

TESTIMONY OF MICHAEL KEBEDE, ESQ.

Ought to Pass – L.D. 552

**An Act To Strengthen the
Individualized Education Program Process**

Submitted to the

JOINT STANDING COMMITTEE ON COMMITTEE
ON EDUCATION AND CULTURAL AFFAIRS

March 22, 2021

Senator Daughtry, Representative Brennan, and distinguished members of the Joint Standing Committee on Education and Cultural Affairs, greetings. My name is Michael Kebede, and I am Policy Counsel for the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, we urge you to support LD 552 because it proposes modest reforms that would help our schools strengthen bonds between students, teachers, and families.

Congress passed the Individuals with Disabilities Education Act¹ to ensure that all students receive a “free and appropriate public education.”² Under this law, districts must fashion an Individualized Education Program for each child with a disability to set goals, track progress, and provide needed support services.³ Our state laws make sure that we are living up to this federal

¹ Pub. L. 101–476, 104 Stat. 1142 (1990) (codified as amended at 20 U.S.C. § 1400 *et seq.*); *see also* The Individuals with Disabilities Education Improvement Act of 2004, Pub. L. 108–446, 118 Stat. 2647 (2004).

² 20 U.S.C. § 1400 (d)(1)(A). For a history of the statutes that preceded IDEA and an explanation of why congressional action was originally necessary, *see Bd. of Educ. v. Rowley*, 458 U.S. 176, 179–180 (1982); *see also* 20 U.S.C. § 1400(c)(2).

³ 20 U.S.C. § 1414(d).

obligation by laying out a set of procedures and tools which are suited to the unique circumstances of our state.⁴ LD 552 would make limited but important changes to state laws to improve the IEP process.

The first change that this bill proposes would require IEP meetings to be based on consensus. This change is consistent with the federal goal of making sure that “[p]arents and schools should be given expanded opportunities to resolve their disagreements in positive and constructive ways.”⁵ Disagreements over IEPs are notoriously responsible for costly, time consuming litigation.⁶ These disagreements wastes scarce public resources and undercut the Congressional purpose of reducing distractions for teachers and school staff.⁷ Requiring stakeholders to establish consensus should lead to consensus building, compromise and collaboration, which will in turn allow school staff and parents to work towards their shared goals without leaving anyone out of the final result.

The second change merely allows the educators who spend all day with the child to weigh in on matters that affect the child’s wellbeing. Including the people who are most aware of the child’s progress in conversations about how to move forward is commonsense. It would ensure that parents and educators have the information they need to support a child’s ongoing development.

We urge you to vote *ought to pass*.

⁴ See 20-A M.R.S. § 7201 *et seq.*

⁵ 20 U.S.C. § 1400 (c)(8).

⁶ See, e.g., *Shaffer v. Weast*, 546 U.S. 49 (2005); *Honig v. Doe*, 484 U.S. 305 (1988); Mr. Catling v. York Sch. Dep’t, No. 2:19-CV-00110-DBH, 2020 WL 6309743, at *1 (D. Me. Oct. 28, 2020), report and recommendation adopted, No. 2:19-CV-110-DBH, 2020 WL 7233351 (D. Me. Dec. 8, 2020); Klos v. Belanger, No. 1:19-CV-00369-GZS, 2019 WL 7208424, at *2 (D. Me. Dec. 27, 2019), report and recommendation approved, No. 1:19-CV-00369-GZS, 2020 WL 390880 (D. Me. Jan. 23, 2020); Morrison v. Perry Sch. Dep’t, No. 1:18-CV-00106-DBH, 2019 WL 3035283, at *2 (D. Me. July 11, 2019), report and recommendation adopted, No. 1:18-CV-106-DBH, 2019 WL 3502879 (D. Me. Aug. 1, 2019); *Doe v. Cape Elizabeth Sch. Dep’t*, 382 F. Supp. 3d 83, 93 (D. Me. 2019); *Raymond v. Maine Sch. Admin. Dist. 6*, No. 2:18-CV-00379-JAW, 2019 WL 2110498, at *10 (D. Me. May 14, 2019);

⁷ 20 U.S.C. § 1414 (5)(B)(i).