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TESTIMONY IN OPPOSITION TO

L.D. 1129—AN ACT TO ENACT THE CURRICULUM TRANSPARENCY ACT

AND

L.D. 1199—AN ACT TO PROVIDE TRANSPARENCY IN PUBLIC SCHOOL CURRICULA

Senator Rafferty, Representative Brennan and members of the Education and Cultural Affairs Committee. I am Steven Bailey, executive director of Maine School Management Association, testifying on behalf of the legislative committees of the Maine School Boards Association and Maine School Superintendents Association, in opposition to L.D. 1129 and L.D. 1199.

MSBA and MSSA are in opposition to L.D. 1129 and L.D. 1199 for a multiple of reasons.

First of all the October 1 date for L.D. 1129 may be unrealistic for early October of any particular year. And while syllabi and materials may generally be planned out for the year, having all materials planned and ready by October 1 is unrealistic. Teachers need flexibility based on needs of students in their classes, changes that might be needed based on unknown circumstances that may occur throughout the school year, and improvements they may see possible prior to or during the delivery of an instructional unit. Teachers also need the freedom to pivot based on their students' questions and interests on a particular topic to make the lesson relevant and meaningful. Requiring all information ready at that time of the school year disregards the judgement of the professionals in our schools, who have been hired because of their credentials, academic training and knowledge of students they teach.

School library books and materials are already available through district websites.

Curriculum materials selected for school use are based on the Maine System of Learning Results in all Content Areas.

Data from state-based assessments are available on the data website for each school district as required by ESSA.

Professional development is determined based on school district, school or employee needs as determined by planning conversations and requirements as stated in statute. Professional development is open to the public. Information on 3rd-party providers of professional development is kept including planning conversations and expenses incurred connected to the specific professional development activity.

Requiring a specific online portal, without funding to develop and maintain the data in this specific site, would in our view be determined an unfunded mandate. The information sought in section 7 of L.D. 1129 is already available on the website of schools or via conversations with school officials who do have this data.

Equally concerning is these bills undercut the role of the locally elected School Board, which is empowered under statute, to review and adopt curriculum guides, course descriptions and courses of study.

These bills also fly in the face of local control.

They would have the Legislature undercut the legitimacy of locally elected School Board members, who are tasked with putting the best interest of students at the forefront in the decisions they make. They choose the superintendent and work with him or her on policies guiding school operations, including materials we use in our classrooms.

State statute also reflects the belief that book selections should not be dictated from Augusta, but are the purview of locally elected boards.

We understand that parents want a role in their child's education, and they may object to some of the reading material being assigned. Those parents have the option of going to the superintendent or School Board to express their concerns, and school leaders will attempt to accommodate those concerns. Additionally, parents have the right to opt their child out of certain aspects of instruction or to not use a particular curriculum resource, via sample policy IMBB.

Title 20-A, Section 1001, Duties of School Boards, 10-A, Educational materials, explicitly says the board "shall adopt a policy governing the selection of educational materials and may approve educational materials." School Boards, like legislators, are elected by their constituents and are charged with the responsibility of educating our children.

EXEMPTION FROM REQUIRED INSTRUCTION

The curriculum of the school unit is designed to reflect the learning expectations for all students in all content areas of the system of Learning Results, as well as other statutory and regulatory requirements and content areas specified by the Board.

The Board acknowledges that from time to time individual students may be exposed to some ideas and materials with which they or their parent(s)/legal guardian disagree. Students and their parent(s)/legal guardian cannot be required to adopt ideas with which they disagree, but such disagreement alone is not a sufficient basis to exempt a student from the prescribed curriculum. Exemptions from the required curriculum should be minimized because they can detract from the overall instruction provided to the class as a whole and the educational objectives sought to be achieved by the curriculum.

The Board recognizes, however, that there could be topics in the curriculum which may be objectionable to individual students and/or parent(s)/legal guardian based on their particular sincerely held religious, moral or philosophical beliefs. Exemption from instruction which infringes on such beliefs may be requested by the parent(s)/legal guardian.

Requests for exemption from instruction must be made in writing to the building Principal and are subject to the approval of the Principal. The Principal shall notify the Superintendent as soon as practicable of any request for exemption from instruction and of his/her decision. If the Principal denies an exemption request, the parent(s)/legal guardian may appeal to the Superintendent.

In considering requests for exemption, factors that the Principal should consider may include:

- A. The alignment of the curriculum with the system of Learning Results;
- B. Whether the course or content area is required by state law or Board policy;
- C. The educational importance of the material or instruction from which exemption is requested;
- D. Evidence regarding the sincerity of the belief on which the request is based;
- E. Whether the school has a legal obligation to accommodate the exemption request;

- F. The effect of exemption or accommodation on the validity of the local assessment system; and
- G. Other factors that bear upon the particular request.

Exemption from required instruction does not excuse the student from meeting the requirements of the Learning Results or from total credit hours or other requirements for graduation, or from performing alternative work.

When the Principal determines that the curriculum that has been aligned with the system of Learning Results conflicts with sincerely held religious beliefs of a student or his/her parent or legal guardian, reasonable accommodation in the curriculum shall be made for the student, within the scope of existing resources. Alternative instruction may be provided by the school or through approved independent study. Any alternative instruction shall be approved in advance by the Principal in consultation with appropriate instructional staff and shall meet the standards and objectives of the part of the curriculum that is being replaced. When requests for exemption from required curriculum are made for religious reasons, a parent/guardian who is dissatisfied with the Principal's decision may appeal to the Superintendent. If the accommodation in the curriculum that is requested is so great that the validity of the local assessment system is compromised, the Superintendent will determine how to address the situation, subject to the approval of the Commissioner.

When a student is exempted from any portion of the regular curriculum for other than religious reasons (exemption based on sincere philosophical or moral beliefs), the staff will make reasonable efforts, within the scope of existing resources, to accommodate alternative instruction for the student. Alternative instruction may be provided by the school or through approved independent study. Any alternative instruction shall be approved in advance by the Principal in consultation with the classroom teacher, and shall meet the standards and objectives of the part of the curriculum that is being replaced. When requests for exemption are made for philosophical or moral reasons, a parent/guardian who is dissatisfied with the Principal's decision may appeal to the Superintendent, whose decision shall be final. **[OPTIONAL ADDITIONAL STEP: Local boards may wish to consider adding an appeal to the Board in the event that a parent/guardian is dissatisfied with the Superintendent's decision.]**

Legal Reference: 20-A MRSA § 6209
LD 1536, Chap. 51 Resolves
Ch. 127 § 3.07 (Me. Dept. of Ed. Rules)
Ch. 131 (Me. Dept. of Ed. Rules)

Cross Reference: ADF – School District Commitment to Learning Results
 IJJ – Instructional and Library Material Selection
 IMB – Teaching About Controversial/Sensitive Issues
 IMBAA – Alternatives to Biological Dissection

Adopted: _____

PLEASE NOTE MSMA sample policies and other resource materials do not necessarily reflect official Association policy. They are not intended for verbatim replication. Sample policies should be used as a starting point for a board's policy development on specific topics. Rarely does one board's policy serve exactly to address the concerns and needs of all other school units. MSMA recommends a careful analysis of the need and purpose of any policy and a thorough consideration of the application and suitability to the individual school system.

MSMA sample policies and other resource materials may not be considered as legal advice and are not intended as a substitute for the advice of a board's own legal counsel.