

## IX. LEGISLATION

### Maine Legislation

The complete listing of educational regulations may be found at <http://www.maine.gov/sos/cec/rules/05/chaps05.htm>. Of these, the two with particular importance to the School Library program are *chapters 125 and 127*. What follows is legislation last amended in 2015.

**Chapter 125** is the Basic Approval Standards: Public Schools and School Administrative Units legislation. It addresses attributes such as facilities, safety, staffing, procedures for periodic reviews, and alignment to learning results. With regards to the school library, Chapter 125 specifically requires:

#### Section 9. INSTRUCTIONAL SUPPORT RESOURCES

##### 9.01 Library-Media Resources

A) Each school shall maintain a library-media program that includes books, written materials, online Internet resource materials, multimedia materials, and information technology that support the curriculum. Resources will be appropriate to the ages of the children served by the school. A certified library-media specialist shall oversee the library-media program in a school administrative unit. However, this shall not be interpreted to mean that each school must have a certified library-media specialist.

B) The library-media resources, including access to the Internet, shall be accessible to all enrolled students and personnel during school hours. The school administrative unit shall have a policy governing access to library resources by students in approved equivalent instruction programs in accordance with state law and Me. Dept. of Ed. Reg. 130.

C) The Comprehensive Education Plan shall address updating and maintaining library-media resources.

**Chapter 127** is the Instructional Program, Assessment, and Diploma Requirements legislation. This chapter specifically mentions the requirements of students achieving the outcomes in the Maine Learning Results. (The Maine Learning Results document may be found at <http://maine.gov/education/lres/pei/index.html>).

Many library media skills are imbedded in one or more content areas of the Maine Learning Results - in particular English Language Arts, Social Studies and Science and Technology. Research Skills are addressed in a separate section of Chapter 127 and are of importance to any library media program. They require:

### 3.05 Instruction in Research Skills

Each school administrative unit shall provide instruction in research skills across the content areas of the system of Learning Results so students gain information literacy. Each unit shall promote acquisition of the following skills by all students:

- A. How to formulate questions to guide information search;
- B. How to identify key words and concepts related to search questions;
- C. How to access information from a variety of sources;
- D. How to identify relevant information; and
- E. How to evaluate, interpret, paraphrase, and organize the information for use.

Each school unit shall promote the acquisition by secondary school students of accessing, interpreting, analyzing, evaluation, synthesizing, organizing, and applying information for an intended purpose.

## **Obscenity**

As school library media personnel, we must be sensitive to the materials to which students, minors in the eyes of the law, are exposed.

Obscene material is not protected by the First Amendment to the Constitution because it is "utterly without redeeming social importance" (Justice WILLIAM J. BRENNAN, JR., Roth v. United States, 354 U.S. 484). Most frequently, sexual expression, in varying forms, is a frequent target of censorship.

## **What is Obscenity?**

"The Supreme Court has established that, to be obscene, material must meet a three-pronged test:

- An average person, applying contemporary community standards, must find that the material, as a whole, appeals to the prurient interest;
- The material must depict or describe, in a patently offensive way, sexual conduct specifically defined by applicable law; and
- The material, taken as a whole, must lack serious literary, artistic, political, or scientific value."

(Obscene, Indecent and Profane Broadcasts. FCC Consumer Factsheet. Consumer and Governmental Affairs Bureau. September 24, 2007.

<http://www.fcc.gov/cgb/consumerfacts/obscene.html> )

**All three elements** must be present for material to be judged as obscene.

Two Maine Criminal Law Statutes specifically address obscenity and access of obscene material by minors. They are:

<http://janus.state.me.us/legis/statutes/17/title17sec2912.html>

An ACT to Prevent the Display of Adult Magazines to Minors.

<http://janus.state.me.us/legis/statutes/17/title17sec2911.html>

An ACT Prohibiting the Dissemination of Obscene Matter to Minors.

