

## TESTIMONY IN OPPOSITION TO

L.D. 1647

### AN ACT TO AMEND THE MAINE HUMAN RIGHTS ACT TO PROVIDE ADDITIONAL REMEDIES FOR EDUCATIONAL DISCRIMINATION

May 2, 2025

Senator Carney, Representative Kuhn, and members of the Judiciary Committee, I am Steven Bailey, the Executive Director of the Maine School Management Association, testifying on behalf of the legislative committees of the Maine School Boards Association and the Maine School Superintendents Association in opposition to L.D. 1647, An Act to Amend the Maine Human Rights Act to Provide Additional Remedies for Educational Discrimination.

Both superintendents and school board members believe in the decades-long protections provided by the Maine Human Rights Act, and we work within our schools to prevent any forms of discrimination in education. In fact, in its list of long-standing beliefs and resolutions, the Maine School Boards Association says that “school boards need to stand strongly against discrimination of any kind” and work to ensure “all students have equal educational opportunities.”

However, the changes to the MHRA proposed in L.D. 1647 are unclear and would have far-reaching implications for school litigation, ultimately increasing liability and insurance costs for Maine school districts. We also worry that this bill could result in more lawsuits and other conflicts, with less ability for districts and parents to work together to resolve these challenging situations.

Currently, the Maine Human Rights Act places a cap on civil penal damages in cases of educational discrimination – \$20,000 for a first offense, \$50,000 for a second, and \$100,000 for any future offenses. The MHRA only allows for compensatory damages in one aspect of the law: employment discrimination, and even these claims are capped at \$100,000 to \$1 million, depending on the size of an employer.

L.D. 1647 would create a new exception operating outside of this current system. It would elevate “intentional educational discrimination” above any of these other forms of discrimination and allow for uncapped damages. If this went into effect, we expect costs to school districts could rise significantly – it could greatly increase the financial exposure that schools face, leading to significant increases in insurance payments.

While we understand the desire and intent behind this bill, we do not feel it is appropriate to ask schools to incur these new costs – costs that would inherently fall on local taxpayers. If the committee does seek to move in the direction of allowing compensatory damages, we would ask that legislators at least seek to establish caps on recoverable damages (similar to cases of employment discrimination).

We are also concerned about the vagueness of the term “intentional educational discrimination” as described in this bill. We appreciate that the proposal includes exceptions when a school makes a “reasonable

accommodation” for a student and does not apply in situations of solely “disparate impact.” However, we feel the language still needs clarity about how “intentional educational discrimination” would be defined, and in what ways it would differ from discrimination as currently covered in the MHRA. Would a school board be required to pass an explicit policy intentionally discriminating against a certain class of students? Without more clarity, our associations worry that this law could open the door to additional complaints and lawsuits.

With so many concerns over the impact of this bill on school budgets and operations, we respectfully urge the committee to vote “ought not to pass”, or at the very least to provide more clarity and place limits on recoverable damages.