



AMERICAN CIVIL LIBERTIES UNION

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TESTIMONY OF MEAGAN SWAY, ESQ.

Ought Not To Pass

**LD 1129 – An Act to Enact the Curriculum Transparency Act
LD 1199 – An Act to Provide Transparency in Public School Curricula**

Joint Standing Committee on Education and Cultural Affairs

May 11, 2023

Senator Rafferty, Representative Brennan and distinguished members of the Joint Standing Committee on Education and Cultural Affairs, greetings. My name is Meagan Sway, and I am Policy Director 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 the ACLU of Maine, GLBTQ Legal Advocates & Defenders, EqualityMaine, MaineTransNet and OUT Maine, I am here to testify against LDs 1129 and 1199.

We all strongly support transparency when it comes to government bodies, including public schools. As this Committee knows, schools are hardly a black box. There are already laws specifically allowing parents to obtain information from schools.¹ Where we part ways with these bills is how transparency would be enforced. Transparency does not mean dictating to schools what cannot be taught. It does not mean micromanaging schools.

If enacted, LD 1129 would, among other things, require that teachers only teach curriculum that is specifically approved by a school board, “without change.” It would also prohibit any classroom learning based on sex, race, gender, religion, disability, income, psychological or social-emotional data, or trauma-based care.

This is likely to have a chilling effect on teachers and students’ willingness to engage in complex or difficult conversations. School is where kids are best set up to learn about how to engage with difficult topics, how to disagree with one another, and what it means to be a citizen in a diverse world. We should not impede this learning, and abridge students’ First Amendment rights, by deterring teachers from teaching certain subjects.

¹ See, e.g., Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, Maine Student Information Privacy Act, 20-A MRS sec. 952, Protection of Pupil Rights Amendment, 20 U.S.C. sec. 1232h.

As a practical matter, what possible educational benefit could come from stifling learning about Jim Crow or the U.S. Constitution's Fourteenth Amendment, both of which are intricately bound up with race? Why would we list in our laws personal characteristics or experiences that cannot be part of curriculum other than to suggest that some people and their experiences are unmentionable at school, with the result of compromising their equal belonging in the school community.

Equally troubling, LD 1199 would require school boards to publish by October 1 of every year "for review by parents": teaching materials, the list of required textbooks, course syllabi, lesson plans, tests, and a list of all the books in the school library and their intended reading ages. Although aimed at transparency, this legislation would instead micromanage schools, teachers and librarians.

Parents already have rights under federal law to inspect educational material. *See Protection of Pupil Rights Amendment*, 20 U.S.C. §1232h(a). The bills before you go beyond the existing statutory framework, dictating what teachers can teach, not allowing for adjustments or changes that need to be made to meet the individual needs of each student, and subjecting even the smallest educational decisions to parental review.

After one and a half years of remote-schooling, and the difficulties so many students are having catching up, the legislature should focus its resources on helping students learn, not on what they are allowed to learn. We can keep our communities informed without placing children and their teachers under a microscope. Please reject LDs 1129 and 1199.