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My name is Katherine Tarpley and I am the managing attorney of the KIDSLegal unit within Pine Tree Legal Assistance. KIDSLegal is a specialty unit that provides advice, support, and representation to nearly 200 low-income families and students with and without disabilities across Maine each year in school-related matters. In addition to our work representing students in special education matters, we also see a significant number of cases each year of bullying, harassment and discrimination. We are writing in support of LD 1647, which would provide students and families in Maine with a meaningful way to hold schools accountable for clear violations of their right to an education free of discrimination.

I truly believe that if a student or family is calling a lawyer to help with an issue at school, something has gone very wrong. It is wrong for a child with a medically complex profile to be repeatedly excluded from class field trips because they “probably wouldn’t enjoy it anyway.” It is wrong for a student of color with a disability to have inappropriate Tiktok videos made of them circulate through the school, only for the school administrator to confiscate the victim’s phone and suspend them “for their own safety.” It is wrong for a nonbinary teen to spend years hearing slurs in the hallway only to be told by their principal that “it was just a joke.” And it is wrong for a student with a disability and a significant trauma background to be repeatedly assaulted and taunted for both their disability and their trauma, only to be excluded from school based on their disability-related response to being taunted.

These are all very real examples of cases in the last two years, in which students experienced unlawful discrimination based on their race, disability, or gender identity, not once but twice. First, by their peers or teachers, and then again by the arguably discriminatory disregard or actions by school administrators. These were not one-off incidents, but the culmination of months of verbal or physical harassment or exclusion. In each of these cases, the student or their family raised the issue numerous times to school administrators. In each of these cases, the hostile environment at school led to isolation, anxiety, physical injury, depression and had a serious negative impact on their academic achievement. If any of these things happened in a workplace, an award of damages would serve to both compensate the victim for the suffering they experienced and deter the employer from allowing this behavior to happen again. Why should we not make the same available to our children, who have even less agency (or in some cases none at all) in the face of discrimination?

The best outcomes for our clients are often negotiated and resolved collaboratively only after we as attorneys get involved. In our experience, when a school’s response to discrimination is either inadequate or discriminatory itself, the incentive to do more or do better is minimal. In so many of our cases – when we get involved, it’s the first time a student’s concerns are taken seriously.

While we would love to always collaboratively resolve an issue, there are times when the harm is so great, students and families deserve a process and remedy that makes a meaningful difference for them. And for the low-income students and families who qualify for legal services, financial compensatory damages make even more of an impact. These families can't just move to a new town to escape discrimination. They often can't afford private counseling services or supports or activities.

A vote in support of LD1647 sends a message to school districts that they are responsible for ensuring that every child has the equal right to participate in and be safe at school, and that clear violations of the Maine Human Rights Act harms not only individual students but the school community overall and have no place in our schools. And more importantly, a vote in support of LD1647 reaffirms to students and families that their right to an equal education here in Maine is protected.