



SEN. NATHAN LIBBY, SENATE CHAIR  
REP. HOLLY STOVER, HOUSE CHAIR

MEMBERS:

SEN. LISA KEIM  
SEN. DONNA BAILEY  
SEN. RICHARD BENNETT  
SEN. SUSAN DESCHAMBAULT  
SEN. JEFFREY TIMBERLAKE  
REP. H. SAWIN MILLETT, JR.  
REP. AMY ARATA  
REP. MARK BLIER  
REP. JESSICA FAY  
REP. MARGARET O'NEIL

MAINE STATE LEGISLATURE  
GOVERNMENT OVERSIGHT COMMITTEE

**MEETING SUMMARY**  
**February 11, 2022**

**Call to Order**

The Chair, Rep. Stover, called the Government Oversight Committee to order at 10:00 a.m.

**ATTENDANCE**

Senators: Sen. Bailey, Sen. Bennett, Sen. Deschambault, Sen. Timberlake  
Absent: Sen. Keim, Sen. Deschambault, Sen. Libby

Representatives: Rep. Blier, Rep. Millett, Rep. Stover, Rep. O'Neil, Rep. Arata,  
Rep. Fay

Legislative Officers and Staff: Lucia Nixon, Director, OPEGA  
Sabrina Carey, Secretary, OPEGA, GOC Committee Clerk

## Introduction of Committee Members

The members of the Committee introduced themselves. Rep. Stover reminded everyone of the electronic meeting conduct and procedures.

## Summary of February 11, 2022 GOC Meeting

The Summary of February 11, 2022 Meeting was accepted as written.

## New Business

- **Public Comment Period – OPEGA Information Brief, Oversight of Maine’s Child Protective Services** (All public comment received is available here: [All Public Comment on CPS Info Brief Report](#))

Betsey Grant presented testimony to the committee. (testimony pg 5 of document)

Rep. Arata asked Ms. Grant if the back pay for subsidies issue was before the pandemic or caused by the pandemic.

Ms. Grant answered that it was a problem getting payment from the state before the pandemic.

Sen. Bill Diamond presented testimony to the committee. (testimony pg 1 of document)

Sen. Timberlake thanked Sen. Diamond for this testimony and asked Sen. Diamond what he thought the next step should be in the next two or three months?

Sen. Diamond stated he was looking forward to the next report that is going to be issued at the end of March. He thought that the committee had scheduled it that way so that it would allow a little time left in this legislative session to maybe address some of the issues. Sen. Diamond thought that this first report was getting all of the cards in the right line, and the next report will hopefully be revealing some of the reasons why there are record child deaths and why it is hard to have communication with OCFS. He reminded the committee that in June, there were resignations of two members of the board of the ombudsman because they felt that nothing was changing with communication and with policies and procedures. He said that he hoped there will be more insights in the next report and sees that as the next critical step. Beyond that, whatever can be done with existing legislation to increase the transparency and take down the barriers that seem to have been built up for so long.

Sen. Bailey asked if Sen. Diamond knew how Maine fairs in comparison to all 50 states since the comparison chart he mentioned about compliance standards is limited only to other new England states? She mentioned that if Sen. Diamond did not have that information that she would ask Director Nixon and the OPEGA staff if they could find that information.

Sen. Diamond answered that he had just spoken to OPEGA about that, and that he believed that the information can be gathered.

Rep. Arata asked Sen. Diamond if he had had a change to look over the OCFS letter of response to the recent Ombudsman report? Rep. Arata stated that it references that OCFS tries to keep children with the family, and the child first prevention act that they are going to implement. She asked Sen. Diamond if he had any thoughts on that.

Sen. Diamond answered that he had seen the response but had not looked at it in detail.

Sen. Diamond answered that the problem with family reunification becoming the default position to go to is that they have seen multiple cases recently where that was tried, or even pushed. His position is that he believes the

priority of the department should be placing the child in the safest place, not pushing the envelope towards reunification with family. It should be the first priority for the child to be safe. That is the basic responsibility of OCFS, placing the child safely. He stated that this is what the Ombudsman has been saying for years, that OCFS struggles with that decision making. He stated that all of the child deaths from last June resulted in a parent being charged with manslaughter or murder and you can see why if you read the affidavits.