## **Child Internet Protection Act (CIPA) - what does this mean for libraries?**

Passed by the US Congress as a part of a HR 4577 and put into effect April 20, 2001, The Children's Internet Protection Act (CIPA) requires that all schools and public libraries that receive E-rate funding for Internet access install filtering software on all Internet access computers used by children. Failure to comply with the law means that the school is "liable to repay immediately the full amount of all universal service assistance it received under subsection (h)(1)(B)." The full text of the law may be found at <http://ifea.net/cipa.html>.

Passed at the same time, the Neighborhood Children's Protection Act (NCIPA) specifies what must be included on a library's Internet safety policy. Any library that does not receive E-rate funding to pay for all or part of their Internet service is not subject to CIPA, unless they receive funds under Title III of ESEA or state grant funds of LSTA for computers involved in Internet access.

As part of the application process for E-rate funds, all libraries must certify that they have:

- An Internet safety policy *and*
- Technology in place that filters or blocks pictures that are obscene, child pornography, or harmful to minors.

Additionally, *schools receiving e-rate funds* must:

- adopt and enforce a policy to monitor online activities of minors
- adopt and implement a policy addressing
  - access by minors to inappropriate matter on the Internet;
  - the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;
  - unauthorized access, including so-called "hacking," and other unlawful activities by minors online;
  - unauthorized disclosure, use, and dissemination of personal information regarding minors; *and*
  - restricting minors' access to materials harmful to them.

(Children's Internet Protection Act. Fcc Consumer Fact Sheet. Consumer and Governmental Affairs Bureau. Jan 12, 2006.

<http://www.fcc.gov/cgb/consumerfacts/cipa.html> )

*There is a provision in the laws that the filter may be overridden:*

(3) **DISABLING DURING CERTAIN USE.**--An administrator, supervisor, or person authorized by the responsible authority under paragraph (1) may disable the technology protection measure concerned to enable access for bona fide research or other lawful purposes.

Practice in schools in Maine has been to leave this decision at the school level.

For more clarification on the law and its ramifications, see “CIPA QUESTIONS AND ANSWERS”. American Library Association. JULY 16, 2003.

<http://www.ala.org/ala/washoff/woissues/civil liberties/cipaweb/adviceresources/CIPAQA.pdf>

## Essential Programs and Services (EPS)

The goal of Maine's Essential Programs and Services Model is to insure that all schools have the programs and services that are essential if all students are to have equitable educational opportunities to achieve Maine's Learning Results. The EPS formulas specify a minimum level of funding necessary to cover salaries, transportation costs, administrative costs, supply costs, special education costs and such to educate Maine students to meet the curriculum standards.

The EPS statute

<http://www.mainelegislature.org/legis/statutes/20-A/title20-Ach606-Bsec0>

[.html](#) is a funding formula rather than a standard for school library staffing. It does, however, include staff to student ratios for the level of staffing funded by EPS for elementary, middle and high school libraries. ***The student-to-library media specialist ratio is 800:1; the student-to- library media assistant or education technician ratio is 500:1.*** School library expenses are not specifically delineated in the funding formulas put forth in this legislation, but are incorporated in the general funding recommendations for instruction, supplies and technology.

To read the legislation and help understand its implications, visit

<http://www.state.me.us/education/data/eps/epsmenu.htm>.

## **Family Educational Rights and Privacy Act of 1974 (FERPA)**

As librarians, we have concerns about such issues as censorship and free access to information. We have also been concerned with a patron's right to privacy, censorship and free access to information. As school librarians, we must additionally be aware of the rights of students and their parents. These parental and student rights are delineated in the Family Educational Rights and Privacy Act of 1974 (FERPA). This law gives parents specific rights over the educational records of their children until the student turns 18 or begins attending a postsecondary institution. Schools may not publicly release student information without written parental consent. This law applies to all schools that receive funding of any sort from the U.S. Department of Education.

There are certain exceptions to the release information. This involves information that is considered "directory information". Examples of directory information include:

- Sports activity sheets
- Drama playbill listed students and their roles
- Honor roll or other recognitions lists
- Graduation programs
- Yearbooks
- Military recruiters

Library records are not clearly identified in the legislation as educational records. Some states have passed laws allowing parental access to their students' library records. Local school districts may have policies that govern parental access to student records that include library records. Check with your school district policies to understand your restrictions and responsibilities.

