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STATE OF MAINE  
OFFICE OF THE ATTORNEY GENERAL  
6 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0006

July 8, 2016

**Via Hand Delivery**

Michele Lumbert, Clerk  
Maine District Court – Augusta  
1 Court St., Suite 101  
Augusta ME 04330

Re: *State of Maine v. Commission to Reform Public  
Education Funding and Improve Student  
Performance in Maine*  
District Court, Kennebec County

Dear Ms. Lumbert:

Pursuant to M.R. Civ. P. 80H, I enclose for filing a citation and complaint alleging a civil violation by the named defendant. The citation and complaint specifies an initial appearance date of July 25, 2016, which was previously provided to me by your office.

I also enclose for filing a summary sheet and acknowledgment of receipt of service.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jon Bolton'.

Jonathan R. Bolton  
Assistant Attorney General

Enclosures

STATE OF MAINE  
KENNEBEC, ss

DISTRICT COURT  
DOCKET NO. \_\_\_\_\_

STATE OF MAINE

Plaintiff,

v.

COMMISSION TO REFORM PUBLIC  
EDUCATION FUNDING AND  
IMPROVE STUDENT  
PERFORMANCE IN MAINE,

Defendant.

### CITATION AND COMPLAINT

Pursuant to 17-A M.R.S. § 4-B(1), 1 M.R.S. § 410, and M.R. Civ. P. 80H, the State of Maine, through the undersigned representative of the Attorney General, issues this citation and complaint to the Defendant Commission to Reform Public Education Funding and Improve Student Performance in Maine (the “Commission”) for a violation of 1 M.R.S. § 403 occurring on April 25, 2016, between 8:30am and 11:30am, at the Blaine House, 192 State St., Augusta, ME 04330.

### **Description of the Violation**

1. On March 10, 2016, the Governor of Maine, Paul R. LePage, signed into law P.L. 2015, c. 389, which established the Commission to Reform Public Education Funding and Improve Student Performance in Maine (the “Commission”).

2. The Commission is charged to “collect and analyze data from all public

secondary and postsecondary education units in the State that receive state funding” in order to produce a report to the Governor and the Legislature “that includes findings and recommendations for action to reform public education funding and improve student performance in the State.”

3. The law required the Commissioner of Education, or his designee, to convene the Commission no later than May 1, 2016.

4. The Commissioner is required to invite to serve on the Commission the Governor or his designee, a representative of the Department of Education, members of the legislature, and various stakeholders in Maine’s public education system. The Department of Education representative is to serve as chair of the Commission.

5. The legislation establishing the Commission contains no provision exempting it from the open-meetings requirement of the Freedom of Access Act, 1 M.R.S. § 403.

6. As of May 1, 2016, Dr. William Beardsley was acting as the State’s Commissioner of Education.

7. Dr. Beardsley and his staff worked closely with Governor LePage’s staff, particularly senior education policy advisor Aaron Chadbourne, in identifying members of the Commission and planning its first meeting.

8. As constituted, the Commission’s members included Governor LePage (with Mr. Chadbourne as the Governor’s designee when the Governor was unavailable) and Dr. Beardsley himself, who was to serve as the Department of

Education representative and chair of the Commission.

9. On or about April 15, 2016, Dr. Beardsley sent a letter to Governor LePage in which he “propos[ed] to convene the group for its first meeting on April 25, 2016.”

10. The April 25 meeting was to occur at the State House, in the cabinet room, and was scheduled to last three hours.

11. The agenda for the April 25 meeting made clear that the Commission would be engaging in the task assigned to it by its enabling statute: studying educational issues for the purpose of producing a report with findings and recommendations.

12. At some point prior to April 21, 2016, officials in the Governor’s Office, the Department of Education, or both, determined that the April 25 meeting would be closed to the public.

13. In the week leading up to the April 25 meeting, various individuals, including members of the Commission, expressed concern to the Department of Education and the Governor’s Office about the lack of public access to the meeting.

14. On or around April 20, 2016, the location of the meeting was changed from the State House to the Blaine House dining room. On information and belief, the change in location was in response to growing public criticism of the decision to close the meeting.

