

State of Maine
DEPARTMENT OF EDUCATION

Testimony of Erin Frazier, Director of Special Services and Inclusive Education, Birth to 22

In Support of: L.D. 98

An Act to Update the Special Education Laws

Before the Joint Standing Committee on Education and Cultural Affairs

Sponsored by: Representative Brennan

January 31, 2023

Senator Rafferty, Representative Brennan, and Distinguished Members of the Educational and Cultural Affairs Committee:

My name is Erin Frazier, Director of the Office of Special Services and Inclusive Education, and I am here today on behalf of the Department in support of L.D. 98, An Act to Update the Special Education Laws. This bill is needed in order to update Maine statute to reflect a 2018 First Circuit Court ruling, clarify equal opportunity, and update language related to special education practices.

In 2018, First Circuit Court ruling *K.L. v Rhode Island Board of Education* that interpreted the Individuals with Disabilities Education Act (IDEA) to extend to the twenty second birthday. This bill aligns Maine statute Title 20-A MRSA §7202 with that ruling and the current practice of extended eligibility in Maine since January 2021 when the Maine Department of Education (MDOE) issued Administrative Letter #1. LD 98 also changes the age of eligibility for special education and participation in career and technical education courses by adults who are enrolled in special education from under 20 to 22 years of age.

To support schools with the cost of extended eligibility the Fiscal Team at the Department will include students aged 20 through 22 in the child count process and school administrative units will receive funding for special education through the general funding formula starting in FY 24. To address funding support for the current year, the Office of Special Services and Inclusive Education (OSSIE) team has set aside funding to support the provision of programming for these students.

LD 98 clarifies that equal opportunity for special education means the equal opportunity for an appropriate education in the least restrictive environment. Not every student identified for special education will require eligibility to the age of 22. When a student meets graduation criteria the school administrative unit's obligation to provide FAPE ends. During the 2021-22 school year, there were approximately 95 students attending educational programming between the ages of 21 and 22. During that same school year there were 2,486 12th grade students, to show the comparative difference of how many students may participate in extended opportunities. Special education programming may look very different from a typical educational experience beyond

the student's 20th birthday and is focused on transition goals and preparing for post-secondary educational and employment goals.

Additional updates in special education terminology are included in this bill to support the most current thinking and practice in the field. The term “pupil evaluation team” is replaced with “individualized education plan team.” Several special education category terms have been updated as well. The proposed amendment to this bill addresses an important update to special education terminology changing “severe emotional disturbance” to “emotional disability.” This change in practice, widely supported across the nation, attempts to destigmatize the term and support more current thinking and research on disabilities related to mental health. A wide range of stakeholders have been involved in conversations around this topic and many have championed for more equitable language. Revising 20-A MRSA §7001, sub-§1-B(2) and §7258, sub §1-B to reflect the included changes in terminology would align the statute with national standards and field practice.

For these reasons, the Department of Education is in support of L.D. 98, An Act to Update the Special Education Laws with the amended language. I am happy to answer any questions, and I will be available for work sessions on this bill.