To learn more about FERPA and its impact on the school library, refer to these resources:

To view the summary of the law, visit

<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

A presentation by Sarah Foster, Assistant Attorney General.

[www.maine.gov/dhhs/eohp/epht/documents/FERPA.pdf](http://www.maine.gov/dhhs/eohp/epht/documents/FERPA.pdf) - 2006-10-25

A summary of the American Library Association with links to other resources.

<http://www.ala.org/ala/washoff/oitp/emailtutorials/privacya/10.cfm>

## **Every Student Succeeds Act (ESSA)**

The Every Student Succeeds Act (ESSA) was passed by Congress in 2015. This act is the latest re-authorization of the Elementary and Secondary Education Act (ESEA) that had been previously known as “No Child Left Behind.” ***Provisions of ESSA recognize the key role effective school library programs play in improving student academic achievement and ensuring that students are adequately prepared for college and success in the workforce.***

### **The changes that are pertinent to school libraries:**

#### **Title I – Improving Basic Programs Operated by State and Local Educational Agencies –**

Under Title I of ESEA, local educational agencies (LEAs) must develop plans to implement federal education activities. ESSA includes new provisions that authorize local plans to include a description of how the LEA will assist schools in developing effective school library programs to provide students an opportunity to develop digital literacy skills and improve academic achievement.

#### **Title II, Part A – Supporting Effective Instruction –**

Under ESSA, Title II, Part A includes new provisions that authorize States to use funds to support the instructional services provided by effective school library programs. It also includes new provisions that authorize LEAs to use funds to support the instructional services provided by effective school library programs.

#### **Title II, Part B, Subpart 2 – Literacy Education for All, Results for the Nation (LEARN) –**

Includes a new literacy program to help improve student academic achievement in reading and writing by providing federal support to States to develop, revise, or update comprehensive literacy instruction plans. ESSA requires local grants that focus on children in kindergarten through grade 5 to provide high-quality professional development opportunities for teachers, literacy coaches, literacy specialists, English as a second language specialists (as appropriate), principals, other school leaders, specialized instructional support personnel, school librarians, paraprofessionals, and other program staff.

ESSA also requires local grants that focus on children in grades 6 through 12 to provide training for principals, specialized instruction, support personnel, school librarians, and other school district personnel to support, develop, administer, and evaluate high-quality comprehensive literacy instruction initiatives.

ESSA authorizes all local grants (that serve children in kindergarten through grade 5 or children in grades 6 through 12) to provide time for teachers (and other literacy staff, as appropriate, such as school librarians or specialized instructional support personnel) to meet to plan comprehensive literacy instruction.

**Title II, Part B, Subpart 2, Section 2226 – Innovative Approaches to Literacy** – Includes a new authorization of the Innovative Approaches to Literacy program (previously funded through appropriations legislation) that provides dedicated funding to promote literacy programs in low income communities. It authorizes funds to be used for developing and enhancing effective school library programs, which may include providing professional development for school librarians, books, and up-to-date materials to high need schools.

**Title II, Part B, Subpart 2, Section 2232 – Presidential and Congressional Academies for American History and Civics** – Includes a new American History and Civics Education program to improve the quality of American history education and teaching. ESSA defines an eligible entity as an institution of higher education or nonprofit educational organization, museum, *library*, or research center with demonstrated expertise in historical methodology or the teaching of American history and civics.

**Title IV, Part A – Student Support and Academic Enrichment Grants** – Authorizes a new Student Support and Academic Enrichment grant program to help States and school districts target federal resources on local priorities. It authorizes States to use funds to assist LEAs with identifying and addressing technology readiness needs, including Internet connectivity and access to school libraries.

ESSA also authorizes States to use funds to assist LEAs in providing teachers, paraprofessionals, school librarians and media personnel, specialized instructional support personnel, and administrators with the knowledge and skills to use technology effectively, including effective integration of technology, to improve instruction and student achievement.

