

Written Testimony on LD 1098
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I am an attorney at Drummond Woodsum in Portland, Maine and have been representing public schools for more than 35 years. My focus is on special education, and I regularly work with schools on issues that involve IEP team decision-making and abbreviated school days.

I am writing in opposition to LD 1098, regarding “an Act to Ensure Equal Access to a Full School Day for All Students.” In sum, most elements of this proposed law are unneeded, because they currently exist now in Maine special education rules. Yet this proposed law goes further, by radically altering the IEP decision-making process for placement changes that has existed in Maine for many decades. For these two reasons, I urge that LD 1098 be rejected.

Maine’s current special education rules strictly regulate the use of abbreviated school days, and cover most areas addressed in LD 1098:

- For students with disabilities, abbreviated school days can be used only if the IEP team determines that the use of such days are necessary “based upon the child’s individualized educational needs or based upon the child’s individual medical needs.” MUSER VI.2(L). This is what is in the proposed LD 1098.
- For students with disabilities, the current rules also state that the standards for abbreviated school days do not apply when the school unit is following the governing laws on student discipline. MUSER VI.2(L). This is also what is in the proposed LD 1098.
- For students with disabilities, the current rules also require regular team meetings to address how to get the student back into full time attendance as soon as possible, with the current rules requiring those meetings *more frequently* than the proposed LD 1098 – an initial review meeting must occur within 45 calendar days, and subsequent meetings every 20 school days. MUSER VI.2(L)(1).
- For students with disabilities, it is clear under the current rules that abbreviated school days cannot be used due to a lack of school resources or staff – but instead must always be based on the child’s needs and whether they can be met in a full or abbreviated school day. MUSER VI.2(L). This is what is in the proposed LD 1098.
- For students with disabilities, current rules make clear that students on abbreviated school days have to have re-entry plans, and have to have access to local and statewide assessments, and must have services to permit them to meet the Maine Learning results. MUSER VI.2(L)(1). This is what is in the proposed LD 1098.

In short, the proposed LD 1098 is not needed to address any of the above concerns. Those concerns are already addressed under Maine special education rules.

Yet the proposed LD 1098 does something radical. It proposes to change the IEP team decision-making process in this one area – barring any use of the abbreviated school day process just because the parent does not provide written consent for the change, and even when the entire IEP team other than the parent, including mental health professionals working with the student, believe otherwise.

In Maine the IEP team as a whole makes decisions about student placement, and parent consent is not needed for those changes to be made. Parents, however, have a right to file a complaint with the Maine DOE challenging the team decision, and the Maine DOE then has the power to make a final decision. In this proposed change, the final authority is left only with parents, not with school officials or even neutral investigators or hearing officers.

It may be rare, but parents sometimes do not make good decisions for their children. Some children with disabilities and past trauma in their lives have great difficulty attending school full time and require gradual re-entry processes structured to desensitize them to a challenging school environment. I have seen this frequently in our legal practice. And occasionally the parents do not agree that their child should have an abbreviated school day with a gradual re-entry plan, even when involved professionals think it is appropriate. Under the proposed LD 1098, the final say on the use of an abbreviated school day would be vested solely in the parent, and that authority is taken away from the IEP team or even a neutral state-appointed investigator, if a parent files a complaint that an abbreviated day decision is inappropriate.

The IEP team process as it now stands, with the availability of the Maine DOE to review parent concerns about IEP team decisions, has been in place for many decades and strikes the right balance for IEP team decision making. It would be a grave error to place that authority in the parent alone, as this proposal does, and otherwise alter a system that has served many thousands of students very well over many, many years.