appellant requests a ~~hearing~~Hearing on Appeal pursuant to Section 4(1)(B), the Presiding Officer will conduct a hearing ~~before the full Commission~~ in accordance with the requirements of the Maine Administrative Procedure Act, 5 ~~M.R.S.~~M.R.S. § 9051 *et seq.*, ~~and provide the parties notice of any hearing pursuant to 5 M.R.S. § section 9052. A hearing before the Commission~~Presiding Officer shall be noticed within 30 days of appellant's election of a hearing and shall be scheduled to occur within 90 days of appellant electing a hHearing on Appeal. ~~scheduled to occur expeditiously.~~

SECTION 6. ~~MCILS~~ PDS ~~ADVISOR~~CLERK.

The ~~MCILS~~ PDS ~~Advisor~~Clerk shall:

- ~~1.~~ 1. — Upon request of the Presiding Officer, provide information and documents to the Presiding Officer about the operations and administrative procedures of ~~MCILS~~PDS; and
- ~~2.~~ 2. — Provide technical and administrative assistance to the Presiding Officer at any hearing or pre-hearing conference, including ensuring that all events are recorded in a form susceptible to transcription.

SECTION 7. DEFAULT.

~~1.~~ 1. — ~~Failure to appear.~~ If an ~~appellant~~Appellant fails to appear at a hearing, ~~without good cause,~~ the ~~appellant~~Appellant ~~may~~shall be deemed by the Presiding Officer to have abandoned the appeal. The Presiding Officer shall immediately notify the ~~appellant~~Appellant in writing of the finding of default. If, within ~~15~~10 calendar days after the issuance of the notice of default, the ~~appellant~~Appellant submits information that demonstrates, in the judgment of the Presiding Officer, that the ~~appellant~~Appellant had good cause for failing to appear, the appeal will be reinstated. If the ~~appellant~~Appellant does not submit such information to the Presiding Officer

within the timeframe herein, the appeal will be dismissed, and the decision of the Executive Director will become final agency action.

~~2. **Hearing in the absence of the appellant.** A hearing may be held in the absence of the appellant when the Presiding Officer chooses to proceed with the hearing as an alternative to a default.~~

SECTION 8. EVIDENCE

- ~~1. **Admissibility.** Evidence shall be admitted if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.~~
- ~~2. **Testimony.** Witnesses may provide testimony orally before the Presiding Officer or in person by deposition, by video, or by a sworn written statement. Parties must ensure that witnesses who provide sworn written statements or testimony are available for cross examination at the hearing, although the cross examination of a witnesses may, at the request of a party, take place at a later date.~~
- ~~3. **Irrelevant or repetitious evidence.** Evidence that is irrelevant or unduly repetitive may be excluded. Evidence that is relevant to the appellant's fitness or qualifications to provide indigent legal services consistent with constitutional, statutory, and ethical provisions or Commission rules is relevant whether the evidence arose prior to the decision appealed from or subsequent to the decision being appealed.~~
- ~~4. **Weight of evidence.** The fact that evidence is admitted shall not limit the authority of the Presiding Officer Commission to determine the weight to be given the evidence.~~
- ~~5. **Hearsay.** Hearsay evidence shall not be excluded simply because of its hearsay nature. The Presiding Officer Commission will, in accordance with law, determine the weight to be given to hearsay evidence.~~
- ~~6. **Rules of privilege.** Rules of privilege as provided in the Maine Rules of Evidence, Article 5, shall be observed.~~
- ~~7. **Stipulation of facts.** When all parties stipulate to a fact, the Presiding Officer may make draft findings of fact on the basis of the stipulation and the Commission shall decide what weight to give the stipulated facts. Signed statements or on the record oral statements by parties are sufficient as stipulations.~~
- ~~8. **Official notice of facts.** The Presiding Officer Commission may take official notice of a fact upon his or her its own initiative or at the request of a party. Official notice may be taken of any fact of which judicial notice could be taken, and in addition, of any~~

~~general or technical matter within the specialized experience or knowledge of the Presiding Officer/Commissioners, and of any statutes, rules and non-confidential public records. The Presiding Officer will notify the parties when official notice is taken and shall afford the parties an opportunity to contest the substance or materiality of the material noticed.~~

SECTION ~~98.~~ SUBPOENAS AND DISCOVERY.