15. After the meeting was moved, officials changed how they characterized it. For example, on April 21, 2016, Mr. Chadbourne edited a draft Department of

Education press release to strike out the phrase “[t]he Commission will convene April 25, 2016” and replace it with “[t]he Governor has invited the members of the Commission to a reception at the Blaine House on April 25, 2016, so that they may meet each other and discuss how they will work together in furtherance of the goals outlined in LD 1641.”

16. Although officials changed how they described the meeting, they made no changes to the meeting’s agenda or its scheduled three-hour length, as is reflected in the materials distributed at the meeting, available at <http://www.maine.gov/doe/blue-ribbon/>.

17. On April 22, 2016, the Department of Education consulted with its attorney in the Office of Attorney General regarding public access to the April 25 meeting. The Department was advised that the Commission’s meetings were subject to the open-meetings provision of the Freedom of Access Act.

18. Later the same day, Dr. Beardsley was personally advised by the Office of Attorney General that, based on his description of the agenda, the planned meeting qualified as a public proceeding under the Freedom of Access Act.

19. The Commission’s meeting occurred as scheduled on the morning of April 25 within the Blaine House and lasted approximately three hours. The meeting generally followed the published agenda, and included briefings by various experts—in some cases accompanied by PowerPoint slides—and a discussion to identify “higher-order consensus outcomes” for the Commission.

20. Mr. Chadbourne stood outside the Blaine House and turned away

members of the public seeking entry to the Commission's meeting.

21. At no point were members of the public allowed into the Blaine House to attend the meeting.

22. After the meeting concluded, the Governor told his staff that he would rather disband the Commission than open future meetings to the public, implying that the alleged informal nature of the first meeting was not the basis for the decision to bar the public.

**Count I**  
**Violation of the Freedom of Access Act**

23. The State of Maine repeats and realleges each of the foregoing paragraphs 1–22.

24. The Commission is a state government agency subject to the open-meeting requirements of the Freedom of Access Act as an advisory organization established, authorized, or organized by a law that does not specifically exempt it from the Freedom of Access Act. 1 M.R.S. § 402(2)(F).

25. As of April 25, 2016, Dr. Beardsley, as chair of the Commission, was an officer of the Commission.

26. The Freedom of Access Act provides, in relevant part, “[e]xcept as otherwise provided by statute or by section 405, all public proceedings must be open to the public and any person must be permitted to attend a public proceeding.” 1 M.R.S. § 403(1).

27. The Commission held a public proceeding on April 25, 2016.

28. Members of the public seeking to attend the April 25, 2016 public

proceeding were denied entry.

29. Dr. Beardsley knew that the Commission's April 25 meeting was a public proceeding.

30. Dr. Beardsley knew that the Governor's Office intended to bar members of the public from entering the Blaine House to attend the Commission's meeting.

31. By convening the meeting of the Commission at a venue that had been made inaccessible to members of the public, Dr. Beardsley violated 1 M.R.S. § 403.

32. Dr. Beardsley's violation of 1 M.R.S. § 403 was willful.

33. By virtue of Dr. Beardsley's violation, the Commission is liable for a civil violation for which a forfeiture of not more than \$500 may be adjudged.

1 M.R.S. § 410.

**Summons**

YOU ARE HEREBY ORDERED TO APPEAR BEFORE THE COURT LOCATED

AT:

Maine District Court - Augusta  
1 Court Street  
Augusta, ME 04330

AT THE FOLLOWING DATE AND TIME:

Date: **July 25, 2016** Time: **8:30 AM**  
Court telephone number: (207) 213-2800

DATED: July 8, 2016

JANET T. MILLS  
Attorney General



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Jonathan R. Bolton #4597  
Assistant Attorney General  
6 State House Station  
Augusta, Maine 04333-0006  
Tel. (207) 626-8551  
Fax (207) 287-3145  
[jonathan.bolton@maine.gov](mailto:jonathan.bolton@maine.gov)



**SUMMARY SHEET**

M.R. Civ. P. 5(h)

