

To: The Education and Cultural Affairs Committee

From: Justine Tanguay, Esq.

Re: Testimony Supporting LD 51: "An Act to Restore Religious and Philosophical Exemptions to Immunization Requirements"

Date: 4/3/23

Good afternoon, Senator Rafferty, Representative Brennan, and distinguished members of the committee, I am asking you today to vote ought to pass on LD 51.

My name is Justine Tanguay. I am an attorney and former Assistant Attorney General for the State of Maine who has spent my entire career advocating on the behalf of children of all ages in various areas of the law, including health, child protection, child support, paternity, appellate, probate, and family law matters. I am also a certified mediator, Guardian ad litem, and Parenting Coordinator in high conflict cases. I grew up in Maine and up until 10 years ago, lived and worked here.

I have family, friends, and colleagues who are still residents of Maine. From afar, I have witnessed the changes that Maine has experienced in the least 3 years.

I am grateful for the opportunity to testify before you in support of LD 51. While LD 51 would restore the religious and philosophical exemptions for students that existed for years before LD 798 was passed in 2019, LD 51 would not repeal any current immunization requirements.

As an attorney, I have concerns that the current law LD 798 that does not allow for students to obtain either a philosophical or religious exemption in order to attend school violates the 14th Amendment's Equal Protection Clause. The Equal Protection Clause of the 14th Amendment requires the States to "treat alike" all persons similarly situated within their borders.

Specifically, the Supreme Court of the United States addressed this issue in a 1982 case called Plyler v. Doe. In that case, the Supreme Court ruled that a Texas statute that had denied undocumented school age children the free public education that it provided to children who were citizens violated

the children's equal protection rights. Simply stated, the Supreme Court concluded that that law was unconstitutional because it arbitrarily provided an education to some but denied it to others.

Although "public education" is not a "fundamental right" granted to individuals by the Constitution, "neither is education some governmental benefit indistinguishable from other forms of social welfare legislation." Many years ago, the Supreme Court emphasized the importance of education in preparing students for work and life as a citizen. The Court said that education is "pivotal" in maintaining our basic institutions, and when a child is deprived of an education, that deprivation will have a lasting impact not only on the life of a child, but it will affect the fabric of our society. The Plyler Court stated, "By denying these children a basic education, we deny them the ability to live within the structure of our civic institutions and foreclose any realistic possibility that they will contribute even the slightest way to the progress of our Nation." This means that children who are denied the opportunity to attend school due to his or her vaccination status will create a grave harm not only to that child, but that that deprivation will affect the future of America.

I strongly urge you to reconsider what is at stake and stop the furtherance of any class inequalities. Please allow all children the opportunity to attend school and bring back the philosophical and religious exemptions for those in need. Again, I am respectfully requesting that you vote ought to pass on LD 51.

Thank you. I welcome any questions that you may have.