Deb Davis
Portland
LD 1248

4/22/25 Re: LD 1248 (and LD 1097)

Good evening, Senator Rafferty, Representative Murphy, and distinguished members of the Education and Cultural Affairs Committee,

My name is Deb Davis. I urge you to vote AGAINST LD 1248, An Act Regarding Physical Escort and Restraint and Seclusion of Students in Schools, and IN SUPPORT of LD 1097, An Act to Provide De-Escalation and Behavior Intervention Training for School Personnel.

I am writing to you as a Non-Attorney Education Advocate with 16 years of experience, currently working at Heron Legal Youth Advocacy in Portland, Maine.

In 2009, my son with ASD, ADHD, and Learning Impairments had just begun public kindergarten. Unfortunately, soon after he started, he was involuntarily physically restrained, secluded, and physically escorted when he was escalated.

During one of the incidents, when our son was significantly dysregulated and stuck in the moment, school staff physically escorted him from one floor to another, downstairs to the seclusion room. When staff forced him to move (involuntarily), he fought back. He was scared, and the adult's actions did not calm him; instead, they made the moment worse, traumatic, and made it very unsafe for him and all those around him.

When I saw the small hallway and stairs, and that the seclusion room was built with thin wooden boards, I became incredibly alarmed. How could a school, a place we trusted with our children, do something so dangerous? We will never forget those days.

Those experiences led me to be one of two parents of the diverse group of stakeholders who met monthly for over a year on the Chapter 33 revision project. This group comprised teachers, principals, superintendents, special education staff, a school nurse, representatives from outside disability advocacy organizations, parents, and others.

We were required to reach a consensus on every single word of the rule. The revised Chapter 33 was signed into effect in 2013. I am most proud of changing the name of therapeutic restraint to physical restraint, and that moving a child involuntarily was now considered a form of physical restraint. The rule also importantly prohibited all physical restraint positions that restrict the airway.

Moving a student involuntarily escalates the situation and puts everyone at risk, and should only be used in an emergency. I am deeply alarmed to learn that this bill proposes removing the words' serious physical" from the term "serious physical injury," thereby allowing for the use of physical restraint during non-emergency incidents.

I have been following local, state, and national R&S data in schools since 2009. Students with disabilities are disproportionately physically restrained or secluded in schools. Although they comprise a smaller percentage of the student population, they represent a significantly larger portion of students who are subjected to restraint and seclusion.

Many students who are involved in physical restraint or seclusion have a Section 504 Plan or an Individualized Education Program (IEP). These plans have accommodations that are essential for ensuring equal opportunities and participation for students with disabilities.

Accommodations can include providing extra time to process an adult's request or complete work, checking in to ensure understanding of expectations and directions, or offering choices to help with challenging situations. Some of these students have behavior plans in place. How will you ensure that school staff will consider these

students' accommodations before moving a student who has not moved voluntarily?

I have heard that some Legislators and others have asked, 'What's the big deal? ' We are just removing a few words? As a Chapter 33 stakeholder, parent of a child who experienced these interventions, and advocate, I know that every word matters. Those proposed changes affect the entire rule and would not reduce serious and unsafe incidents from happening in the future.

Let me remind you of the policy and purpose of Chapter 33, which states: This rule establishes standards for the use of physical restraint and seclusion to provide for the safety of all individuals. Physical restraint and seclusion may only be used as an emergency intervention when the behavior of a student poses an imminent danger of serious physical injury to the student or another person.

The bill:
-Does not consider the act in its entirety.
-Does not consider the potential dangers of involuntarily moving a student, including the impact on the student, staff, or other students.
-Does not consider the importance of using non-physical interventions to respond to potentially dangerous behaviors, including the use of de-escalation techniques and positive alternatives.
-Does not consider that the definition of Physical Restraint, which is defined as a personal restriction that immobilizes or reduces the ability of a student to move the arms, legs, or head freely. 20-A M.R.S.A.§4014 (1)(F) and includes physically moving a student who has not moved voluntarily.
-Does not account for the need to train all school staff in the new definitions and their impact on the entire rule, which will be very confusing.
-Does not consider that removing these words from the act alters how incidents are reported and data will be collected, making it difficult for all future data to be comparable.
-Does not consider that removing the words "serious physical" from the term "serious physical injury" allows for a physical restraint to be used during a nonemergency incident.
-Invites mayhem and danger into our schools and does not align with the intent to provide for the safety of all individuals. That is outlandish and shocking!

I urge you to vote AGAINST LD 1248 and IN SUPPORT of LD 1097, An Act to Provide De-Escalation and Behavior Intervention Training for School Personnel. LD 1097 will go a long way towards better supporting school staff and reducing the future need for physical restraint and seclusion.

Thank you for your time and consideration!

Sincerely,

Deb Davis
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