Rep. Arata then asked if he thought that there was any legislation that could come out of the GOC that could help, or is that not their place to determine the culture or processes of OCFS.

Sen. Diamond thought that the findings of the next report in March may reveal legislation that is needed as soon as possible regarding the protection of kids in state care. He stated that he has a bill (in HHS) that will require the GOC to get a quarterly report from the Office of Child and Family Services to maintain that year-round contact.

Victoria Vose presented testimony to the committee regarding her personal experience with CPS.

Christine Alberi presented testimony to the committee. (testimony pg 8 of document)

Sen. Timberlake asked how Ms. Alberi would address the restrictions on sharing information?

Ms. Alberi answered that there are some things that they are allowed to do that they haven't been doing; things that are not necessarily prohibited by law. For example, in the past, she was invited to review a case on the Child Death and Serious Injury Review Panel, if it came up again by the department. She stated that she can't release or talk about confidential reports outside of DHHS itself. To allow that would require a statute change. She said that would not mean that they would be sending all of the reports to the Child Death and Serious Injury Review Panel, but it would be ideal if they could maybe have a biannual meeting of the different panels where they could share information and then ask other panels if they have seen anything similar in their practice. Each individual oversight body would have to have their governing laws reviewed to see what would need to be changed, if anything to allow this.

Sen. Bailey asked Ms. Alberi if there was any place for the public to report allegations of caseworkers or members of the department not following the department policy or is it just her office where people can make such reports?

Ms. Alberi answered that she believes that outside of DHHS, her office is the only one who is authorized to investigate complaints made specifically against child welfare service. For some issues however, she would encourage contacting a supervisor within the district office of whatever department the caseworker is from, because some of the issues that might come up are personnel issues as opposed to systemic issues.

Rep. Fay asked if Ms. Alberi had a chance to look at the current bill that is going to impact her work as the Ombudsman, and asked if she was involved in the crafting of that bill.

Ms. Alberi answered that there are four pieces of legislation that could potentially change the way her office is structured or funded. The Governor's bill is something that the Ombudsman's office including the board of directors, was very much involved in negotiating with the Department and forming the language of the bill. They gave a lot of input. They also answered questions from the folks that submitted some of the other legislation as well. So, there is a lot of pending legislation to strengthen the ombudsman's office.

Molly Bogart, DHHS, presented her testimony to the committee. (testimony pg 10 of document)

Sen. Timberlake asked Ms. Bogart what she thought could be done to lessen the record-breaking child deaths that have been seen over the last year.

Ms. Bogart answered that there is a lot of work that needs to be done that crosses systems beyond child protective services. The department has a dashboard that they now share publicly that categorizes those deaths. There are a number that are related to accidents and some that are related to the children being victims of crimes. They are still at a point where there are people being prosecuted for some of those fatalities. They are assessing each of those fatalities in depth to understand the root cause. That is one of the benefits from the safety science work that they are implementing following the engagement with Casey Family Programs to have a better way to assess the root causes of these tragedies and ensure that they make the system changes that are needed to prevent them in the future.

Sen. Timberlake asked if she sees the communication factor and transparency factor between all of the different bureaucracies as part of the problem as to why there was a rise in child deaths.

Ms. Bogart answered that the administration has been committed to transparency from the beginning, and they have done a lot of work to ensure that they have increased public reporting and have stayed at the table when asked by legislators and stakeholders to engage with folks. There is always work to be done with transparency and communication, but she thinks they have done some good work to further build the relationship with the child welfare Ombudsman and the stakeholders they work with. She noted that when looking at confidentiality, it is important to remember that when information becomes public, it is public forever, and that can have a huge impact on the ability to prosecute individuals who perpetuate crimes. She noted that it can also be a disincentive to people disclosing information to the department, if they know that it can be disclosed to the public or to specific stakeholders. So, it is important to balance those.

Rep. Stover asked the committee if there was any other information they would like OPEGA to gather.

Sen Timberlake asked for more information on the statute where it says they can't share information between departments.

