THE TRACE RULE

Transparency, Recordkeeping, Accountability, Communication, and Explanation

A Citizen Petition to Strengthen Transparency in Maine's Administrative Appeals Process

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Proposed Administrative Rule

TRACE Rule

Transparency, Recordkeeping, Accountability, Communication, and Explanation Rule for Administrative Appeals

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Section 1. Purpose

The purpose of the TRACE Rule is to strengthen transparency, accountability, procedural fairness, and public confidence by ensuring that significant administrative decisions affecting the processing of administrative appeals are documented, periodically reviewed, and communicated to affected individuals in a timely and consistent manner.

The TRACE Rule recognizes that while agencies must retain flexibility to manage workloads and respond to changing operational demands, administrative decisions that materially affect the rights and expectations of Maine citizens should leave a documented administrative record and be subject to appropriate review.

Section 2. Applicability

This rule applies whenever the Department implements a department-wide or program-wide administrative decision that substantially delays, suspends, pauses, reprioritizes, or otherwise materially affects the normal processing of administrative appeals.

Section 3. Documentation Requirements

Whenever such an administrative action is implemented, the Department shall create and maintain a written administrative record containing, at minimum:

1. The effective date of the action.
2. A description of the administrative action.
3. The operational basis for the decision.
4. The Department official or officials authorizing the action.
5. The anticipated duration of the action, if reasonably known.
6. The criteria that will be used to determine whether continuation of the action remains necessary.
7. The scheduled date for the first administrative review.

Documentation required by this section shall be completed contemporaneously with, or as soon as reasonably practicable following, implementation of the administrative action.

Section 4. Notice to Affected Individuals

Unless prohibited by state or federal law, individuals whose pending administrative appeals are materially affected by the action shall receive written notice containing:

1. Notice that the appeal has been delayed, suspended, paused, reprioritized, or otherwise affected.
2. A general explanation of the administrative reason for the action.
3. Contact information for obtaining additional information regarding the status of the appeal.
4. Notice when normal processing has resumed, if applicable.

Section 5. Periodic Review Requirement

If an administrative delay, suspension, pause, or reprioritization remains in effect for more than ninety (90) consecutive calendar days, the Department shall complete a written administrative review.

Each review shall include:

1. Whether the original justification continues to exist.

2. Whether reasonable alternative approaches have been considered.
3. The estimated number of pending administrative appeals affected.
4. Whether continuation of the administrative action remains necessary.
5. Whether modification or termination of the action is appropriate.
6. The anticipated timeline for returning to normal processing, if reasonably known.

Additional written reviews shall occur at least once every ninety (90) calendar days for as long as the administrative action remains in effect.

Section 6. Record Retention and Public Availability

All records created pursuant to this rule shall be retained in accordance with applicable state record retention requirements.

To the extent permitted by state and federal law, such records shall remain available for:

- Internal administrative review;
- Legislative oversight;
- Government auditing;
- Lawful public inspection pursuant to the Maine Freedom of Access Act.

Section 7. Exceptions

Nothing in this rule shall:

1. Require disclosure of information made confidential by state or federal law.
2. Prevent emergency administrative actions authorized by statute.
3. Require disclosure of information protected by attorney-client privilege, ongoing investigations, or other legally protected communications.

Statement of Intent

The TRACE Rule is founded upon a simple principle:

When government makes significant administrative decisions that materially affect the processing of citizens' administrative appeals, those decisions should not occur without documentation, periodic reassessment, and communication whenever legally permissible.

Administrative appeals frequently concern public benefits, healthcare, financial assistance, professional licensing, legal rights, and other matters of significant importance to Maine residents.

The TRACE Rule does not restrict the Department's authority to manage its operations. Instead, it establishes reasonable procedural safeguards that promote transparency, accountability, institutional recordkeeping, and public confidence while preserving necessary administrative flexibility.

The TRACE Rule seeks to ensure that future administrative decisions affecting appeals leave a clear administrative record for agency leadership, oversight bodies, auditors, courts where appropriate, and the people of Maine.

Guiding Principle

Government should never ask citizens to trust decisions that leave no trace.

Every significant administrative decision affecting the appeals process should leave a documented record.

Every affected citizen deserves meaningful communication.

Every long-term administrative action deserves periodic review.

Transparency builds trust.

Accountability preserves trust.

Documentation protects both government and the people it serves.

That is the purpose of the TRACE Initiative.