

DISABILITY RIGHTS MAINE

April 23, 2025

Senator Joseph Rafferty, Chair
Representative Kelly Murphy, Chair
Joint Standing Committee on Education and Cultural Affairs
c/o Legislative Information Office
100 State House Station
Augusta, ME 04333

Re: Testimony in Opposition to LD 1248 – “An Act Regarding Physical Escort and Restraint and Seclusion of Students in Schools”

Dear Senator Rafferty, Representative Murphy, and members of the Joint Standing Committee on Education and Cultural Affairs:

My name is Jeanette Plourde and I am a staff attorney with Disability Rights Maine, Maine’s protection and advocacy agency for individuals with disabilities. Thank you for the opportunity to appear before you today to speak in opposition to LD 1248, “An Act Regarding Physical Escort and Restraint and Seclusion of Students in Schools.”

LD 1248 is a proposal to eliminate just a few seemingly innocuous words from statute, but the reality is this change would be significant. If enacted, LD 1248 would allow schools to use physical management to move a student from one location to another against their will, while avoiding calling it what it more appropriately is—a restraint—and instead calling this a mere ‘physical escort.’ The impact of this would be significant because the current statute governing the use of restraint explicitly carves out ‘physical escort’ from the definition of ‘physical restraint.’ See 20A-MRSA §4014(1)(E) (“Physical restraint does not include a physical escort.”).

In other words, by broadening the definition of escort to include forcibly moving a child from point A to point B, LD 1248 would exempt this completely from the statute. There would be no incident report required; no need to inform parents; no data collected; no requirement to use less restrictive interventions before physically moving a student against their will; and no triggering of the discussion, currently required under Chapter 33, of whether resources like a functional behavioral assessment should be considered for the student, in order to assist teachers,

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administrators, and students alike in addressing the underlying needs in the first place, changing behavior, and preventing the need for future restraint.¹ This proposed change should be rejected.

LD 1248 would also significantly change the threshold where the use of restraint and seclusion is permissible, leading to the increased use of a dangerous and ineffective practice.² Current law permits the use of restraint and seclusion only when there is an imminent risk of serious physical injury, after less restrictive interventions have been ineffective. LD 1248 would eliminate the risk that the injury be serious. Given that the use of restraint itself carries a risk of serious injury, it makes sense to maintain the threshold as it exists in statute—why sanction a practice that carries a risk of serious injury to address a situation where any risk of injury is minor?

And LD 1248 would also eliminate the risk that the injury be physical. This change could have a very significant impact as schools might then use restraint in situations where there is absolutely no risk of physical injury but where the disruption to the classroom is argued to cause an imminent risk of emotional or educational injury.

Both of these changes should be rejected—the threshold for using emergency interventions should be limited to situations that are actually emergencies.

If the goal is to support schools and to help teachers and students, then LD 1248 should be amended to strike the current language and replace it with language that directs resources to be provided to MDOE to implement the following provision of the statute:

Technical assistance. The department shall, using existing resources, provide technical assistance to covered entities by developing, implementing and providing technical assistance to support evidence-based programs that reduce the likelihood of physical restraint or seclusion, and support students in reducing behavior that can result in physical restraint or seclusion, such as developmentally appropriate, positive behavior interventions, functional behavioral interventions, mental health supports, restorative justice programs, trauma-informed care and crisis and de-escalation interventions. 20A-MRSA §4014(1)(E).

Unfortunately, the plan to provide this vital technical assistance using existing resources has been insufficient. This Committee should ask MDOE what it would take to actually deliver this technical assistance at a level to meet the need and demand across the state, and then should amend LD 1248 to include those resources. As the findings of a recent MEPRI report presented to this Committee last week made clear – teachers, administrators and schools need exactly this

¹ See Section 9 of Chapter 33 rules, “Response to the use of physical restraint of seclusion.”

² For additional background, we include a link to our May 2021 testimony in support of LD 1373 - “An Act to Keep All Maine Students Safe by Restricting the Use of Seclusion and Restraint in Schools,” available here: <https://www.mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=157686>

type of support from MDOE.³ We should provide that support before sanctioning the increased use of practices we know are both harmful and ineffective.

Please vote ought not to pass on LD 1248 or, in the alternative, replace the existing language with language that will ensure that MDOE is provided with sufficient resources to meet the technical assistance needs of schools as contemplated when this statute was passed in 2021.

Please reach out with any questions and let us know if our presence at the work session would be helpful.

Respectfully Submitted,



Jeanette Plourde
Staff Attorney

³ See: “Maine K-12 Educator and Administrator Experiences Managing Challenging Student Behavior in Schools,” Gretchen Scheibel, Sarah Wilkinson, Janet C. Fairman, Abdur Rehman Tariq, (March 2025) (“Many educators report a lack of preparation or confidence in positive and preventative behavior supports which means educators are more likely to rely on ineffective, punitive, or restrictive practices (e.g., suspension, restraint, seclusion) that do not reduce challenging behavior and may exacerbate behavior (Fagan et al., 2019).”), available at: <https://mepri.maine.edu/files/2025/03/MEPRI-Report-on-Challenging-Student-Behavior-March-2025.pdf>