



## Testimony in Support of LD 1248

### An Act Regarding Physical Escort and Restraint and Seclusion of Students in Schools

Senator Rafferty, Representative Murphy, and Distinguished 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).

Thank you for the opportunity to provide testimony in support of LD 1248 on behalf of the MADSEC Legislative Committee pursuant to LD 1248: *An Act Regarding Physical Escort and Restraint and Seclusion of Students in Schools*.

Most importantly, MADSEC understands the seriousness of the use of restraint and seclusion and does not believe in, nor support, the widespread use of such practices. Rather, we support and advocate for the safety of all students and staff through a full continuum of positive, behavioral supports and strongly recommend the state commit to the comprehensive implementation of Multi-tiered Systems of Support (MTSS) in all Maine schools, accompanied by sustained financial support, to address the high levels of behavior dysregulation and behavioral health needs witnessed in our schools today. When implemented with fidelity, MTSS provides proactive, data-driven interventions that address students' academic and behavioral health needs before they escalate. By fostering supportive learning environments and teaching self-regulation skills, MTSS reduces the likelihood of situations that may otherwise lead to the use of restraint.

According to the Maine Department of Education ESSA Dashboard, the use of physical restraint in Maine stood at 4.27% for less than 1% (0.95%) of the student population in 2023-2024. It is important to note that when comparing Maine to other states, comparison data among states regarding the use of restraint in schools can be significantly skewed due to the lack of a consistent definition and reporting measures across state laws. Some states include physical escort or brief physical prompts under the umbrella of restraint, while others strictly limit restraint to more restrictive interventions involving immobilization.

Maine's current definition of physical escort outlined in Title 20-MRSA §4014 includes "voluntary". Notably, while several other states have definitions of "physical escort", none of them include the term "voluntary," allowing for necessary interventions in situations where a student's consent cannot be obtained. LD 1248 proposes striking "voluntary" from the current definition of physical escort. MADSEC supports this change as the inclusion of it implies that the student must consent to the escort, which can create ambiguity and hinder timely interventions in situations where a student may be in distress but unable or unwilling to consent. In practice, there are scenarios where a student may be emotionally overwhelmed exhibiting behaviors that do not meet the threshold for physical restraint, yet physical escort may be necessary to assist the student to a different location for safety. For example, if a student runs into a parking lot or runs outside and refuses to come inside on a frigid Maine winter day, trained staff may need to physically guide the student to safety. However, under Maine's current definition of physical escort—which requires the movement to be voluntary—these safety-driven interventions would not qualify as a physical escort if the student verbally or physically resists. This creates confusion and potential liability for staff who act in good faith to protect students but technically exceed what is permitted under the current rule.



Additionally, LD 1248 looks to strike "serious physical" from Maine's current restraint & seclusion law (Title 20-MRSA §4014) which permits the use of physical restraint only when the behavior of a student "poses an imminent danger of serious physical injury to the student or another person" as one of four conditions. This narrowness excludes situations when an individual is at risk of emotional or psychological harm caused by another student's behavior. For example, if a student is experiencing unwanted sexual touching by another student, Maine's current law does not allow for the use of physical restraint - "personal restriction that immobilizes or reduces the ability of a student to move the arms, legs or head freely" (Title 20-MRSA §4014) - even when other least restrictive interventions have not worked, because the act does not rise to the level of "imminent danger of serious physical injury". This leaves school staff to continue to use least restrictive interventions, such as body positioning and voice commands, and helplessly watch what is happening or physically intervene to protect the student, thus breaking Maine's restraint and seclusion law.

Of note, the vast majority of the time, least restrictive measures work, however, in the very limited situations in which they don't, it is important that Maine's restraint law allow for the permissible use of physical intervention in situations similar to that described above in order to protect all students, including our most vulnerable - those who are not able to defend themselves, who are not able to say no, who are not able to move away, or who do not understand the inappropriateness of the situation. While physical injuries are more readily observable and documented, psychological impacts are less so, however can be just as, if not more, damaging. It is during these times, although rare, that trained school professionals must be able intervene appropriately in emergency situations without needing to break Maine restraint law to do so.

LD 1248 represents a necessary update to Maine's restraint and seclusion law with the strike through of "voluntary" in the definition of physical escort and "serious physical" from the definition of permitted use of physical restraint. School professionals understand physical escort or restraint can have a significant impact on a student and the support of LD 1248 is not to diminish that impact nor the need for support to the student and family after an incident; it is to recognize that there are very specific times when the use of physical escort or restraint is necessary to ensure the safety of the student or others, and their use must be limited and carried out by properly trained staff who undergo specialized training through programs approved by the Maine Department of Education, which require intensive training for certification and mandated re-certification training.

We thank you for your time and commitment to this very serious and important matter and urge the Committee to support LD 1248.

Respectfully,

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Executive Director

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