

Committee on Judiciary

Testimony in Support of LD 1647

April 28, 2025

Senator Carney, Representative Kuhn, and Honorable Committee Members, my name is Bre Danvers-Kidman. I use they/them pronouns, I live in Saco, and I am submitting testimony on behalf of MaineTransNet and our colleagues at EqualityMaine and OUT Maine in support of LD 1647, An Act to Amend the Maine Human Rights Act to Provide Additional Remedies for Educational Discrimination.

LD 1647 would ensure that students who suffer from discrimination in educational settings have a remedy for violations of the Maine Human Rights Act. The Maine Human Rights Act (MHRA) promises every Maine student the right to access a quality education in a school where they will be treated fairly and equally. However, a right is only as strong as its remedy. If students cannot meaningfully enforce their legal rights under the MHRA, the implication is that these protections against discrimination are merely words without any real force or mechanism for enforcement.

Students who face discrimination in educational settings often report damages that go beyond the straightforward economic valuation of their claims. Educational discrimination affects young and vulnerable people who typically have no practical ability to escape from a hostile educational environment. The overall impacts of lifelong difficulties with confidence and self-esteem resulting from spending one's formative years in a hostile environment are difficult to quantify. Nevertheless, discrimination against students is undeniably harmful. From diminished emotional and mental wellness to impaired social connections to unequal access to extracurricular enrichment, students who experience ongoing bullying that violates the MHRA without institutional support or intervention are being unfairly deprived of opportunities in their education. These harms are an attack on impacted students' core dignity and wellbeing. Compensatory damages are necessary to make victims whole.

Compensatory damages are the legal system's way of remedying harms that cannot be measured in dollars and cents. While the legal system cannot turn back time or undo the damage done, it can try to compensate victims for the loss of enjoyment of life and other forms of emotional suffering they experienced as a result of unlawful discrimination. That is what compensatory damages are. And in many cases of educational discrimination, they may be the only form of relief available.

The MHRA has recognized the need for compensatory damages in the employment context – including when schools and other government employers discriminate against their employees. Discrimination against students is even more harmful, where the hostile educational environment could persist for months or years as the student progresses through school. In addition to causing significant harm to a young person's psychological development and their

sense of dignity and self-worth, it can also harm their educational achievement and opportunities. For example, victims of severe bias-based harassment are much more likely to avoid school or perform poorly. This asymmetry should be corrected. It makes no sense to (for example) provide teachers with damages for being subjected to an unlawful hostile work environment based on their gender identity, but leave students with no realistic prospect of a remedy for the same injury.

Civil penalties are not sufficient to address educational discrimination or remedy the harms caused by unlawful discrimination. Under the Maine Human Rights Act, most victims are only eligible for a \$20,000 civil penalty at most (or \$50,000 or \$100,000 in cases of repeat violations). Putting aside the tremendous difficulty transgender Mainers routinely report around difficulty accessing culturally competent counsel, many Maine attorneys practicing under a contingency-fee model simply cannot afford to work with students who have experienced unlawful discrimination at school. This predictably leaves many victims of educational discrimination without access to counsel—and, in turn, without access to the legal system—unless they are able to afford an attorney's expensive hourly rates. As a result, many victims of discrimination may be left without a realistic opportunity to enforce their rights and to seek remedies for the harms they have experienced, even if a school has clearly violated their rights.

Maine students deserve to access the high quality education promised to them, free from discrimination. LD 1647 makes sure the promise is not an empty one. As such, we ask you to vote "Ought To Pass" and protect Maine students today.

Thank you,

Bre Danvers-Kidman (they/them)
Executive Co-Director
MaineTransNet

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