

To: Education and Cultural Affairs Committee
From: Katherine Tarpley, Esq.
Re: Testimony in opposition to LD 165

Good afternoon members of the Education and Cultural Affairs Committee.

My name is Katherine Tarpley and I am the managing attorney of the KIDSLegal unit within Pine Tree Legal Assistance. KIDSLegal is a specialty unit that provides advice, support, and representation to nearly 200 low-income families and students with and without disabilities across Maine each year. I am here today to oppose LD 165, the amendment to the statute governing school discipline. We believe the proposed language sets a lower standard that will exacerbate an already alarming trend of young children being repeatedly excluded from school.

Our testimony today will highlight the very real consequences, both on an individual basis but also systemically, of excluding young children from school. We present the following concerns with the utmost respect for teachers, special education teachers, education technicians, and administrators – with the understanding that they are all doing more with less in schools today. The issues detailed below are more comprehensive than what was provided during our oral testimony.

The current language of the statute requires a principal to determine whether there is imminent danger of serious physical injury to the student or others, or that less restrictive interventions would be less effective. Based on our experience working with families across the state, this high standard is often disregarded, ignored, and even abused. We have significant concerns that an equally liberal application of the proposed standard, which would allow principals significantly more discretion, put even more children at risk of being excluded from school.

For young children, behavior is a form of communication. Behavior may be born of trauma, abuse, neglect, a language-based disorder, a specific learning disability, or any other number of disabilities. There is already an extensive framework, the Individuals with Disabilities Education Act (IDEA) which is codified in the Maine Uniform Special Education Regulations (MUSER), to evaluate, address and support disability-related behavior. It is our experience that schools often choose suspension over evaluation. We hear stories weekly about young children struggling to navigate school and receiving little to no support.

One such story was a first-grade client named Kevin. He was great kid having a hard time. He loves Pokemon and is great at math. He also gets very overwhelmed by loud noises and big groups, and struggled with transitions and any negative feedback. In his short 7 years, he has experienced a high level of trauma and witnessed domestic violence. As a result, going into first grade he lacked the appropriate coping skills to manage day to day frustrations. His reactions in school were outsized and often aggressive. So Kevin was suspended.

In fact, Kevin was repeatedly suspended. This is the reality of nearly every family we speak with. The consequences of repeated suspensions on a family is significant, the impact across a district is far reaching.

- Repeated time out of school is not effective. The actual impact is that children experience shame and receive the message that they are not wanted. Kevin used to ask his mother why his teachers hated him and if he was a bad kid. At home, children are isolated from their peers and trusted adults. In fact, the process of being suspended can be traumatic for children and the shame and isolation compounded leaves a lasting negative impression, especially for children who are struggling to make sense of their own struggles. In many of our cases, repeated suspensions are so disruptive it actually contributes to a decrease in coping skills upon a student's return to school.

- Time out of school also results in significant learning loss. A recent study out of Stanford and Brown recently found that Maine students are in the bottom 5 in the country for school day length. Federal and state law requires that schools provide students with disabilities ongoing access and services so that they can continue to make progress on their academic and other goals. And frankly, in our experience – school districts rarely provide suspended students with access to work.
- The proposed amendments provides principals the ability to exclude a student in order to develop protocols and increase staff support. Schools are already obligated under the Individuals with Disabilities Education Act to recognize, evaluate, and develop services, protocols, and supports for students in all areas of suspected disability, while they are in school, not at home. A significant portion of our work is advocating for families whose requests for evaluation are dismissed or ignored.
- Less restrictive interventions must be tried. Did you know that Maine's statute prohibiting bullying in schools lists 10 different alternative discipline actions "designed to correct and address the root causes of a student's specific misbehavior while retaining the student in class or school, or restorative school practices to repair the harm done to relationships and persons from the student's misbehavior"? Knowing how disruptive and damaging suspension are, the current discipline statute expects that principals attempt any number of these various strategies and only suspend if they would not be effective. When thinking of all the families that call us for help, we couldn't actually come up with an example of a principal trying one of these, let alone determining it would be ineffective. Nationwide, policies are trending away from exclusionary discipline. Principals should be held to the current standard, not be granted more flexibility to exclude students.
- We repeatedly experience numerous due process concerns given the variability in discretion to exclude students. Families rarely, if ever, receive a written notice that details the reason for the suspension, the length of the suspension, or procedures for the student's return. Families whose home language is not English face an additional barrier of not receiving a notice in a language they can access. In Kevin's case, his parent did not receive a single written explanation for all the repeated suspensions. Instead, they received a letter requesting a discussion with the superintendent that gave the family no indication of what was to be discussed.
- Finally, the economic impact of repeated suspensions on families with young children is real and deep. Unlike a middle or high school student, young children – especially children with disabilities – cannot stay home alone. This means that a parent must stay home and miss work. The financial impact of lost wages, decreased productivity, and decreased job security is challenging to navigate for anyone, but for low-income families, it is the difference between making a rent or utility payment and buying food or other basic necessities. In Kevin's case, his single parent was able to keep her job – but depleted her entire savings account to make up for reduced hours because he was home so often.

Thank you for consideration of the challenges that our clients face when their young children are excluded from school. Elementary aged children, especially those with disabilities, are the most vulnerable of our students and need more support, not less.