- ~~1. 1.—Request for subpoenas.~~ Any party may request the issuance of a subpoena by presenting the request to the Presiding Officer. The request must contain:
 - ~~A. A.—~~The name and address of the party requesting the subpoena; ~~and~~
 - ~~B. B.—~~The name and address of the person to be subpoenaed, or other place where the person to be subpoenaed may be found; and
 - ~~C. C.—~~A brief statement why the testimony or evidence of the person to be subpoenaed is relevant to an issue of fact in the appeal.
- ~~2. 2.—Issuance on approval.~~ If the Presiding Officer determines that the request pertains to testimony or evidence relevant to an issue of fact in the appeal, the Presiding Officer must submit the subpoena for approval by the Attorney General or a Deputy Attorney General who is not involved in the appeal.
- ~~3. Requirements.~~ A subpoena shall comply with the requirements of 5 ~~M.R.S.M.R.S.~~ §9060.
- ~~4. Pre-hearing discovery.~~ No prehearing discovery is allowed, except that any party may conduct its own investigation and offer evidence it believes is relevant to the issues to be decided regarding the decision on appeal.
5. Pre-hearing conference.
 - A. If a full hearing under Section 4(1)(B) is elected, then the Presiding Officer shall conduct a pre-hearing conference with the parties and/or their representatives at least 30 calendar days before the hearing date.
 - B. —The scope of the prehearing conference will encompass:
 - I. ~~A—any~~ evidentiary issues the parties wish to address in advance of the hearing;
 - II. ~~T,~~the potential for stipulations;

~~III. Arrangements for remote appearance by witnesses;~~

~~IV. The exchange of witness and exhibit lists and exhibits, which must occur at least 14 calendar days in advance of the hearing; at least 7 days in advance of hearing;~~

~~V. The filing of objections to evidence or witnesses, which must occur at least 7 calendar days in advance of the hearing; and~~

~~VI. A good faith estimate of time needed for the hearing.
and a good faith estimate of time for the hearing.~~

~~SECTION 10. HEARINGS RECORDED~~

~~1. All hearings will be recorded in a form susceptible for to transcription.~~

~~SECTION 11. DISMISSAL OF APPEAL~~

~~1. At any time before receipt of notice of the Presiding Officer's Commission's recommended decision, the parties may enter into an agreement as to resolution of the issues subject to the appeal. If they reach such an agreement, they shall file with the Presiding Officer a stipulation of dismissal that outlines the agreement reached. Upon receipt, the Presiding Officer shall recommend dismissal to the Commission.~~

~~2. At any time before receipt of notice of the Presiding Officer's recommended Commission's decision, the appellant may withdraw the appeal by written notice to the Presiding Officer. Upon receipt of notice withdrawal of the appeal, the Presiding Officer shall recommend dismissal of the appeal to the Commission.~~

~~3. The Commission must dismiss the appeal if the Presiding Officer recommends dismissal on the grounds set forth in subsection 1 or 2.~~

~~SECTION 12. RECOMMENDED DECISION OF THE PRESIDING OFFICER HEARING.~~

1. Recording. All hearings will be recorded in a form susceptible to transcription.

~~1. The Presiding Officer will preside over a hearing before the Commission pursuant to 5 M.R.S. section 9051, et seq., and will remain impartial and take no part in rendering a decision. The Presiding Officer will have those powers and duties set out in 5 M.R.S. section 9062, including the power to administer oaths, rule on the admissibility of evidence, regulate the course of the proceedings, and otherwise control the procedure of the appeal.
A quorum of the voting members of the Commission are required to conduct the hearing.~~

~~The Commission shall render a decision conforming to 5 M.R.S. section 9061 at the conclusion of the hearing, and it shall limit its consideration and deliberations to the admitted evidence presented during the hearing, including any stipulations by the parties, together with the record upon which the Executive Director made the decision being appealed.~~

2. **Public hearing.** ~~The hearing shall be public unless there will be substantial confidential information presented;. If there will be substantial confidential information presented, in which case, the Presiding Officer may utilize the provisions of 5 M.R.S. M.R.S. §section 9057(6) to protect the confidentiality of the information, including but not limited to, taking the step of closing portions—, or in a rare case concerning underlying case information from juvenileyouth representation or Ttitle 22 child protection proceedings—, all of the proceeding to the public.~~

3. **Presiding Officer's powers and duties.** ~~The Presiding Officer will have those powers and duties set out in 5 M.R.S. § 9062, including the power to administer oaths, rule on the admissibility of evidence, regulate the course of the proceedings, issue a recommended decision for consideration by the Commission, and otherwise control the procedure of the appeal from inception through the rendering of a recommended decision to the Commission.~~

1. ~~**Evidence.**~~

4. **Evidence.**

~~A. Evidence shall be admitted if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs .~~

~~B. Rulings on evidence are~~must be made pursuant to 5 M.R.S § 9057.

