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March 22, 2021

To: Education and Cultural Affairs Committee  
From: Kathleen Cox, Director of Instructional Support, South Portland School Department  
Sonia Croft, Assistant Director of Instructional Support, South Portland School Department  
Re: Proposed LD 552: An Act to Strengthen The Individual Education Program Process

We are respectfully submitting the following testimony in opposition to LD 552.

LD 552 states that it's purpose is to strengthen the Individual Education Program Process when it could have implications for creating more adversarial relationships with our families and preventing students from getting their right to FAPE. The school has a responsibility to provide FAPE. If, in the interest of avoiding due process, a district ultimately agrees with the parent's position (and later that same parent is unhappy with their child's progress) and they file for due process; the district could be found at fault for not providing what they thought the child needed. Therefore, districts will feel the pressure of initiating due process which will greatly impact the relationships we have with our families.

A secondary concern of the scenario above is the ultimate cost to our taxpayers. Districts purchase insurance (with costly co-pays) that help cover the cost of due process. This insurance, however, does not cover due process when it is initiated by the district. The cost of due process can be extremely costly. Each hearing can cost a district \$60,000-\$80,000 and many exceed that amount. This will have budget implications during a time when so many people are struggling.

We would completely understand the reason for this bill if this were the only way for parents to advocate for their children, however, that is not the case. IDEA and the State of Maine regulations have outlined the rights of parents with regard to their child's special education program. People will argue regarding the cost to parents, but there are avenues that parents have (and do) pursue that help offset that cost.

Some of the many additional questions/scenarios we have:

- What happens to a child that has parents that do not regularly engage in the IEP process?
- What happens to a child whose parents are divorced and don't agree?
- What happens to children who move into the district with an out of state IEP that provides services differently such as working with a Psychologist because they don't have Social Workers? Does the district have to contract with someone if the Social Worker can address the goals but the parents want a Psychologist?
- What happens when a child is ready to move out of a more restrictive setting but the parent wants them to stay in the program? The child will be forced to stay in a more restrictive setting (stay put) which is a violation of their rights under IDEA.

We want to believe that the intentions are noble in wanting to strengthen the IEP process but feel strongly that it has the potential to deteriorate the meaningful relationships we have built with our families. We urge you to consider our testimony.

Please do not hesitate to reach out to either one of us if you have questions.

Respectfully,

**Kathleen Cox**

Director of Instructional Support

**Sonia Croft**

Assistant Director of Instructional Support