Rep. Arata stated she would like to know more about the decision-making process of the office of Child and Family Services. How do they make a decision? Is there a decision tree, for example?

Director Nixon responded that what Rep. Arata is looking for may be answered in the OPEGA report that will be delivered to the GOC in March and that hopefully a lot of those questions about the process and factors in decision making will come in that report.

Rep. Millett asked if there was a way to distill or organize information in advance so members don't have to individually read everything. He asked if it would be possible to categorize the focus of the work session a little bit around themes in a way that would help them engage in a work session smoothly. Is there anything OPEGA can do to help organize the thinking process prior to the work session?

Director Nixon answered that she would be happy to try and pull something together for the committee before the work session.

- **Maine Commission on Indigent Legal Services, 3<sup>rd</sup> Quarterly Report Back**

**Justin Andrus**, Executive Director, MCILS, presented his quarterly report back from MCILS. (All presentation documents can be found here: [MCILS Documents](#))

Sen. Bailey asked how many rostered attorneys does MCILS have and how does that compare to the last report he gave?

Mr. Andrus responded that currently they have 280. They fell to about 225 over the summer but they are back to 280. He noted that these are not the same 280 attorneys every day, they are opting in and out of the list of eligibility to receive cases to manage their caseload. Total they have about 315 attorneys that have some form

of open case in the system. The 280 persons available is fairly consistent, but is slowly declining as there are some people who are finishing cases and not coming back.

Rep. Millett commented that he was impressed with Mr. Andrus's report back, in how it was organized and the amount of wealth of information he provided to the committee. He thought that these report backs are showing the progress that Mr. Andrus is making at MCILS. He thanked Mr. Andrus for the work he has been doing and the information that he organized for the committee.

- **Tax Expenditure Reviews – GOC Annual Review of Categories and Schedule**

Director Nixon revisited the Tax Expenditure Review category assignments and schedule that were presented and explained at the previous committee meeting on January 21, 2022. She presented the committee a memo that came from the Taxation Committee, who met the day prior, stating that they as a committee agree with what the GOC transmitted to them as recommendations for adjustments to the review category assignments and schedule. (A copy of the category and schedule documentation can be found here: [GOC- Proposed Tax Expenditure Categorization and Schedule](#))

(A copy of the memo from TAX to GOC can be found here: [Memo from TAX](#))

#### **Committee Vote -**

**Motion: To approve the adjustments to the tax expenditure review category assignments and schedule for full evaluations as presented.**

(Motion by Rep. Millett, Second by Sen. Bennett, passed unanimous vote 10-0, 2 absent.) (Sen. Libby and Rep. O'Neil voted on the motion in the allowed time frame in accordance with the GOC's Rules.)

## **Report from Director**

- **Status of projects in process**

Director Nixon shared the 2021-2022 Work Plan with the committee and reviewed the status of current projects, recently completed projects and requests for OPEGA reviews. (Document can be found here: [2021-2022 Work Plan](#)). The Director mentioned in reference to the the Wild Blueberry Commission review request, the ACF (Agriculture Conservation and Forestry) Committee just had a briefing on it this week and requested some additional information from the Wild Blueberry Commission. She understands that ACF intends to receive that information and then decide what to do in regards to reporting back to the GOC. Director Nixon also mentioned the bills in the HHS Committee relating to CPS that were up for Public Hearings on Thursday the 17<sup>th</sup> and Tuesday, February 22<sup>nd</sup> to help keep GOC members updated about the current status of those bills.

## **Planning for upcoming meetings**

Rep. Millett asked if there was any plan of when committees may be going back to in-person meetings so that they can receive their binders of materials instead of having envelopes mailed to their homes. Director Nixon noted currently the Legislature is holding remote committee meetings through February, and they will need to wait for further guidance on to when they may shift to in-person or hybrid meetings.

## **Next GOC meeting date**

Rep. Stover noted that the next GOC meeting is scheduled for Friday, February 25, 2022 at 10:00 a.m. and will be held electronically.

## **Unfinished Business**

- None

## **Adjourn**

The Chair, Rep. Stover, adjourned the Government Oversight Committee meeting at 11:56 a.m. on a motion by Sen. Bennett, seconded by Rep. Blier.