C. ~~Witnesses may provide testimony orally before the Presiding Officer or in-person by deposition, by video, or by a sworn written statement. Parties must ensure that witnesses who provide sworn written statements or testimony are available for cross-examination at the hearing, although the cross-examination of a witness may, at the request of a party, take place at a later date.~~

D. ~~Evidence that is irrelevant or unduly repetitive may be excluded. Evidence pertaining to the Appellant's fitness or qualifications to provide indigent legal services consistent with constitutional, statutory, or ethical provisions or Commission rules is relevant, whether the evidence arose prior or subsequent to the decision being appealed.~~

E. ~~The fact that evidence is admitted shall not limit the authority of the Presiding Officer to determine the weight to be given the evidence.~~

F. ~~Hearsay evidence shall not be excluded simply because of its hearsay nature. The Presiding Officer will, in accordance with administrative law, determine the weight to be given to hearsay evidence.~~

- G. Rules of privilege as provided in the Maine Rules of Evidence, Article 5, shall be observed.
- H. When all parties stipulate to a fact, the Presiding Officer may make draft findings of fact based on the stipulation, and the Commission shall decide what weight to give the stipulated facts. Signed statements or on-the-record oral statements by parties are sufficient as stipulations.
- I. The Presiding Officer may take official notice of a fact upon its own initiative or at the request of a party. Official notice may be taken of any fact of which judicial notice could be taken, and of any statutes, rules and non-confidential public records. The Presiding Officer will notify the parties when official notice is taken and shall afford the parties an opportunity to contest the substance or materiality of the material noticed.

SECTION 10. —RECOMMENDED DECISION.

- 1. **Standard.** In rendering a recommended decision, the Presiding Officer shall afford high deference to the Executive Director's decision and will only recommend that the Executive Director's decision be vacated—in whole or in part—if the Presiding Officer determines that the Executive Director's decision was arbitrary and capricious or constituted an abuse of discretion.
- 2. **Basis.**
 - A. **Expedited Appeal.** If the Appellant has chosen an Expedited Appeal, following review of the documentary record, the Presiding Officer will prepare a recommended decision based on a review of the materials submitted by the Appellant with Appellant's notice of appeal and any materials considered by the Executive Director in rendering a decision, including any materials submitted or relied upon as part of a motion for reconsideration.
 - B. **Hearing on Appeal.** The recommended decision following a hearing on appeal must be based **only** on the evidence, filings, argument presented to the Presiding Officer by the Parties, and any statements made by the Parties throughout the appellate process. ~~at that hearing~~
- 3. **Timing.**
 - A. In the event of an expedited appeal, the Presiding Officer shall issue a recommended decision within 30 calendar days of the date on which the Appellant elected an expedited appeal.
 - B. In the event of a hearing on appeal, the Presiding Officer shall issue a recommended decision within 30 calendar days of the close of all evidence and argument.

4. Contents. The recommended decision shall comply with 5 M.R.S. § 9061 and include:

- A. ~~A.~~—A clear statement of the subject(s) of the appeal and of the issue(s) that must be resolved to decide the appeal;
- B. ~~B.~~—A list of all evidence considered and upon which the recommended final decision is based;
- C. ~~C.~~—Findings of fact reasonably supported by the materials considered, which must be sufficient to apprise the parties of the basis for the recommended decision; and
- D. ~~D.~~—A clear statement indicating whether the Presiding Officer concludes the Executive Director’s decision was or was not arbitrary and capricious or constituted an abuse of discretion.

5. Delivery. The Presiding Officer will have the PDS Clerk deliver copies of the recommended decision to the parties. The parties will have 10 calendar days from receipt of the recommended decision to submit written responses or objections to the recommended decision. If the Presiding Officer amends the recommended decision based on responses or objections by a party or parties, the Presiding Officer will have the PDS Clerk deliver copies of the final recommended decision to the parties with no further opportunity to respond. The PDS Clerk will then deliver to the Commission the final recommended decision and all written documents in the record to the Commission.

~~Contents. Following the hearing or, if the appellant has chosen an Expedited Appeal following review of the documentary record, the Presiding Officer will prepare a recommended decision, which will include:~~

- ~~A.—A clear statement of the subject(s) of the appeal and of the issue(s) that must be resolved to decide the appeal;~~
- ~~B.—A listing of the date of hearing, place of hearing, and participants at the hearing or, if no hearing was held, the written agreement from the appellant attorney to proceed without a hearing;~~
- ~~C.—A listing of all evidence admitted and upon which the recommended final decision is based;~~
- ~~D.—Findings of fact, which must be sufficient to apprise the parties of the basis for the recommended decision;~~
- ~~E.—A clear statement of result resolving all issues under consideration;~~

~~F. — A clear explanation of the reasoning underlying the result, including references to applicable law, procedures, and rules.~~

~~2. — Comments, modification, and delivery to the Commission~~

~~A. — The Presiding Officer will send a copy of the recommended decision to each of the parties for comment. A may submit comments regarding the recommended decision, which must be in writing and must be filed with the Presiding Officer within 10 days of receipt of the Presiding Officer's recommended decision.~~

~~B. — The Presiding Officer may, but is not required to, modify the recommended decision in response to the parties' comments. If in the judgment of the Presiding Officer the previously issued recommended decision should be substantially modified, the Presiding Officer will send the recommended decision as modified to the parties for further comment, as provided in subparagraph A.~~

~~C. — The Presiding Officer will deliver copies of the recommended decision, as originally prepared and as modified, to the Commission. The Presiding Officer will deliver the written comments made by the parties with the recommended decision. When the recommended decision is not modified, the Presiding Officer will also deliver to the Commission its written response to the parties' written comments.~~

SECTION ~~1311~~. — ACTION BY THE COMMISSION.

