



Testimony in Support of LD 345: An Act Regarding Educational Policies and Programs

Senator Rafferty, Representative Brennan, and Esteemed Members of the Education and Cultural Affairs Committee, my name is Gay Anne McDonald. I am the Executive Director for the Maine Administrators of Services for Children with Disabilities (MADSEC), representing over 400 special education administrators, site coordinators, and professionals across the state. On behalf of the MADSEC Legislative Committee, I am providing testimony in support of LD 345 with suggestions for your consideration.

LD 345 recognizes and acknowledges a long standing concern with Maine's current system of providing a free, appropriate public education (FAPE) to children aged 3-5 under the Individuals with Disabilities Education Act (IDEA) Part B Section 619. The current structure is unique to our state in that we are the only state that utilizes an Intermediate Educational Unit, Child Development Services (CDS), to provide Part B Section 619 special education and related services. Such an uniqueness would not be of concern if the system was meeting the needs of children with disabilities under Part B Section 619. We know, however, that the system structure simply is not working. This has been shared through various sources, including the Maine Department of Education. Although the Department and CDS have made continued efforts to meet the needs of young children with disabilities, our state is seeing nearly 20% of eligible children under Part B Section 619 not receiving some or all of their required services through their Individualized Education Program (IEP). You have heard countless stories from parents sharing that their child was on a waitlist for months to years with some children not receiving services until they entered kindergarten, and most importantly, you've heard about the negative impact on their child from the lack of services. Additionally, many of you have heard from school personnel concerned with the negative impact the lack of services is having on young students entering kindergarten. Research shows that the lack of early intervention services leads to a lack in school readiness. Special education administrators have shared they are seeing both a greater need for and higher level of special education services upon entry into kindergarten. Some have reported identification rates close to 30%, which is significantly higher than the state average of 19.49% (2022), which is already higher than the national average.

LD 345 outlines a plan to address the repeated concerns with the current system of the provision of FAPE in the least restrictive environment (LRE) under Part B Section 619 through the transition of said services to SAUs from CDS. Specific to the bill, MADSEC strongly supports:

- The inclusion of the Extended Part C Option to provide parent choice in electing to have their 3 year old child continue to receive early intervention services through an Individualized Family Service Plan (IFSP) in their "natural setting", such as daycare, rather than transition to Part B 619 where special education and related services are provided through an Individualized Education Program (IEP) in an "educational" environment (FAPE).
- The reorganization of current CDS sites to align with Superintendent regions across the state for consistency and to best assist SAUs and families with this transition of child find and the provision of FAPE, Part B 619 services and restructuring of CDS into said resource hubs to provide supports and services to SAUs based on each SAU's level of need.

- Language that provides the needed flexibility for SAUs to assume child find and FAPE responsibility, providing the required special education and related services to children aged 3-5 based on their own unique local needs.
- Language that is not so restrictive such that it would lead to unintended consequences, barriers, or hurdles for SAUs to assume above mentioned responsibilities
- A 4-year transition period before full implementation and transfer of child find and FAPE under Part B Section 619 and outlined transition schedule and supports
- The option for SAUs to provide FAPE under Part B Section 619 with or without accessing supports and services through the CDS regional service hubs or entering into a MoU with CDS.
- Levels of funding to include (1) a per pupil cost outside of GPA and at 100% state share, (2) an allocation for special education and related services outside of the EPS formula and calculated at per pupil operating allocation multiplied by 1.5 at 100% state share on a quarterly basis with adjustments for each quarter, and (3) separate allocations for a variety of high-cost IEP placements and the establishment of a Preschool Special Education Fund

It is critical for all of these to remain within the bill text so that SAUs can provide the most seamless transition for students and families. We know the transition of Part B Section 619 FAPE responsibility provides an early connection between families and schools and eliminates an extra transition for families. Such a transition of services results in one transition for families- the transition from Part C, Birth-2 (CDS- the start of early intervention services) to Part B, 3-5 (SAU- the start of their educational career).

MADSEC also provides the following recommendations to further enhance LD 345 and empower SAUs to assume the responsibilities of child find and FAPE under IDEA Part B Section 619:

- Section W-1. 20-A MRSA §7001 1-A3. CDS Regional Service Hub: Addition of Section A: Each CDS Regional Service Hub shall, at minimum, make the following supports and services available to SAUs in need of such services:
 - Direct bill for MaineCare and private insurance for the provision of FAPE under Part B Section 619 with assumption of responsibility of risk for all audits, along with technical assistance and training in accessing and billing MaineCare and private insurance for the provision of FAPE under Part B section 619 for SAUs billing in-house
 - Training and professional development to support students with disabilities under Part B Section 619, including, but limited to, curriculum, screening and assessment, child find, and developmentally appropriate practices.
 - Assistance with child find duties, referrals, transportation needs, and applicable special education administrative tasks and paperwork under Part B Section 619
 - Recruitment and connections with private related service providers, evaluators, and local community pre-kindergarten programs to assist the SAUs in the fulfillment of their FAPE duty under Part B Section 619
- Section W-6. 20-A MRSA §7209, sub §9
 - Addition of 9.C: To address past, present and future unmet needs for children with disabilities under Part B Section 619, CDS shall assume responsibility for any and all

compensatory education during the time period in which the agency (CDS) was responsible for the provision of child find and FAPE for children ages 3-5

