

State of Maine  
DEPARTMENT OF EDUCATION

Testimony of Courtney Belolan, Director of Policy and Government Affairs

In Support of: L.D. 345

An Act To Improve Child Development Services and to Ensure Access to a Free Appropriate Public Education for Eligible Children under IDEA Part B Section 619 (New Title)

Before the Joint Standing Committee on Education and Cultural Affairs

Sponsored by: Representative Brennan

Date: February 27, 2024

Senator Rafferty, Representative Brennan, and Members of the Joint Standing Committee on Education and Cultural Affairs:

I am Courtney Belolan, Director of Policy and Government Affairs for the Maine Department of Education presenting testimony in support of LD 345, An Act to Improve Child Development Services and to Ensure Access to a Free Appropriate Public Education for Eligible Children under IDEA Part B Section 619 (New Title).

This bill will, over a period of four years, shift the responsibility for a free appropriate public education, or FAPE, from CDS to SAUs. This change will affect children ages 3 through 5 years old who are protected by IDEA Part B section 619. In plain English, this means arranging or providing for special services as a part of education to Maine's preschoolers similar to how it happens for school aged children. Right now, the system provides special services outside of a general education program. Maine stands alone in this service delivery approach. For decades, the Department of Education and the Maine Legislature, alongside stakeholders, have participated in studies of CDS seeking meaningful systemic improvements. While CDS has been responsive to any recommended changes and this administration has invested additional funding, pernicious challenges remain. This is mainly the result of assigning the responsibility for FAPE to a quasi-independent agency that neither operates nor oversees preschool general educational programming. Change is long overdue.

After careful consideration, and in consultation with stakeholders across the State, the Department of Education proposes changing the provision of FAPE and Child Find for eligible children under IDEA Part B Section 619 as follows:

Responsibility for FAPE and Child Find transfers from CDS to SAUs over a period of 4 years.

Provision of services for these children may continue in a mixed-delivery model, based on the needs of the child, the desires of the families, and the determination of the Individualized Education Program (IEP) teams, now based within the SAU of the family's residence.

CDS will transition the nine regional sites into regional service hubs aligned with Superintendent regions to provide meaningful support to SAUs during this time. FAPE and Child Find services will be governed by memoranda of understanding (MOUs) that reflect the needs and capacities of the SAUs. This will also protect the valued employees of CDS in retaining their important roles as experts in early childhood special education.

CDS will retain responsibility for Part C children, those birth to age 3 and expand eligibility. In order to provide choice to families, the Maine Department of Education will establish an "Extended Part C option" with the US Department of Education's Office of Special Education Programs, so families can elect to continue with Part C services after the child's third birthday. This is an option allowable under IDEA that will allow families of children who qualify for Part B, to stay in a childcare or other "natural setting" and receive services through an Individual Family Services Plan (IFSP), which is the equivalent of an IEP for the childcare setting. Families and caretakers of children with special needs know their kids' needs the best and will be able to make the decision to continue services in a childcare setting until everyone agrees the child is ready for the preschool setting.

It is our goal, through a transition of the FAPE and Child Find responsibilities to SAUs, to ensure children and their families gain greater access to placements in the least restrictive environment alongside their non-disabled peers. While Maine, like other states, does not yet have universal preschool, it is a priority to establish preschool programs in local SAUs for all children that include both public preschool classrooms and private community preschool classrooms. It will be vital to establish a robust system of placement options for students in a variety of environments that suit our children's unique needs. As more SAUs expand or establish preschool classrooms, more children will be able to receive special education services in the preschool classroom they would have been attending if they did not have disabilities. This is not only our goal as a Department, it is defined in IDEA as the least restrictive environment.

A key aspect of this plan is the MOU between an SAU and the DOE that articulates the provision of supports and services by the CDS regional hubs. It is our intention to thoughtfully guide SAUs to design agreements that utilize the strengths of CDS to best address their needs. To be clear, the CDS regional hubs will not be centralized preschool classrooms. Local SAUs will expand or establish preschool classes or contract with community providers to offer preschool classrooms and placements. This CDS service hub system will provide administrative supports, related services, and other supports to SAUs. For example, it will be our strong recommendation that SAUs articulate that CDS Part B staff members support Child Find processes and procedures. The expertise of current CDS staff will be invaluable during the transition and beyond. From IEP coordination to service provider referrals, to Medicare billing, CDS employees have the skills, knowledge, and experience that will benefit schools and the children they serve.