This summary sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by the Maine Rules of Court or by law. This form is required for the use of the Clerk of Court for the purpose of initiating or updating the civil docket. (SEE ATTACHED INSTRUCTIONS)

**I. County of Filing or District Court Jurisdiction:** Kennebec County

**II. CAUSE OF ACTION** (Cite the primary civil statutes under which you are filing, if any.)

**1 M.R.S. § 410; 17-A M.R.S. § 4-B(1)**

**III. NATURE OF FILING**

- Initial Complaint
- Third-Party Complaint
- Cross-Claim or Counterclaim
- If Reinstated or Reopened case, give original Docket Number \_\_\_\_\_  
(If filing a second or subsequent Money Judgment Disclosure, give docket number of first disclosure)

**IV.**  TITLE TO REAL ESTATE IS INVOLVED

**V. MOST DEFINITIVE NATURE OF ACTION.** (Place an X in one box only) Check the box that most closely describes your case.

GENERAL CIVIL (CV)

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Personal Injury Tort           | <input type="checkbox"/> Contract                     | <input type="checkbox"/> Other Forfeitures/Property Libels |
| <input type="checkbox"/> Property Negligence            | <input type="checkbox"/> Contract                     | <input type="checkbox"/> Land Use Enforcement (80K)        |
| <input type="checkbox"/> Auto Negligence                | <input type="checkbox"/> Declaratory/Equitable Relief | <input type="checkbox"/> Administrative Warrant            |
| <input type="checkbox"/> Medical Malpractice            | <input type="checkbox"/> General Injunctive Relief    | <input type="checkbox"/> HIV Testing                       |
| <input type="checkbox"/> Product Liability              | <input type="checkbox"/> Declaratory Judgment         | <input type="checkbox"/> Arbitration Awards                |
| <input type="checkbox"/> Assault/Battery                | <input type="checkbox"/> Other Equitable Relief       | <input type="checkbox"/> Appointment of Receiver           |
| <input type="checkbox"/> Domestic Torts                 | <input type="checkbox"/> Constitutional/Civil Rights  | <input type="checkbox"/> Shareholders' Derivative Actions  |
| <input type="checkbox"/> Other Negligence               | <input type="checkbox"/> Constitutional/Civil Rights  | <input type="checkbox"/> Foreign Deposition                |
| <input type="checkbox"/> Other Personal Injury Tort     | <input type="checkbox"/> Statutory Actions            | <input type="checkbox"/> Pre-action Discovery              |
| <input type="checkbox"/> Non-Personal Injury Tort       | <input type="checkbox"/> Unfair Trade Practices       | <input type="checkbox"/> Common Law Habeas Corpus          |
| <input type="checkbox"/> Libel/Defamation               | <input checked="" type="checkbox"/> Freedom of Access | <input type="checkbox"/> Prisoner Transfers                |
| <input type="checkbox"/> Auto Negligence                | <input type="checkbox"/> Other Statutory Actions      | <input type="checkbox"/> Foreign Judgments                 |
| <input type="checkbox"/> Other Negligence               | <input type="checkbox"/> Miscellaneous Civil          | <input type="checkbox"/> Minor Settlements                 |
| <input type="checkbox"/> Other Non-Personal Injury Tort | <input type="checkbox"/> Drug Forfeitures             | <input type="checkbox"/> Other Civil                       |

CHILD PROTECTIVE CUSTODY (PC)

- Non-DHS Protective Custody

SPECIAL ACTIONS (SA)

- Money Judgment**
- Money Judgment Request Disclosure

REAL ESTATE (RE)

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Title Actions  | <input type="checkbox"/> Foreclosure                      | <input type="checkbox"/> Misc. Real Estate  |
| <input type="checkbox"/> Quiet Title    | <input type="checkbox"/> Foreclosure (ADR exempt)         | <input type="checkbox"/> Equitable Remedies |
| <input type="checkbox"/> Eminent Domain | <input type="checkbox"/> Foreclosure (Diversion eligible) | <input type="checkbox"/> Mechanics Lien     |
| <input type="checkbox"/> Easements      | <input type="checkbox"/> Foreclosure - Other              | <input type="checkbox"/> Partition          |
| <input type="checkbox"/> Boundaries     |   | <input type="checkbox"/> Adverse Possession |
|   |   | <input type="checkbox"/> Nuisance           |
|   |   | <input type="checkbox"/> Abandoned Roads    |
|   |   | <input type="checkbox"/> Trespass           |
|   |   | <input type="checkbox"/> Other Real Estate  |

