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TESTIMONY IN SUPPORT OF

L.D. 1248

AN ACT REGARDING PHYSICAL ESCORT AND RESTRAINT AND SECLUSION OF STUDENTS IN SCHOOLS

April 23, 2025

Senator Rafferty, Representative Noonan Murphy, and members of the Education and Cultural Affairs Committee, I am Steven Bailey, Executive Director of the Maine School Management Association, testifying on behalf of the legislative committees of the Maine School Boards Association and Maine School Superintendents Association in support of L.D. 1248.

Passage of L.D. 1248 will provide an important, necessary improvement in the landscapes of classrooms and school spaces in 2025 and beyond. There are multiple reasons why it is important at this time when there is a crisis of student behavior in our schools.

Prior to the pandemic, the dangerous student law, L.D. 1370, was passed in 2019 and became 20-A, §6555. Even then, the impact student behavior was having on classroom instruction and interactions with instructional staff was of concern.

The fall of 2021 was the start of the second school year when students returned to classes full time, though there still were instances when students and staff needed to be away from school for extended periods of time. School routines, for staff and students, had not returned to normal, and classroom and school behaviors were not close to what had been seen and expected prior to the pandemic. It was at this time, 2021, that the student restraint and seclusion law, 20-A, §4014, was revised. Two aspects were of great concern then, and are still, now. One was the definition of serious bodily injury, which is defined as “a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.” with one of the changes that restricted the escort of a student. The other was the definition of a physical escort, which was given the meaning of “the temporary, voluntary touching or holding of the hand, wrist, arm, shoulder or back to induce a student to walk to a safe location.” It is these two aspects of 20-A, §4014, that are being targeted for change – very necessary changes.

Physical Escort

The word and action “voluntary” is being removed from the definition of physical escort. Staff, are, of course, trying to abide by this “voluntary” standard when working with a student and de-escalating a dangerous situation. However, educators are finding this to be nearly impossible. Staff are getting bit, hit, kicked, spit at, and swore at. In such situations, staff attempt to use strategies such as verbal requests, commands, and directions to de-escalate these dangerous situations. Educators with years of training are still finding that these techniques are not enough, and classrooms remain unsafe. Educators are placing themselves at risk, and entire classes of students are having to be moved out of the classrooms, disrupting learning for dozens of students.

We hope that the changes to the escort language proposed in this bill will allow a staff member to quickly escort a dysregulated student to a safer location and closely work with them to address their behaviors there. Any actions would still be gentle and temporary. We believe this would help our educators more quickly help students regulate their behavior and, importantly, keep their classrooms safe for the dozens of other children.

Serious Physical Injury

While likely not intentional by lawmakers, law firms have interpreted the “imminent danger of serious physical injury” language in Maine’s restraint and seclusion to be a very high standard, which is resulting in staff members being unable to intervene in many types of deeply traumatic student behavior incidents. These unintended consequences are being felt by students and families – parents now tell us that their kids are afraid to go to school because of their fellow students’ behaviors.

Changing the definitions in this law to “imminent danger of injury” would ensure that dysregulated students are still protected, but would provide educators the opportunity to move in to create a safer environment for students before situations get out of control and there is actual damage to students or other people nearby. This only makes sense. Why would you not want to step in and prevent a more serious situation from happening? We believe this change would allow for a more proactive approach from educators, allowing them to address student behaviors earlier and better protect their other students. This will improve our classroom environment, allowing students and staff to feel safer and more trusted.

This proposed change in the statute is a very positive move. We urge you to vote yes and move L.D. 1248 forward for passage.