



Maine Administrators of Services for Children with Disabilities

Testimony Neither For Nor Against LD 98: An Act To Update the Special Education Laws

Senator Rafferty, Representative Brennan, and Esteemed Members of the Joint Standing Committee on Education and Cultural Affairs, my name is Gay Anne McDonald, and I am the Executive Director for the Maine Administrators of Services for Children with Disabilities (MADSEC).

On behalf of MADSEC, I am providing testimony neither for nor against LD 98.

Most importantly, MADSEC supports timely and appropriate services for children and adults with disabilities and supports many elements of LD 98, however, our membership shares significant concern with the lack of funding for general education programming, lack of clarity of the FAPE standard, recent perception of adult students aged 20 to 22 who require special education services given the Maine Department of Education January 21, 2021 Administrative Letter to expand special education services to adults with disabilities to the age of 22, and the lack of continued pursuit of adult services through the Department of Health and Human Services with the extended eligibility to age 22.

MADSEC is in support of the following language and language changes outlined in LD 98:

- “Pupil evaluation” to “individualized education program” team; “Hearing impairment, including deafness” to “Deafness, including Hearing Loss”; and “Deaf and Blindness” to “Deaf-Blindness” to align with current and best practice
- Equal educational opportunities to equal opportunities for an appropriate education to highlight the importance of appropriate educational programming for students
- Addition of “by means of appropriate educational programming, including transitional programs” to highlight appropriate transitional programming for post-school outcomes
- Addition of “educational programming may be full- or part-time” given the need to allow for appropriate programming to focus on post-school outcomes for adult students with disabilities aged 20-22 outside of the typical school schedule and structure, and there is no comparable length of school day for students without disabilities aged 20-22 outside of a comparison to adult education, which is highly variable depending on the adult

MADSEC understands the January 2021 Administrative Letter stating “... the Department has concluded that terminating eligibility to a free, appropriate public education at the end of the school year in which a student turns 20 years pursuant to 20-A M.R.S. § 5201(1) is inconsistent with the IDEA as interpreted by the First Circuit in *K.L. v. Rhode Island Board of Education*, 907 F.3d 639 (2018)”, yet members share significant concerns with the unintended consequences and implementation of this administrative guidance. MADSEC shares the following concerns:

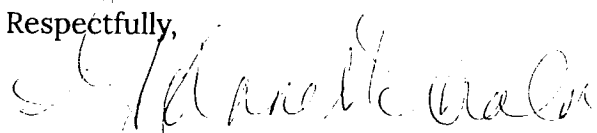
- Lack of clarification to the free, appropriate public education (FAPE) standard: LD 98 states educational programming “must be equitable to that provided to typically developing same age peers”, however there is no clarity in the bill as to the educational program(s) that serves typically developing same age peers in order to determine equal opportunities for an appropriate education

for adult students with disabilities aged 20-22; an assumption can be made that Adult Education is an equitable educational opportunity, yet LD 98 is unclear on this point

- Lack of funding for general education programming: LD 98 states educational programming “must be educated with children without disabilities” however there is no funding for general education programming for adults who fall within the extended eligibility to age 22 nor are there clearly defined educational opportunities for adults aged 20-22 without disabilities; reference is made to least restrictive environment (LRE) and educating students with disabilities with children without disabilities, however the lack of funding for general education programming flies against this; also of note MaineCare funding does not extend to adult students to age 22
- Perception of adult students aged 20-22 who require special education services: Dialogue around LD 98 assumes that this law covers a small number of adult students with low incidence disabilities, however this is not the case. The law will extend eligibility for any student with a disability until age 22 who has not yet earned a high school diploma. Schools will continue to have to serve, or attempt to serve, any adult student with a disability until age 22 who may have stopped attending school regularly, but has not dropped out. The law would also reach any student who may have earned a high school diploma, but the family has filed a legal claim saying that the student’s goals have not yet been sufficiently met. The new age eligibility would expand the school’s special education “child find” obligation to include students without diplomas who may assert that they have not received a diploma because of an unrecognized disability; the reach of LD 98 is broader than assumed, and therefore the costs and staffing requirements to school districts are more extensive than assumed
- Deferment of adult services: LD 98 does not address the need for continued adult services for adults with disabilities between the ages of 20 and 22; without any mandate for DHHS to do so, there is significant concern that adult services will simply defer support for adults with disabilities aged 20-22 until the latest possible time, which would then be 22 rather than 20, relying on schools to provide services typically provided through adult services. This deferment is already being witnessed during IEP team meetings in schools. Simply deferring adult services and the support system that will apply to adults with disabilities for two more years is not in the best interest of young adults with disabilities.

Thank you for your time and consideration. I am available for any questions you may have.

Respectfully,



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