APPEALS (AP) (To be filed in Superior Court) (ADR exempt)

- Governmental Body (80B)
- Administrative Agency (80C)
- Other Appeals

**VI. M.R. Civ. P. 16B Alternative Dispute Resolution (ADR):**

- I certify that pursuant to M.R. Civ. P. 16B(b), this case is exempt from a required ADR process because:
  - It falls within an exemption listed above (i.e., an appeal or an action for non-payment of a note in a secured transaction).
  - The plaintiff or defendant is incarcerated in a local, state or federal facility.
  - The parties have participated in a statutory pre-litigation screening process with \_\_\_\_\_
  - The parties have participated in a formal ADR process with \_\_\_\_\_ on \_\_\_\_\_ (date).
- This is an action in which the plaintiff's likely damages will not exceed \$50,000, and the plaintiff requests an exemption from ADR pursuant to M.R. Civ. P. 16C(g).

VII. (a)  PLAINTIFFS (Name & Address including county)  
or  Third-Party,  Counterclaim or Cross-Claim Plaintiffs  
 The plaintiff is a prisoner in a local, state or federal facility.

The State of Maine

(b) Attorneys (Name, Bar number, Firm name, Address, Telephone Number) If all counsel listed do NOT represent all plaintiffs, specify who the listed attorney(s) represent.

Jonathan R. Bolton, AAG  
Bar No. 4597  
Office of the Attorney General  
6 State House Station  
Augusta ME 04333-0006  
(207) 626-8551

VIII. (a)  DEFENDANTS (Name & Address including county)  
and/or  Third-Party,  Counterclaim or  Cross-Claim Defendants  
 The defendant is a prisoner in a local, state or federal facility.

Commission to Reform Public Education Funding and Improve Student Performance in Maine  
c/o Maine Department of Education  
23 State House Station  
Augusta ME 04333-0023

(b) Attorneys (Name, Bar number, Firm name, Address, Telephone Number)  
(If known)

If all counsel listed do NOT represent all defendants, specify who the listed attorney(s) represents.

IX. (a)  PARTIES OF INTEREST (Name & Address including county)

(b) Attorneys (Name, Bar number, Firm name, Address, Telephone Number)  
(If known)

If all counsel listed do NOT represent all parties, specify who the listed attorney(s) represents.

X. RELATED CASE(S) IF ANY \_\_\_\_\_  
Assigned Judge/Justice \_\_\_\_\_ Docket Number \_\_\_\_\_

Date: July 8, 2016 \_\_\_\_\_

Jonathan R. Bolton \_\_\_\_\_

Name of Plaintiff or Lead Attorney of Record

  
Signature of Plaintiff or Attorney

STATE OF MAINE  
KENNEBEC, ss

DISTRICT COURT  
DOCKET NO. \_\_\_\_\_

STATE OF MAINE

Plaintiff,

v.

COMMISSION TO REFORM PUBLIC  
EDUCATION FUNDING AND  
IMPROVE STUDENT  
PERFORMANCE IN MAINE,

Defendant.

ACKNOWLEDGMENT OF  
RECEIPT OF CITATION  
AND COMPLAINT

By signing, dating and returning this form, I state that I received a copy of the Citation and Complaint, that I have been authorized to accept service from the State of Maine's attorney on behalf of the defendant in the above-captioned action, and that the defendant otherwise waives any right to service of the Citation and Complaint.

I understand that if the defendant does not appear at the time and place specified in the Citation and Complaint or at any other court conferences or hearings, then a judgment may be entered against the defendant in its absence, and the State of Maine may request that other orders be entered against it.

Date: 7/9/16



Avery Day, Esq.  
Office of the Governor  
1 State House Station  
Augusta, ME 04333-0006  
(207) 287-3535