



Maine School Superintendents Association



OFFICERS—2024-25

TESTIMONY NEITHER FOR NOR AGAINST

L.D. 1704—AN ACT TO PROHIBIT A SCHOOL ADMINISTRATIVE UNIT FROM ADOPTING A POLICY THAT ALLOWS A STUDENT TO USE A RESTROOM DESIGNATED FOR USE BY THE OPPOSITE SEX

L.D. 1134—AN ACT TO PROHIBIT MALES FROM PARTICIPATING IN FEMALE SPORTS OR USING FEMALE FACILITIES

L.D. 1337—AN ACT TO AMEND THE MAINE HUMAN RIGHTS ACT REGARDING FEMALE ATHLETES AND SAFETY IN WOMEN'S SINGLE-SEX SHELTERS

L.D. 233—AN ACT TO PROHIBIT BIOLOGICAL MALES FROM PARTICIPATING IN SCHOOL ATHLETIC PROGRAMS AND ACTIVITIES DESIGNATED FOR FEMALES WHEN STATE FUNDING IS PROVIDED TO THE SCHOOL

May 8, 2025

Senator Carney, Representative Kuhn, and members of the Judiciary Committee, I am Eileen King, the Executive Director for the Maine School Superintendents Association, testifying on behalf of the MSSA legislative committee neither for nor against L.D. 1704, 1134, 1337, and 233.

MSSA's legislative committee is divided on the proposed legislation outlined in L.D. 1704, L.D. 1134, L.D. 1337, and L.D. 233. While there are differing perspectives within this committee, we are united in our belief that it is never the intent of any school superintendent to discriminate against any student who crosses our threshold. All school superintendents share a fundamental commitment to ensuring that every student, regardless of background or identity, receives the best educational opportunity possible.

Our schools are dedicated to providing a safe and supportive environment for all students, and we strive to respect and uphold the dignity and rights of every individual in our care. As school leaders, we are committed to continuing to adapt and make decisions that prioritize the well-being of all students, ensuring that they are supported academically, socially, and emotionally. We are dedicated to taking every student who walks through our hallways and providing them with the best educational opportunities they deserve.

The intersection of the Maine Human Rights Act (MHRA) and Title IX presents a

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complex legal landscape for Maine school districts, particularly concerning the inclusion of transgender students in educational programs and activities. The MHRA prohibits discrimination in education based on gender identity, ensuring that individuals are not denied access to educational opportunities due to their gender identity. This state law mandates that public schools in Maine provide equal access and treatment to all students, including transgender individuals.

However, Title IX, a federal law that prohibits discrimination on the basis of sex in education programs or activities receiving federal financial assistance, has a conflicting “interpretation” at the federal level. It is important to point out that nowhere in Title IX does it speak specifically to or about transgender athletes. It strictly prohibits discrimination on the basis of sex. The current federal interpretation of Title IX, particularly concerning transgender students, has resulted in enforcement actions and federal investigations against Maine’s policies that allow transgender students to participate in sports and use facilities consistent with their gender identity.

Maine’s adherence to the MHRA, which includes gender identity as a protected class, conflicts with the federal interpretation of Title IX. This discrepancy places school districts in a challenging position, balancing state obligations to protect students from discrimination with federal requirements that may mandate exclusionary practices.

We understand that these issues are deeply important, and each community may have varying viewpoints. Our focus remains on ensuring that schools are inclusive and welcoming for all students, while balancing the legal and ethical responsibilities that come with these complex matters. We are committed to respecting both state laws and the realities of federal mandates while striving to support every student in an environment that fosters their growth and success.

Thank you for your consideration of this testimony.

Resources:

<https://www.federalregister.gov/documents/2020/05/19/2020-10512/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>

"Although the U.S. Attorney General and U.S. Solicitor General interpret the word “sex” solely within the context of Title VII, the current position of the United States may be relevant as to the public meaning of the word “sex” in other contexts as well. As explained above, the Department does not define “sex” in these final regulations. These final regulations focus on prohibited conduct, irrespective of a person's sexual orientation or gender identity. Whether a person has been subjected to the conduct defined in § 106.30 as sexual harassment does not necessarily require reliance on a sex stereotyping theory. Nothing in these final regulations, or the way that sexual harassment is defined in § 106.30, precludes a theory of sex stereotyping from underlying unwelcome conduct on the basis of sex that constitutes sexual harassment as defined in § 106.30."

"For the reasons previously explained, the Department does not define sex in these final regulations, as these final regulations focus on prohibited conduct, namely sexual harassment as a form of sex discrimination. As previously explained, the Department's definition of sexual harassment applies for the protection of any person who experiences sexual harassment, regardless of sexual orientation or gender identity."

<https://www.law.cornell.edu/uscode/text/20/1681>