**Title IV, Part B – 21st Century Community Learning Centers** – This program supports community learning centers that provide academic enrichment opportunities during non-school hours for children by authorizing grants to be used to support expanded library service hours (consistent with current law).

**Title VIII – General Provisions** – Contains definitions that apply to all activities under ESEA.

The definition of “specialized instructional support personnel” will include “school librarians.”

***\*\* Please keep in mind that ESSA authorizes but does not require the integration of school libraries in the implementation of the law. It does, however, provide the opportunity to stress the vital importance of an effective school library program in maximizing student success.***

**L.D. 291 An Act To Require Teaching of Maine Native American History and Culture in Maine's Schools**

In 2001, during the 120<sup>th</sup> Legislature, the instructional requirements for public education in the State of Maine were amended to include mandatory instruction of Maine Native American history and culture. Specifically the law states:

**Sec. 1. 20-A MRSA §4706**, as amended by PL 1991, c. 655, §4, is further amended to read:

**§4706. Instruction in American history, Maine studies and Maine Native American history**

**2. Maine studies.** Maine history, including the Constitution of Maine, Maine geography and environment and the natural, industrial and economic resources of Maine and Maine's cultural and ethnic heritage, must be taught. A required component of Maine studies is Maine Native American studies addressing the following topics:

- A. Maine tribal governments and political systems and their relationship with local, state, national and international governments;
- B. Maine Native American cultural systems and the experience of Maine tribal people throughout history;
- C. Maine Native American territories; and
- D. Maine Native American economic systems.

**Sec. 2. Maine Native American History and Culture Commission.** The Maine Native American History and Culture Commission, referred to in this section as the "commission," is established to help prepare for the inclusion of Maine Native American history and culture into the required course in Maine studies as specified in the Maine Revised Statutes, Title 20-A, section 4706, subsection 2.

*Library staff are key to providing the resources to support the implementation of this act in the classroom.*

## NATIVE AMERICAN RESOURCES

Due to the plethora of good and bad resources available, it is important to understand *why* some resources are inappropriate, and to teach our students to be ‘information literate’ in selecting sources themselves. Librarians can lead the way to implementation of LD 291 by being familiar with and promoting the following resources:

### **WABANAKI RESOURCES**

**The Wabanakis of Maine and the Maritimes: A Resource about Penobscot, Passamaquoddy, Maliseet, Micmac and Abenaki Indians.** Revised edition published in 2002 and available from the American Friends Service Committee’s web site, this book is generally considered the most useful book for all educators with which to start. It includes historical overview, lesson plans, readings, fact sheets and an audio disc.

**Maine Natives/Wabanaki Studies.** The Maine Department of Education provides links to appropriate Wabanaki resources such as museums, lesson plans, books, films and the legal statue for teaching Wabanaki studies:

<http://www.maine.gov/education/lres/ss/studies.html>

### **Resources available through the University of Maine**

Resources available through the Fogler Library’s Special Collections may be found at:  
<http://library.umaine.edu/speccoll/Guides/nativeamerican.htm>

A variety of resources and additional links for interlibrary loan and databases via Fogler Library by visiting:

<http://www.library.umaine.edu/social/Fernandez/NAS.htm>

### **GENERAL RESOURCES FOR OTHER TRIBES**

**A Broken Flute: The Native Experience in Books for Children.** Published in 2005 and available from the Oyate Organization web site, editors Doris Seale, (Santee/Cree) and Beverly Slapin provide essays dealing with the issue of cultural appropriation in books for children, and evaluations of hundreds of books for children and teenagers published from the early 1900s through 2004.

**American Indians in Children’s Literature.** Debbie Reese (Nambe Pueblo) has discussions of and links to all the ‘important’ and culturally appropriate resources. She not only offers lists of ‘good’ and ‘not good’ materials, but explains *why* at:

<http://americanindiansinchildrensliterature.blogspot.com/>