- As part of the transition of responsibility for ensuring FAPE in the LRE for children eligible under IDEA Part B Section 619 from CDS to SAUs, direct the State Board engage in rulemaking for Chapter 115, Part II 282 endorsement to expand from Kindergarten to Pre-Kindergarten to ensure the provision of FAPE services to children eligible under Part B Section 619

It is essential for all of these to be within bill text to ensure SAUs can assume the responsibility of FAPE and provide the necessary services and supports under IDEA Part B Section 619. We also ask for clarification on the date in which SAUs are responsible for child find and FAPE under Part B Section 619. In Sec. W-6. 20-A MRSA §7209, sub §9 the date is listed as July 1, 2028 and in the summary (#2), it is listed as July 2029.

Additionally, through multiple conversations with special education administrators across the state and countless hours spent on discussing the best approach to the transition of Part B Section 619 child find and FAPE to SAUs, MADSEC feels these points, some of which have already been mentioned, are critical for your consideration as you work LD 345.

A: Acknowledgement, Acceptance, and Action

- **Acknowledgement:** For at least 10+ years, there has been an acknowledgement that the CDS current system (the organizational structure, not the individuals) for providing FAPE to 3-5 year olds with disabilities is not working. During the regular session of the 131st, it was stated by several members of this Committee that this was a critical issue that needed to be addressed.
- **Acceptance:** Not only is it time to acknowledge that the current structure is not working, but accept that the structure and mindset must change if our state is going to provide FAPE in the LRE to our young students under Part B Section 619.
- **Act:** The time is now to act and LD 345 is the needed action. We can't continue to admire the problem and not take action. The lack of special education services for our young children cannot continue. Parents, schools, and communities are all seeing the detrimental effects of this unmet need. As the saying goes, "Time is short and children can't wait".

B: Blanket Statements and Bill Text

- **Blanket Statements:** Blanket statements can be dangerous and do not represent the whole picture. Statements, such as "schools are not ready", "schools don't know how to work with 3 and 4 year olds", "schools can't provide special education services to 3 and 4 year olds", etc. do not represent all schools. Some SAUs are already providing full or partial special education services to 3 and 4 year olds, some are prepared to start next year, others are preparing for the following year, and some SAUs aren't ready at this time, but with a transition period those SAUs have the time to prepare and to consult and collaborate with SAUs already providing FAPE under Part B Section 619. It is also unfair to assume that schools have no knowledge or expertise in providing FAPE to 3-5 year olds. Special education personnel are well versed in IDEA and MUSER and have a solid understanding of FAPE in the LRE. Some special education administrators and teachers hold

degrees in Early Childhood Education and have experience in working with children within this age group.

- Bill Text: The language in LD 345 is of the utmost importance. Words matter. Requirements within the bill text that would cause barriers and complexities in this transition, such as the requirement of specific additional human resources/positions within the CDS regional hubs, a separate monitoring system, and a separate service plan, and CDS provision of services and supports to other programs.

C: Cost, Compensatory Education, Certification, and Change

- Cost: Currently, CDS bills MaineCare and private insurance for reimbursement of eligible services for Part B Section 619 and the majority of SAUs do not bill MaineCare for eligible services. It is imperative that a key service of the CDS regional hubs be that of billing MaineCare and private insurance for interested SAUs, along with technical assistance for those SAUs who wish to manage their own billing to defray costs. There is great concern that without assistance for insurance billing, a significant funding source for 3-5 year olds will be lost which may result in cost being shifted to local share. Additionally, given the concern with funding, if LD 345 requires specific, additional positions within each of the CDS regional service hubs, the amount available for distribution to SAUs will be reduced, furthering the risk of passing the cost of required special education services onto local taxpayers. It would not be fiscally responsible to funnel money, needed by SAUs for the provision of special education and related services under Part B Section, to CDS (a system that has been acknowledged as not effective or sustainable for providing FAPE services under Part B Section 619) for additional, required, specific positions at each regional service hub.
- Compensatory Education: The current, past, and future unmet need must be addressed by identifying that CDS, not the SAU, is responsible for any and all compensatory education in which they were the responsible party for child find and the provision of FAPE under Part B Section 619.
- Change: If we have acknowledged and accepted the current system for providing FAPE in the LRE under Part B Section 619 is a broken system and it is time for a change, then we must change not only who is responsible for FAPE, but also our mindsets from a CDS model to a school/educational model.

In closing, MADSEC recognizes SAUs are in varying stages of readiness for this transition and we would be remiss if we did not share that there are still questions and concerns at the school district level, as always when a significant change occurs, but we recognize that a change is needed. Our young students deserve better. We know there is both hesitation and opposition to this change, but as Representative Lyman recently shared, there were questions and concerns with transitioning kindergarten from half day to full day and I think we can agree that has been successful for our 5 year olds.

Thank you for your time and your service. I am available for any questions you may have and can be available for the work session.