- ~~1. **Commission Consideration.** At the conclusion of the hearing by the Presiding Officer, the Commission shall consider the evidence before it and deliberate its decision. Such deliberations shall not be public but shall take place in executive session pursuant to 4 M.R.S. section 1806(2)(F) and 1 M.R.S. section 405(6)(E),(F). A quorum of the Commission will consider the Presiding Officer's recommended decision on a timely basis.~~
- ~~1. A quorum of the voting members of the Commission will consider the Presiding Officer's recommended decision at the next regularly scheduled Commission meeting, unless the next regularly scheduled Commission meeting is set to occur less than 14 calendar days after the Presiding Officer's recommended decision issues, in which case, the recommended decision will be considered at the following Commission meeting. No additional evidence, testimony, or argument will be heard.~~
- ~~2. 2- If requested by the Commission, the Presiding Officer may be present to assist the Commission. If the Presiding Officer appointed by the Commission Chair is a Commissioner, that Commissioner shall recuse from voting on Commission action on the recommended decision.~~
- ~~3. 3- After considering the recommended decision, a quorum of the voting members of the Commission shall vote as to whether the decision of the Executive Director was arbitrary and capricious or constituted an abuse of discretion.~~

A. If a majority of the Commission votes that the decision of the Executive Director was either arbitrary and capricious or constituted an abuse of discretion, then the Executive Director's decision shall be vacated.

B. If a majority of the Commission (or the vote is equally split) votes that the Executive Director's decision was neither an abuse of discretion nor arbitrary and capricious, —the Commission shall uphold the Executive Director's decision

4. —4.—A decision as adopted by the Commission pursuant to this Section is the final administrative decision in the appeal and constitutes final agency action.

2.—Recommended decision and record. In advance of consideration, a copy of the Presiding Officer's recommended decision must be sent to each Commissioner, with parties' comments as provided in Section 12.

3.—Presiding Officer. If requested by the Commission, the Presiding Officer may be present to assist the Commission. If the Presiding Officer appointed by the Commission Chair is a Commissioner, that Commissioner shall recuse from consideration of or voting on Commission action on the recommended decision.

24.—Action after consideration. After considering the recommended final decision evidence before it, the Commission shall exit executive session, and a quorum of the voting members of the Commission shall vote as to whether the decision of the Executive Director is arbitrary and capricious or constitutes an abuse of discretion.

If a majority of the Commission votes that the decision of the Executive Director is either arbitrary and capricious or constitutes abuse of discretion, then the Executive Director's decision shall be vacated.

If it is the vote of a majority of the Commission (or the vote is equally split) that the Executive Director's decision is neither an abuse of discretion nor arbitrary and capricious:

—the Commission shall uphold the Executive Director's decision; or

ii. —if a majority of the Commission determines that circumstances have materially changed since the Executive Director's decision was made such that the grounds cited therein for suspension have been ameliorated, the Commission may modify the original suspension decision and restore appellant to roster eligibility with appropriate conditions.: The Commission may seek PDS staff recommendations on appropriate conditions.

A.—Adopt the Presiding Officer's recommended decision as delivered;

B.—Modify the Presiding Officer's recommended decision;

C.—Send the matter back to the Presiding Officer for the taking of further evidence or for additional consideration of issues, as set forth by the Commission; or

D.—Reject the Presiding Officer's recommended decision in whole or in part and decide the appeal itself on the basis of the existing record.

~~5. A decision as adopted by the Commission pursuant to this Section is the final administrative decision in the appeal and constitutes final agency action.~~

~~6. If the vote of the Commission to accept or not accept the Presiding Officer's recommended decision is evenly divided, the decision of the Executive Director is affirmed.~~

SECTION 14. EXPEDITED APPEAL

~~1. **Recommended decision.** If the appellant has chosen an Expedited Appeal following review of the documentary record, the Presiding Officer will prepare a recommended decision based on a review of the materials submitted by the appellant with appellant's notice of appeal and any materials considered by the Executive Director in rendering a decision, including any materials submitted or relied upon as part of a motion for reconsideration. The Presiding Officer shall use an arbitrary and capricious standard of review in analyzing these materials and the Executive Director's decision. The recommended decision shall include:~~

~~A. A clear statement of the subject(s) of the appeal and of the issue(s) that must be resolved to decide the appeal;~~

~~B. A listing of all evidence considered and upon which the recommended final decision is based;~~

~~C. Findings of fact reasonably supported by the materials considered, which must be sufficient to apprise the parties of the basis for the recommended decision;~~

