

## TESTIMONY IN OPPOSITION TO

L.D. 1898

### AN ACT TO ENSURE THAT A TEACHER WHO PARTICIPATES IN THE PREVENTION OF DANGEROUS BEHAVIOR IS PROTECTED UNDER A COLLECTIVE BARGAINING AGREEMENT

Senator Rafferty, Representative Brennan and members of the Education and Cultural Affairs Committee. I am Steven Bailey, executive director of Maine School Management Association, testifying on behalf of the legislative committees of the Maine School Boards Association and Maine School Superintendents Association, in opposition to L.D. 1898.

The statute is fashioned around teachers providing services to students. While we would not attempt to broaden the interpretation of the proposed law change, examples of staff participating in the prevention of dangerous behavior include educational technicians as well as teachers. This would broaden the results of this change in law as is described below.

The dispute resolution process is designed to address issues that are perceived to have not been followed properly within the collective bargaining agreement. We do not see how this law should trigger the dispute resolution process (a grievance) when the actions occurring did not pertain to content within the collective bargaining agreement. If it was moved forward within the grievance procedure anyway and if resolution cannot be reached at the superintendent or school board level, it is possible it may move to the level of an arbitrator.

If these disputes go to arbitration, an arbitrator will determine what's best for the child, perhaps in violation of the Individuals with Disabilities Education Act or Chapter 504.

The arbitrator is not a certified administrator familiar with managing student behavior and will never even meet the student.

The arbitrator would need to review legally protected confidential records without parental consent and make decisions about student matters without any parent notice or involvement.

There is already an enforcement mechanism. The Commissioner of Education and the Attorney General already have the obligation to enforce all of title 20-A under 6801-A. It is a robust mechanism. Subsidy can be withheld, and they have the authority to force compliance with injunctive relief.

Arbitrations occur many months after a dispute arises, in some cases a year later. Arbitrator costs are as high as \$3,000 per day and typically an arbitration will involve a day of testimony and a day of writing and analysis; they also charge their travel time when they drive up from Boston.

These disputes would be very complex - likely with many witnesses needed to provide detailed context of the student. There will be many legal disputes over record confidentiality.

What is missing on L.D. 1898 is a robust fiscal note on this L.D. We see this resulting in considerable costs to schools.

We urge you to vote ONTP on L.D. 1898.