

Testimony in Support of LD 2016

January 28, 2026

Chair Carney, Chair Kuhn, and Distinguished Members of the Judiciary Committee:

I write today as Assistant Superintendent of Saco Schools on behalf of three public school departments in southern Maine, collectively serving nearly 5,000 students. I strongly urge your support of LD 2106, legislation that would prohibit the disclosure of nonpublic records without proper judicial review.

The current situation in our schools demands clarity. Federal immigration enforcement activities are affecting student attendance and family stability across our districts. We have seen significant increases in student absenteeism (with absence rates as high as 58% among black and Latino students), with some families experiencing stress and uncertainty that is affecting school participation for their children. In some cases, students have been left without guardians when parents were detained, requiring coordination with the Department of Health and Human Services to arrange care.

Our primary obligation as educators is clear and constitutionally mandated: we serve all enrolled students. Since the 1982 Supreme Court decision in *Plyler v. Doe*, public schools have had a constitutional obligation to provide free public education to all children, regardless of immigration status. Schools cannot inquire about a student's immigration status as a condition of enrollment, and educational access cannot be conditioned on citizenship or documentation status.

LD 2106 provides the clarity we need to fulfill this obligation while respecting the rule of law. By requiring proper judicial review before nonpublic records can be disclosed, this legislation accomplishes several critical goals:

First, it strengthens the role of judicial warrants. By supporting this bill, we are affirming that judicial warrants—not administrative subpoenas or informal requests—are the appropriate mechanism for accessing sensitive records in educational settings. A judicial warrant is a specific type of warrant that requires review by a neutral judge or magistrate. An administrative warrant or subpoena is an unchecked power: an executive branch official signs off on a request of the executive branch. Judicial warrant requirements preserve what the founders intended: the

jealously protected powers of co-equal branches of government. This legislation strengthens our ability to require this type of documentation and ensures that any disclosure of student information occurs only after proper legal review.

Second, it protects student privacy under existing federal law. The Family Educational Rights and Privacy Act (FERPA) establishes strict requirements for protecting student information. Violations of FERPA can result in loss of federal funding for our districts and personal liability for individual employees. LD 2106 helps us fulfill these federal obligations by establishing clear procedures that prevent unauthorized disclosure.

Third, it allows us to maintain safe and welcoming learning environments. When families fear that schools may be compelled to share information without proper legal process, children stop attending. We have already witnessed this effect. Students who are afraid to come to school cannot receive the education they are constitutionally entitled to access. Clear legal standards help reassure families that their children's information is protected except when law requires disclosure pursuant to proper judicial process.

Fourth, it provides protection for staff who are navigating complex and sometimes conflicting demands. Our staff members have been asking what their obligations are and what constraints apply to them as public school employees. When a school employee is presented with a request for information or access to nonpublic areas, they need clear guidance about what the law requires. This legislation provides that guidance by establishing that voluntary consent is not permitted without proper judicial authorization.

I am aware that some have expressed concern that state law should not create conflict with federal enforcement priorities. I would respectfully suggest that this legislation does not create such conflict--there is no Article VI Supremacy Clause conflict. It does not prohibit compliance with valid judicial warrants. It does not prevent schools from speaking with federal authorities as permitted under federal law. What it does is establish clear procedures that respect both our federal constitutional obligations to educate all children and the principle that sensitive records held by public institutions should only be disclosed pursuant to proper legal process.

This is not about obstructing law enforcement. This is about ensuring that law enforcement activity in sensitive settings like schools occurs only when a neutral Article III judicial officer has determined that legal standards have been met for Article I enforcement actions. That is how our system is designed to work, and this legislation reinforces that principle.

Our schools should be focused on education, not on navigating ambiguous legal terrain about when and how to respond to requests for information or access. LD 2106 provides the clarity we need to do our jobs effectively and legally while maintaining the trust of the families we serve.

Maine has a proud tradition of protecting children and respecting the rule of law. LD 2106 honors both of these values while providing practical guidance for those of us working in education during a time of heightened enforcement activity. I urge you to vote "ought to pass" on this important legislation.

Thank you for your consideration,

A handwritten signature in black ink, reading "M. Parkhurst". The signature is fluid and cursive, with a long horizontal stroke at the end.

Meg Parkhurst, Assistant Superintendent of Schools