

**TESTIMONY OF MAINE EMPLOYMENT LAWYERS ASSOCIATION
IN SUPPORT OF LD 1647, "AN ACT TO AMEND THE MAINE HUMAN
RIGHTS ACT TO PROVIDE ADDITIONAL REMEDIES FOR EDUCATIONAL
DISCRIMINATION"**

My name is Jeffrey Neil Young. I am an attorney with Solidarity Law and practice in Cumberland, Maine. I serve as an executive Board member of the National Employment Lawyers Association (NELA), and as vice-president of the Maine Employment Lawyers Association (MELA). NELA is the largest organization of civil rights lawyers in the country with about 4,000 national and affiliate attorney members. MELA is the largest organization of civil rights lawyers in Maine with about 75 member attorneys who represent employees in labor and employment matters across the state as at least 2/3 of their practice. I have been practicing labor and employment law for over 40 years, the last 35 years here in Maine.

I am here today on behalf of MELA to support the passage of LD 1647, "An Act to Amend the Maine Human Rights Act to Provide Additional Remedies for Educational Discrimination" because attorneys who are MELA members are not just employment attorneys but we are also civil right attorneys. When an employee is the victim of race or sex discrimination in employment, he or she is entitled to recover compensatory damages for pain and suffering and the loss of enjoyment of life. But if a student encounters the same abusive misconduct while attending school, he or she can only recover civil penal damages despite the severe trauma which she might suffer. That's not right. And it places some of the most vulnerable members of society—young people who are in their formative years – without recourse to adequate remedies.

Let me give you an example of a specific case I resolved last year against a Maine school district. My clients were two brothers, both of whom are black and began to be harassed in middle school. After the George Floyd murder, a white student would get down on his knees in front of the older boy and mockingly declare "I can't breathe." Several boys and one girl showed my client memes on their cell phones and made racist comments to him, including calling him a "monkey," and telling him to "go pick cotton with your brother [second client]," "go into the field," "I'm going to whip you harder than your mom." They touched his clothing and stated, "Oh, that's cotton. You should be picking it." My client was called the "N" word. Other boys played the sound of a whip cracking on their cell phones.

My client complained to a teacher, and some of the harassment did stop for a while, but the harassment became even worse when the older boy started high school. Two boys in art class made KKK figures and depicted a black figure hanging off the roof as part of an art project. Other boys called my client the "N" word in the bathroom and hallways when teachers were not around.

Although teachers said the older boy had always been polite, my client became disruptive in class. Ultimately, he became suicidal and had to be hospitalized. Despite complaints by my client's mother and the chair of the School Committee of a neighboring town, who was a friend of the family, the district did little to respond until after I filed a complaint with the MHRC in the boy's behalf.

The younger boy faced similar harassment. While in 8th grade, a group of 5 boys in his grade began to call him race-based epithets and phrases during lunch and at recess, including "monkey," "monkey boy," "cotton picker," "go work in the fields" and the "N" word. These same boys told racist jokes like "Why did the black boy go to college? To get his master card" and talking about slavery and drinking Kool-aid.

The younger boy began being late for school, eating and sleeping more, and became moody. Eventually he told his mother that he did not want to go to school because of the bullying. When the boy and his mother complained, they received an apology and the superintendent stated that the conduct would not be tolerated, but the conduct continued during the balance of my client's time at the middle school and again in high school, even after another student reported the conduct.

After I filed a charge of discrimination, asserting that my clients had been subjected to a hostile educational environment based on their race the school district offered to settle the case. However, I discovered to my dismay that under the Maine Human Rights Act, the only damages available to my clients were civil penal damages of \$20,000 each, plus attorney's fees. Although my clients were severely traumatized, ultimately they were forced to settle their case without any compensatory damages for the severe trauma which they suffered and the disruption to their education, which likely will impact their ability to learn for life.

The situation I described is just one of many instances which I and my colleagues have handled on behalf of black, female, and LGBTQ students who have suffered harassment while attending school. Had such harassment occurred in the workplace, they would have been able to recover compensatory damages. But because it occurred in school, they currently cannot do so, even though as young persons they are more vulnerable than employees and the disruption to their education and lives is arguably even more consequential than harassment in the workplace.

For these reasons, MELA requests that the Committee vote to enact LD 1647.