~~D. A clear statement indicating whether the Presiding Officer concludes the Executive Director's decision was or was not arbitrary and capricious;~~

~~E. A clear explanation of the reasoning underlying the result, including references to applicable law, procedures, and rules.~~

~~F. The Presiding Officer will have the PDS Advisor/Clerk deliver copies of the recommended decision to the Commission.~~

~~2. **Commission Action.** A quorum of the Commission will consider the Presiding Officer's recommended decision at the next regularly scheduled Commission meeting, unless the next regularly scheduled Commission meeting is set to occur less than 14 days after the Presiding Officer's recommended decision issues, in which case, the recommended decision will be considered at the following Commission meeting. No additional evidence or testimony or argument will be heard on the expedited appeal from any party or witness.~~

~~A. In advance of consideration, a copy of the Presiding Officer's recommended decision must be sent to each Commissioner, along with all the materials the Presiding Officer utilized in reaching the recommended decision.~~

~~——— B. ——— If requested by the Commission, the Presiding Officer may be present to assist the Commission. If the Presiding Officer appointed by the Commission Chair is a Commissioner, that Commissioner shall recuse from voting on Commission action on the recommended decision.~~

~~After considering the recommended final decision, and the materials utilized by the Presiding Officer in reaching the recommended decision, a quorum of the Commission shall:~~

~~Adopt the Presiding Officer's recommended decision as delivered;~~

~~——— 2. ——— Send the matter back to the Presiding Officer for additional consideration of issues set forth by the Commission; or~~

~~3. ——— Reject the Presiding Officer's recommended decision and proceed to a full hearing under Section 4(1)(B).~~

~~——— 3. ——— A decision as adopted by the Commission pursuant to this Section, except under Section 14(2)(C)(3) is the final administrative decision in the appeal and constitutes final agency action.~~

~~——— 6. ——— If the vote of the Commission to accept or not accept the Presiding Officer's recommended decision is evenly divided, the decision of the Executive Director is affirmed.~~

SECTION 12. ———DISMISSAL OF APPEAL.

~~1. ——— 1. ——— At any time before receipt of notice of the Presiding Officer's recommended decision, the parties may enter into an agreement as to resolution of the issues subject to the appeal. If they reach such an agreement, they shall file with the Presiding Officer a stipulation of dismissal that outlines the agreement reached. Upon receipt, the Presiding Officer shall recommend dismissal to the Commission.~~

~~2. ——— 2. ——— At any time before receipt of notice of the Presiding Officer's recommended decision, the Appellant may withdraw the appeal by written notice to the Presiding Officer. Upon receipt of notice withdrawal of the appeal, the Presiding Officer shall recommend dismissal of the appeal to the Commission.~~

~~3. ——— 3. ——— The Commission must dismiss the appeal if the Presiding Officer recommends dismissal on the grounds set forth in subsections 1 or 2.~~

STATUTORY AUTHORITY: 4 ~~M.R.S.~~M.R.S. §§ 1804(3)(J) and (4)(D)

EFFECTIVE DATE:

August 21, 2011 – filing 2011-282

Chapter 6: APPEALS OF DECISIONS OF THE EXECUTIVE DIRECTOR

Summary: This Chapter establishes the process for an appeal from a decision of the Executive Director to the Commissioners of the Commission on Public Defense Services pursuant to 4 M.R.S. § 1804(3)(J).

SECTION 1. DEFINITIONS.

1. Appellant. "Appellant" means a person who has filed an appeal.
2. Commission or PDS. "Commission" or "PDS" means the Maine Commission on Public Defense Services.
3. Executive Director. "Executive Director" means the Executive Director of the Maine Commission on Public Defense Services or their decision-making designee.
4. File or Filed. "File" or "Filed" means delivery of a document to PDS. Delivery may be in-hand, by regular mail, by commercial delivery service, or by email to the Executive Director.
5. PDS Clerk. "PDS Clerk" means a PDS staff member designated by the Commission Chair to act in an administrative role to support the Presiding Officer in discharging their duties.
6. Party. "Party" means the person bringing an appeal and the Executive Director.
7. Presiding Officer. "Presiding Officer" means the individual appointed by the Commission Chair to preside over the appeal proceeding under this Chapter.
8. Record. "Record" means those materials required by 5 M.R.S. § 9059.

SECTION 2. APPLICABILITY; WHO MAY APPEAL.

1. **Application.**
 - A. This Chapter applies to appeals to the Commission from decisions of the Executive Director on issues specifically set forth in 4 M.R.S. § 1804(3)(J).
 - B. A decision of the Executive Director concerning issues not specifically set forth in 4 M.R.S. § 1804(3)(J) constitutes final agency action and is not subject to appeal under this Chapter.

2. **Who may Appeal.** A person who has been aggrieved by a decision of the Executive Director pertaining to the issues set forth in 4 M.R.S. § 1804(3)(J) may appeal the decision to the Commission. An Appellant may be represented by another person—at Appellant’s expense—in accordance with 4 M.R.S. § 807 or may proceed without representation.

