



Testimony in Opposition of LD 1098 An Act to Ensure Equal Access to a Full Day for All Students

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 on behalf of the MADSEC Legislative Committee pursuant to LD 1098: *An Act to Ensure Equal Access to a Full Day for All Students* of which MADSEC provides testimony in opposition to this piece of legislation.

MADSEC fully supports the rights of students with disabilities to access a free, appropriate public education (FAPE) in the least restrictive environment (LRE), as required under the Individuals with Disabilities Education Act (IDEA) and Maine Unified Special Education Regulations (MUSER). Administrators of special education believe in and advocate for the education of students with disabilities on a daily basis. They have devoted their careers to serving students and families and above all want students to be successful in school.

Under MUSER, an Individualized Education Program (IEP) team is responsible for determining the appropriate placement and programming for students with disabilities. This includes considering a change in the length of a student's school day *only when absolutely necessary* to program for their unique and individualized medical or educational needs. Special education regulations prohibit the use of an abbreviated school day as a form of discipline or punishment.

Pertinent to LD 1098, MUSER already requires the following when the IEP team determines an abbreviated day to be appropriate and necessary:

- (a) Address how the child will meet the system of learning results (which may include a core of standards in English language arts and mathematics for kindergarten through grade 12 established in common with other states), and receive full access to the general curriculum and services on the IEP, as determined by the individual child's need;
- (b) Address how the child will participate in local and statewide assessments;
- (c) Develop a revised IEP with a re-entry plan for the child to return to a full-time school day within a reasonable period of time, no longer than 45 calendar days; and,
- (d) Delineate in the revised IEP with the re-entry plan the actions the SAU will take to assist the child to participate in a full day of school; and
- (e) Document in the Written Notice the basis for the determination of an abbreviated school day and how the determination is based on the individual needs of the child.

MUSER also includes more restrictive language than proposed in LD 1098, requiring that "if the child does not return to a full-time school day within 45 calendar days, the IEP Team must convene every 20



school days thereafter to: review progress toward returning to full-time school day; review progress in the educational setting; and if the child is not progressing, determine what setting will allow the child to progress.”

LD 1098 also proposes inserting a new written parental consent requirement for abbreviated school days and the ability to withdraw consent at any time. Parental involvement is critical and is a cornerstone of IDEA and MUSER. Parents are active members of the IEP team and have the opportunity to participate fully in decision-making about their child’s educational programming, and under MUSER, are afforded procedural safeguards in which to disagree with IEP team decisions and pursue resolutions. Today, schools often face challenges in obtaining parent signatures, even when the parent has actively participated in the IEP team meeting and agreed with the IEP team determinations. Delays in or refusals for written parental consent hinder the timely implementation of a structured, systematic plan, determined by the IEP team, to meet the unique, immediate needs of the student, resulting in a greater risk for continued school failure. Additionally, the allowance to withdraw parental consent at any time with return to a full day program within 5 days raises significant concern as such abrupt changes can disrupt any progress the student has made, increase the likelihood of regression, and jeopardize the stability needed for long term success leading to higher levels of disengagement, dysregulation, or distrust and lower levels of stamina and confidence for the student.

While the intent of LD 1098 may be to protect the length of a student’s school day, the bill fails to acknowledge that abbreviated school days are sometimes necessary as part of a structured plan to support students with significant medical or educational needs. These decisions are made by the IEP team, which includes the parent, and are not taken lightly. The use of an abbreviated day can reduce stress and anxiety for a student, helping them reintegrate to a full school day at a manageable pace without feeling overwhelmed. Through gradual increase in the length of the school day, the student can build endurance and confidence in handling academic and social demands, develop positive habits and routines for engagement with the school day feeling more achievable, and increase focus with targeted, manageable workloads to help them stay on track educationally while avoiding burnout. The limited use of an abbreviated day program with systematic increase to a full school day can also prevent a more restrictive out of district placement, providing the student with the opportunity to remain within their local school community in a more inclusive educational setting.

Although the use of abbreviated day program is infrequent, administrators of special education, including myself, have witnessed times when an individual student, due to very specific medical or educational needs, is unable to sustain for a full school day, and it is through the use of an abbreviated day with systematic steps and supports for gradual increase to their school day that the student has found success, not only in the number of attendance hours, but in their school engagement, self-regulation, overall learning, and peer relations. Although the use of an abbreviated day program was very limited in my 20 years as a special education teacher and administrator, I can share none of the cases were alike in terms of pace - rate and frequency of the increase - nor the total time needed to achieve a full school day program, because each one was unique to the immediate needs of the individual student. They were all alike in that data - student progress- determined the timing of each increase, not waiting for the mandatory meeting time per MUSER, and the use of an abbreviated day program can provide the student with the time needed to build trust, stamina, confidence, and positive habits for school success.



Additionally, LD 1098 states "A school may not consider, recommend or implement an abbreviated school day program due to a lack of school resources, including, but not limited to, staffing resources, training resources and supportive services." MADSEC does not believe the use of an abbreviated day due to the lack of school resources is the intent of special education regulations. Given such language in the bill, it suggests that this practice may be occurring in certain situations. Through multiple conversations with special education administrators across the state, this practice is not the norm and MADSEC believes any isolated incidents should be addressed on an individual basis, as appropriate, and not through sweeping legislation.

In closing, MADSEC strongly believes that MUSER already outlines the requirements, including IEP team meeting requirements, for the use of an abbreviated day and that the passing of legislation is not needed when such provisions are already in place. LD 1098, while well-intended, would have unintended consequences by adding unnecessary procedural barriers and removing a highly regulated program to support students with high level educational needs. We understand the hardship that an abbreviated day program may have on the family unit, yet come before you today to advocate for a limited number of students who because of their unique, complex needs are not able to maintain the same number of school hours as their peers during a specific time in their education. It is during these times that the IEP team must be able to implement programming appropriately for the student based on their immediate educational needs. For certain students it is through the use of an abbreviated day program with a structured, systematic plan for return to a full school day, that they not only are 'physically' attending school, but are learning and thriving.

MADSEC strongly recommends the Committee vote 'ought not to pass' on LD 1098.

Thank you for your time, consideration, and commitment to Maine students, and I'd be happy to answer any questions you may have.

Respectfully,

Gay Anne McDonald
Executive Director