Maine Education Association
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Testimony

In Support Of

LD 2172: *Resolve, Regarding Legislative Review of Portions of Chapter 33: Rule Governing Physical Restraint and Seclusion, a Major Substantive Rule of the Department of Education, State Board of Education*

Jan Kosinski, Government Relations Director, Maine Education Association

Before the Education and Cultural Affairs Committee

February 5, 2026

Senator Rafferty, Representative Murphy, and distinguished members of the Education and Cultural Affairs Committee,

My name is Jan Kosinski, and I serve as the Director of Government Relations for the Maine Education Association (MEA). The MEA represents nearly 24,000 educators. Our members include teachers and other educators in nearly every public school in the state, full-time faculty, and other professional and support staff in both the University of Maine and Community College systems, and thousands of retired educators.

I offer this testimony today on behalf of the MEA in SUPPORT of LD 2172, *Resolve, Regarding Legislative Review of Portions of Chapter 33: Rule Governing Physical Restraint and Seclusion, a Major Substantive Rule of the Department of Education, State Board of Education.*

The bill before you changes the Chapter 33 rules to mirror the changes brought about last year with the passage of LD 1248, *An Act Regarding Physical Escort and Restraint and Seclusion of Students in Schools*. As you no doubt remember, this bill was passed by this Committee last year after extended public testimony and debate among committee members and was signed into law by the Governor.

The final version made two minor yet important changes to the law regarding the restraint and seclusion laws.

First, LD 1248 removed the word “voluntary” in the law regarding escorts of students, thus allowing teachers and other school employees to shepherd students out of situations even if this may be against their will. Prior to this change, any physical resistance of a student in moving to a different location was deemed “involuntary” and often resulted in classrooms being emptied out, several times per day in some cases, to accommodate and help the student having a bad spell. While no teacher ever wants to place hands on students or involuntarily move them to a new location, given the behavioral challenges teachers and educators

regularly experience in schools, we must also be mindful of the other students who are trying to learn in these situations. We feel this slight change is very impactful and strikes the appropriate balance.

Second, LD 1248 slightly changed the definition of "physical injury" which in turns allows educators to intervene in dangerous or unhealthy situations. Prior to this change, the attorneys for school districts were advising administrators and educators to only intervene in severe situations.

We reviewed the proposed changes in the Chapter 33 Rules, *Rule Governing Physical Restraint and Seclusion*, and we believe the proposed rules before you accurately reflect the changes this Committee passed last year.

Good news. Since the new law took effect, we have had ZERO complaints from educators about the new law. We believe training and adoption has been slow. While the bill was signed into law in June, the effective date of the legislation was only in September. The MEA regularly communicates with thousands of educators in our public schools and the fact we have received zero complaints about the new role is a good sign, especially for a law and rule that has been subjected to revision many times over the past few years.

The MEA intends to consistently monitor implementation of this new law, and we will be asking educators frequently about their experiences. We are committed to getting this right. And we must get this right, especially since the language regarding "serious physical injury" in the new law will sunset in three years. We know this topic will be up for debate again, and we will likely have new faces around this horseshoe making the decision about the way forward.

We must point out, however, that while the new language provides greater flexibility to address the most challenging behavior of students, the major issue remains – we still are not doing enough to address the mental health challenges of students. Behavioral incidents are almost always rooted in other challenges students are facing. This Committee worked together last year on a piecemeal measure to provide funding to school districts to contract with Sweetser, Spurwink and other providers for mental health supports for students. While the original fiscal note was $1.3 million per year, the Appropriations Committee was only able to provide $100,000 per year. This is helpful, but far less than what is necessary to meet the need. Another bill, LD 1398, *An Act Regarding Behavioral Health Support for Students in Public Schools*, looked to include critical mental health staff into the state's school funding formula, but with a fiscal note of over $80 million, the bill was destined to fail, although it would have provided the most complete solution to the issues our schools, students and educators are facing.

Lastly, the new law and the rule establish a new standard for the definition of "serious physical injury" that includes the need to see a "school nurse." While the new standard is

extremely helpful for addressing the challenges we are seeing and facing, we want to take this opportunity to remind the Committee the current school nurse to student ratio in the school funding formula is 800:1 and many schools are simply unable to find a school nurse or must share a nurse between multiple schools. Please do not interpret this to mean we are critical of the changes that have been made. We just feel compelled to remind the Committee of the legitimate funding and staffing challenges our public schools regularly face.

Thank you for your time and consideration. I would be happy to answer any questions.