SECTION 3. BRINGING AN APPEAL.

1. **Decision.** Except as stated below, a decision of the Executive Director becomes final if no appeal is filed within the time limits set forth in this Section.
2. **Reconsideration.** A person aggrieved by a decision of the Executive Director may, within 10 calendar days after receipt of the decision of the Executive Director, request that the Executive Director reconsider that decision. Such a request must be accompanied by additional materials not previously submitted with respect to the original decision. If a request for reconsideration is filed in accordance with this subsection, the deadline to file an appeal pursuant to Section 3(3) herein, is tolled, and the time for filing a Statement of Appeal shall be 30 calendar days after receipt of the decision on reconsideration.
3. **Statement of appeal.** An individual who wishes to appeal a decision must File a written statement of appeal with PDS within 30 calendar days after receipt of the Executive Director’s decision. For purposes of this section, a statement of appeal is Filed on the date it is received by PDS if it is received by PDS by 4:30PM eastern standard time. A statement of appeal that is received by PDS after 4:30PM eastern standard time is Filed on the next business day.
4. **Contents of the statement of appeal.** The statement of appeal shall include, but is not limited to, a copy of the Executive Director’s decision, the grounds for the appeal, and a statement of the Appellant’s position.
5. **Assignment to Presiding Officer & PDS Clerk.** When a statement of appeal is received, the Commission Chair should assign the appeal to a Presiding Officer and PDS Clerk within 30 calendar days.

SECTION 4. CHOICE OF APPEALS PROCESS.

1. Within 7 calendar days of receiving notice of assignment as PDS Clerk, the PDS Clerk shall notify the Appellant in writing of the option to choose one of two appeal processes:
 - A. The Appellant may choose to rely solely on the documentary evidence considered by the Executive Director and the Statement of Appeal. The decision to proceed under the Expedited Appeal process is irrevocable once the expedited process has commenced.
 - B. Alternatively, the Appellant may request to have a hearing pursuant to 5 M.R.S. § 9052.

2. The Appellant must respond in writing to the PDS Clerk as to their selection of the type of appeal process within 15 calendar days after the written notice by the PDS Clerk is received. If the Appellant does not respond within the timeframe prescribed herein the appeal process shall default to the Expedited Appeal process set forth in Section 4(1)(A).
3. If the Appellant elects a Hearing on Appeal process, the Presiding Officer shall notify the Appellant in writing of the hearing date.

SECTION 5. PRESIDING OFFICER.

1. **Appointment.** The Commission Chair shall appoint a Presiding Officer to perform the duties and exercise the powers set forth in this Chapter. The Presiding Officer must be fair; impartial; unbiased; and able to conduct a fair, effective, and efficient appeal process.
2. **Who can serve.** The Commission Chair may appoint any Commissioner or other qualified person as the Presiding Officer. The fact that the Presiding Officer is a PDS rostered attorney does not constitute, by itself, direct or indirect personal or financial interest in an appeal or its outcome.
3. **Appointment, removal, & replacement.**
 - A. An appeal will be assigned to a Presiding Officer who has no personal or financial interest, direct or indirect, in the appeal or its outcome, and who has not been involved directly or indirectly in the matter that is the subject of the appeal.
 - B. If a party files a timely charge of bias, prejudice, or personal or financial interest, either direct or indirect, with the Presiding Officer, the Presiding Officer will promptly determine whether to recuse from the appeal and will include that determination in the record.
 - C. A Presiding Officer may also independently decide to recuse from the appeal if the Presiding Officer cannot be fair, impartial, and unbiased.
 - D. When a Presiding Officer decides to recuse or cannot continue, the Commission Chair will assign the appeal to a new Presiding Officer pursuant to this Section. The Presiding Officer will continue the ongoing appeal process, unless the Presiding Officer determines that, to avoid substantial prejudice to any party, it is necessary to start the process anew.
4. **Duty and powers of the Presiding Officer.** The Presiding Officer has the duty to preside over any hearing in a fair and impartial manner in accordance with this Chapter and has all the powers and duties as set forth in 5 M.R.S. § 9062. In addition, it is the duty of the Presiding Officer to disclose, upon the request of any party, the substance of the Presiding Officer's communication with the PDS Clerk.

5. Recommended Decision of Presiding Officer.

- A. If an Appellant requests an Expedited Appeal pursuant to Section 4(1)(A), the Presiding Officer shall issue a recommended decision to the Commission, as set forth in Section 10, within 30 calendar days of the date on which Appellant elected an expedited appeal.
- B. If an Appellant requests a Hearing on Appeal pursuant to Section 4(1)(B), the Presiding Officer will conduct a hearing in accordance with the requirements of the Maine Administrative Procedure Act, 5 M.R.S. § 9051 *et seq.*, and provide the parties notice of any hearing pursuant to 5 M.R.S. § 9052. A hearing before the Presiding Officer shall be scheduled to occur expeditiously.