There is no panacea for addressing all of the challenges that our education system faces, and we are not presenting a complete and immediate solution. No single piece of legislation could do that. Staffing and workforce shortages will not be instantly solved by transitioning the responsibility for FAPE and Child Find to SAUs, and the shortage of specialists and educational technicians in less-resourced areas of our State may continue. We are prepared to support every SAU in assuming the responsibility of FAPE even if in a few special cases we need to offer additional resources or extended timelines. This transition plan allows for flexible problem-solving, allowing us to keep the best interests of the children at the forefront of decision making.

Our goal is to ultimately eliminate waitlists that have persisted since the inception of the CDS program. That said, this proposal won't solve the problem overnight. This proposal will, however, immediately begin to build capacity and make things better. Local public schools are uniquely positioned to oversee educational programming and will coordinate the available resources within each community to support these children and families. With this development of networks of support, more children will be served due to the coordination of all available resources and an economy of scale involving preschool classrooms in local SAUs, community preschools, and contracted service providers. Capacity will also be built because Maine public schools are not bound by the medical model or fee-for-service practices that restrict services to one child per billable hour. When appropriate, children will be able to receive interventions, such as speech and language, social work, or occupational therapy, in small groups with their peers, enhancing both the experience and the outcomes. This increases the number of children receiving appropriate levels of services while placing them in the most effective learning environments.

This plan is fully funded and included in the Governor's supplemental budget. Funding for SAUs who assume FAPE responsibility will include both a per pupil operating allocation and a per pupil special education allocation. Both are based on the EPS formula, but distributed at 100% state share, outside of the formula. The per-pupil operating allocation is calculated in accordance with 20-A MRS 15675, applying the special populations weights (ML, Disadvantaged, Pre-k...) to the SAU's per-pupil EPS rate and then applying the targeted funds in accordance with 20-A MRS 15681. The average operating allocation for pre-k students statewide is \$9,600. Additionally, the per-pupil allocation for special education is calculated at 1.5 X the operating allocation for each student. The \$10 million requested in this budget is necessary to augment \$5 million from the CDS contracted services budget to provide special education and related services funding for up to 1000 pre-k students. An additional \$10 million from GPA unexpended balance forward will be used for the operating allocations for up to 1000 students. SAUs will receive an average of \$24,000 per pupil (again, this is the average, based on per pupil operating allocations).

Year 1 Funding Plan \*for up to 1000 students

<i>SOURCE &gt;</i>	<i>UBF (GPA)</i>	<i>CDS Contracted Services Funds</i>	<i>General Fund Appropriation (Budget Request)</i>	<i>TOTAL</i>
<i>Operating Allocation</i>	<i>\$9.6 million</i>			<i>\$9.6 million</i>
<i>Special Education and Related Services</i>		<i>\$4.4 million</i>	<i>\$10 million</i>	<i>\$14.4 million</i>
<i>Total:</i>	<i>\$9.6 million</i>	<i>\$4.4 million</i>	<i>\$10 million</i>	<i>\$24 million</i>

The Department’s process has occurred thoughtfully, with input of key stakeholders, and this change would serve as a significant investment in the wellbeing of Maine’s children. As discussed in our previous briefings regarding this plan, the Maine DOE seeks to proactively collaborate with the Legislature in establishing a new system of service. This plan seeks a shift over a period of years, with ongoing support provided to SAUs and CDS as the transition occurs. The transition period begins with a voluntary pilot year with a cohort of SAUs who are in the strongest positions to begin assuming FAPE responsibility. With that cohort we will document the process, embrace every learning moment, and design even stronger supports for the next SAUs to transition.

You will hear many people sharing their thoughts about this plan today. Some will be supportive, others will not. Many people will point out that this transition plan is not perfect, or name questions that still remain, and other “yeah buts.” There is no doubt, this plan constitutes a major shift for Maine in the way we provide services for children. This plan is based upon models that have been used with success for decades throughout the United States. The Department’s plan in front of you today is the best plan that has come before the Education and Cultural Affairs Committee for transitioning the responsibility for free and appropriate education for Maine’s children with IEPs out of an agency that has been failing since its inception and into the public schools who hold children and families at the center. It is time for this change.

We urge your support of LD 345, and your ongoing support and cooperation as the DOE embarks on this monumental change for the benefit of all of our children. I of course will take questions and be at the work sessions.