



LD 489 - An Act to provide equal educational opportunity by adopting rules ensuring nondiscrimination on the basis of protected class status in educational institutions.

March 23, 2023

Representative Brennan, Senator Rafferty, and honorable members of the Committee on Education and Cultural Affairs, my name is Gia Drew. I am the Executive Director of EqualityMaine, which has been representing and advocating for Maine’s LGBTQ+ community since 1984, and I am testifying today on behalf of EqualityMaine, MaineTransNet, Maine Women’s Lobby, the Maine Chapter of the American Academy of Pediatrics, and the ACLU of Maine in support of LD 489: An Act to provide equal educational opportunity by adopting rules ensuring nondiscrimination on the basis of protected class status in educational institutions.

These rules do not appear to have been substantially updated in more than two decades and do not accurately reflect all protected classes covered by the Maine Human Rights Act under Subchapter 5-B: Educational Opportunity¹, including such categories as religion, nationality, sexual orientation, or gender identity. Additionally, there have been several significant legal rulings, both here in Maine and in Washington D.C., that have further affirmed basic human rights. In January of 2014 – that’s nine years ago – the Maine Supreme Court ruled in *Doe v RSU 26*², reiterating the Court’s view of the rights of transgender students under the Maine Human Rights Act. Additionally, the US Supreme Court ruled in June 2020 in *Bostock v. Clayton Co, Georgia*³ that sexual orientation and gender identity discrimination are prohibited under Title VII of the Civil Rights Act, confirming the simple but profoundly American idea that every human being should be treated with respect and dignity.

We all want what’s best for kids so they can feel included and safe, and in turn, thrive at school. We also believe that people want to know what’s expected of them in terms of rules and protocols. And we would hate to learn that just because of where a child lives, they’re treated differently, or even poorly, because of their zip code. Unfortunately, because the rules and regulations have not been updated in more than 20 years, schools and school districts have been left to figure things out by themselves, navigating varying priorities, interests, and local expectations and understandings.

¹ <https://www.mainelegislature.org/legis/statutes/5/title5sec4601.html>

² <https://law.justia.com/cases/maine/supreme-court/2014/2014-me-11.html>

³ https://www.supremecourt.gov/opinions/19pdf/17-1618_hfci.pdf

Some have taken on the challenge and done a good job, while others have done nothing, leaving students, teachers, administrators, and parents confused about what the law is and what best practices are for ensuring that kids feel safe and included at school. Kids are paying the price for inaction, and teachers are frustrated and afraid, increasingly leaving the profession because they don't feel supported and can't do what's right for kids.

Lastly, we know many of our kids are not thriving at school. While COVID-19 has had a significant impact on kids' health and wellbeing, students of color have had to also contend with offensive racial comments or being attacked because of their race or ethnicity at rates 5 times those of white students. We also know that LGBTQ+ students don't feel safe at school either. According to the 2021 Maine Integrated Youth Health Survey⁴, LGBTQ+ students are nearly 10 times more likely to hear offensive comments or be attacked at school because of their actual or perceived sexual orientation or gender identity, and are 3 times more likely to stay home or skip school because they do not feel safe.

We know public schools are trying their best to help all students, but they don't have all the tools they need to make it a reality for all kids. Having clear rules, guidance, and guidelines to protect against discrimination under the Maine Human Rights Act will only help schools provide the school environment students need to feel safer and be able to learn.

I urge you to support this bill, and to vote ought to pass on LD 489. Let's update the rules.

Gia Drew
(she/her)

On behalf of:
EqualityMaine
ACLU Maine
MaineTransNet
Maine Women's Lobby
Maine Chapter of the American Academy of Pediatrics

⁴ <https://www.maine.gov/miyhs/2021-results>