SECTION 6. PDS CLERK.

The PDS Clerk shall:

1. Upon request of the Presiding Officer, provide information and documents to the Presiding Officer about the operations and administrative procedures of PDS; and
2. Provide technical and administrative assistance to the Presiding Officer at any hearing or pre-hearing conference, including ensuring that all events are recorded in a form susceptible to transcription.

SECTION 7. DEFAULT.

If an Appellant fails to appear at a hearing, the Appellant shall be deemed by the Presiding Officer to have abandoned the appeal. The Presiding Officer shall immediately notify the Appellant in writing of the finding of default. If, within 10 calendar days after the issuance of the notice of default, the Appellant submits information that demonstrates, in the judgment of the Presiding Officer, that the Appellant had good cause for failing to appear, the appeal will be reinstated. If the Appellant does not submit such information to the Presiding Officer within the timeframe herein, the appeal will be dismissed, and the decision of the Executive Director will become final agency action.

SECTION 8. SUBPOENAS AND DISCOVERY.

1. Any party may request the issuance of a subpoena by presenting the request to the Presiding Officer. The request must contain:
 - A. The name and address of the party requesting the subpoena;

- B. The name and address of the person to be subpoenaed, or other place where the person to be subpoenaed may be found; and
 - C. A brief statement why the testimony or evidence of the person to be subpoenaed is relevant to an issue of fact in the appeal.
- 2. If the Presiding Officer determines that the request pertains to testimony or evidence relevant to an issue of fact in the appeal, the Presiding Officer must submit the subpoena for approval by the Attorney General or a Deputy Attorney General who is not involved in the appeal.
- 3. A subpoena shall comply with the requirements of 5 M.R.S. § 9060.
- 4. No prehearing discovery is allowed, except that any party may conduct its own investigation and offer evidence it believes is relevant to the issues to be decided regarding the decision on appeal.
- 5. **Pre-hearing conference.**
 - A. If a full hearing under Section 4(1)(B) is elected, then the Presiding Officer shall conduct a pre-hearing conference with the parties and/or their representatives at least 30 calendar days before the hearing date.
 - B. The scope of the prehearing conference will encompass:
 - I. Any evidentiary issues the parties wish to address in advance of the hearing;
 - II. The potential for stipulations;
 - III. Arrangements for remote appearance by witnesses;
 - IV. The exchange of witness and exhibit lists and exhibits, which must occur at least 14 calendar days in advance of the hearing;
 - V. The filing of objections to evidence or witnesses, which must occur at least 7 calendar days in advance of the hearing; and
 - VI. A good faith estimate of time needed for the hearing.

SECTION 9. HEARING.

- 1. **Recording.** All hearings will be recorded in a form susceptible to transcription.
- 2. **Public hearing.** The hearing shall be public unless there will be substantial confidential information presented. If there will be substantial confidential information presented, the

Presiding Officer may utilize the provisions of 5 M.R.S. § 9057(6) to protect the confidentiality of the information, including but not limited to, closing portions—or in a rare case concerning underlying case information from youth representation or Title 22 child protection proceedings—all of the proceeding to the public.

3. **Presiding Officer's powers and duties.** The Presiding Officer will have those powers and duties set out in 5 M.R.S. § 9062, including the power to administer oaths, rule on the admissibility of evidence, regulate the course of the proceedings, issue a recommended decision for consideration by the Commission, and otherwise control the procedure of the appeal from inception through the rendering of a recommended decision to the Commission.

4. **Evidence.**

- A. Rulings on evidence must be made pursuant to 5 M.R.S § 9057.
- B. Witnesses may provide testimony orally before the Presiding Officer or in-person by deposition, by video, or by a sworn written statement. Parties must ensure that witnesses who provide sworn written statements or testimony are available for cross-examination at the hearing, although the cross-examination of a witness may, at the request of a party, take place at a later date.
- C. Evidence that is irrelevant or unduly repetitive may be excluded. Evidence pertaining to the Appellant's fitness or qualifications to provide indigent legal services consistent with constitutional, statutory, or ethical provisions or Commission rules is relevant, whether the evidence arose prior or subsequent to the decision being appealed.
- D. The fact that evidence is admitted shall not limit the authority of the Presiding Officer to determine the weight to be given the evidence.
- E. Hearsay evidence shall not be excluded simply because of its hearsay nature. The Presiding Officer will, in accordance with administrative law, determine the weight to be given to hearsay evidence.
- F. Rules of privilege as provided in the Maine Rules of Evidence, Article 5, shall be observed.
- G. When all parties stipulate to a fact, the Presiding Officer may make draft findings of fact based on the stipulation, and the Commission shall decide what weight to give the stipulated facts. Signed statements or on-the-record oral statements by parties are sufficient as stipulations.
- H. The Presiding Officer may take official notice of a fact upon its own initiative or at the request of a party. Official notice may be taken of any fact of which judicial notice could be taken, and of any statutes, rules and non-confidential public records.

