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May 20, 2021

Senator Susan Deschambault
Representative Charlotte Warren
Committee on Criminal Justice & Public Safety
100 State House Station Room 436
Augusta, ME 04330

RE: LD 1715 – An Act to Amend the Laws Prohibiting Teachers, Employees,
and Other Officials From Engaging in Sexual Activity With Students

Dear Senator Deschambault, Representative Warren and Members of the Criminal
Justice and Public Safety Committee:

MACDL opposes LD 1715.

There has long been good reason for there to be a requirement that, in order for there to be a crime in circumstances where a teacher was engaged in sexual conduct with a student, that the teacher actually had instructional, supervisory or disciplinary authority over the student. This was because of the plain and basic reason that the power dynamic that exists between a teacher and a student is such that relationships that take place when the teacher has that authority over the student are inherently coercive.

But this bill seeks to strip that requirement entirely. If this bill is passed, then a teacher could have had instructional, supervisory or disciplinary authority over the student a decade before, and there being no current authority over the student, this would subject the teacher to prosecution and conviction of serious sex offenses.

When the Legislature crafted this statute many years ago, it recognized the unique situation where a teacher had current authority over a student, versus having once had authority over a student. That was the reason why the statute was crafted in a way that did not include the language here that would otherwise include distant, remote, or even very tangential former authority over a student. While the Summary is correct that in State v. Conroy, 2020 ME 22, the Law Court ruled that a teacher who did not have current authority over a student could not be prosecuted under the statute, that does not mean that the statute should change. Conroy decided the specific case before the Law Court, and there was no suggestion that the Legislature should go ahead and change the statute.

It is of note that even a substitute teacher, who had the student in a single class on a single occasion years ago, would be subjected to the change in this statute, even though the “authority” was fleeting and even if the substitute teacher did not even remember that they ever had the student in the single class some time many years

ago.

The law as it stands now should not change. Teachers who have authority over students should not be having sexual relationships with them. Teachers that simply once had some authority over a student at some other time present an entirely different circumstance, a vastly different power dynamic, and should not be subjected to this statute.

Thank you for the opportunity to address this issue.

Sincerely,

/s/ Walter McKee
Walter F. McKee
Chair, Legislative Committee