The Presiding Officer will notify the parties when official notice is taken and shall afford the parties an opportunity to contest the substance or materiality of the material noticed.

SECTION 10. RECOMMENDED DECISION.

1. **Standard.** In rendering a recommended decision, the Presiding Officer shall afford high deference to the Executive Director's decision and will only recommend that the Executive Director's decision be vacated—in whole or in part—if the Presiding Officer determines that the Executive Director's decision was arbitrary and capricious or constituted an abuse of discretion.
2. **Basis.**
 - A. Expedited Appeal. If the Appellant has chosen an Expedited Appeal, following review of the documentary record, the Presiding Officer will prepare a recommended decision based on a review of the materials submitted by the Appellant with Appellant's notice of appeal and any materials considered by the Executive Director in rendering a decision, including any materials submitted or relied upon as part of a motion for reconsideration.
 - B. Hearing on Appeal. The recommended decision following a hearing on appeal must be based only on the evidence, filings, argument presented to the Presiding Officer by the Parties, and any statements made by the Parties throughout the appellate process.
3. **Timing.**
 - A. In the event of an expedited appeal, the Presiding Officer shall issue a recommended decision within 30 calendar days of the date on which the Appellant elected an expedited appeal.
 - B. In the event of a hearing on appeal, the Presiding Officer shall issue a recommended decision within 30 calendar days of the close of all evidence and argument.
4. **Contents.** The recommended decision shall comply with 5 M.R.S. § 9061 and include:
 - A. A clear statement of the subject(s) of the appeal and of the issue(s) that must be resolved to decide the appeal;
 - B. A list of all evidence considered and upon which the recommended final decision is based;
 - C. Findings of fact reasonably supported by the materials considered, which must be sufficient to apprise the parties of the basis for the recommended decision; and

- D. A clear statement indicating whether the Presiding Officer concludes the Executive Director's decision was or was not arbitrary and capricious or constituted an abuse of discretion.
- 5. **Delivery.** The Presiding Officer will have the PDS Clerk deliver copies of the recommended decision to the parties. The parties will have 10 calendar days from receipt of the recommended decision to submit written responses or objections to the recommended decision. If the Presiding Officer amends the recommended decision based on responses or objections by a party or parties, the Presiding Officer will have the PDS Clerk deliver copies of the final recommended decision to the parties with no further opportunity to respond. The PDS Clerk will then deliver to the Commission the final recommended decision and all written documents in the record to the Commission.

SECTION 11. ACTION BY THE COMMISSION.

- 1. A quorum of the voting members of the Commission will consider the Presiding Officer's recommended decision at the next regularly scheduled Commission meeting, unless the next regularly scheduled Commission meeting is set to occur less than 14 calendar days after the Presiding Officer's recommended decision issues, in which case, the recommended decision will be considered at the following Commission meeting. No additional evidence, testimony, or argument will be heard.
- 2. If requested by the Commission, the Presiding Officer may be present to assist the Commission. If the Presiding Officer appointed by the Commission Chair is a Commissioner, that Commissioner shall recuse from voting on Commission action on the recommended decision.
- 3. After considering the recommended decision, a quorum of the voting members of the Commission shall vote as to whether the decision of the Executive Director was arbitrary and capricious or constituted an abuse of discretion.
 - A. If a majority of the Commission votes that the decision of the Executive Director was either arbitrary and capricious or constituted an abuse of discretion, then the Executive Director's decision shall be vacated.
 - B. If a majority of the Commission (or the vote is equally split) votes that the Executive Director's decision was neither an abuse of discretion nor arbitrary and capricious, the Commission shall uphold the Executive Director's decision
- 4. A decision as adopted by the Commission pursuant to this Section is the final administrative decision in the appeal and constitutes final agency action.

SECTION 12. DISMISSAL OF APPEAL.

1. At any time before receipt of notice of the Presiding Officer's recommended decision, the parties may enter into an agreement as to resolution of the issues subject to the appeal. If they reach such an agreement, they shall file with the Presiding Officer a stipulation of dismissal that outlines the agreement reached. Upon receipt, the Presiding Officer shall recommend dismissal to the Commission.
2. At any time before receipt of notice of the Presiding Officer's recommended decision, the Appellant may withdraw the appeal by written notice to the Presiding Officer. Upon receipt of notice withdrawal of the appeal, the Presiding Officer shall recommend dismissal of the appeal to the Commission.
3. The Commission must dismiss the appeal if the Presiding Officer recommends dismissal on the grounds set forth in subsections 1 or 2.

STATUTORY AUTHORITY: 4 M.R.S. §§ 1804(3)(J) and (4)(D)

EFFECTIVE DATE:

August 21, 2011 – filing 2011-282