

LD 1373 (“An Act to Keep All Maine Students Safe by Restricting the Use of Seclusion and Restraint in Schools”), as amended, addresses stakeholder concerns while still providing important protections to Maine students.

LD 1373 has been amended by Committee Amendment A,ⁱ and House Amendment A.ⁱⁱ It passed the House as amended and is currently awaiting Senate action. These amendments, taken together, address the vast majority of concerns expressed by opponents to date, as outlined in the table below.ⁱⁱⁱ

<i>Concerns with LD 1373 as introduced</i>	<i>Amendments made in response to concerns</i>
<p>The prohibition on seclusion was the primary concern of many opposed to the bill. For example, MADSEC stated that: “The change of most concern is the prohibition on seclusion.” And Maine Behavioral Healthcare indicated that: “The primary difference and problem with this bill versus Chapter 33, is the elimination of the option of using seclusion to safely manage dangerous behavior that puts a child or others at imminent risk.” These concerns were echoed in the testimony of several others</p>	<p>The Committee Amendment delayed the implementation of the prohibition on seclusion to September 1, 2023. And the House Amendment removes the prohibition on the use of seclusion. <u>LD 1373, as amended, would no longer prohibit the use of seclusion as an emergency intervention.</u></p>
<p>The prohibition on the use of supine restraint was also identified as a concern, with some claiming that this might increase the risk of injury in certain situations. For example, the Collaborative School indicated: “we have grave concerns about the unintended consequences of eliminating the use of supine restraint as a measure of last resort.” This was echoed by the Association for Maine Behavior Analysis.</p>	<p>The Committee Amendment removed the prohibition on the use of supine restraint. <u>LD 1373, as amended, would no longer prohibit the use of supine restraint.</u></p>
<p>Several people expressed concerns about the prohibition on restraints that interfere with an individual’s primary mode of communication. For example, Maine Behavioral Healthcare called this an “unworkable requirement”.</p>	<p>The Committee Amendment removed the provision that prohibited restraint that interferes with communication. <u>LD 1373, as amended, would no longer prohibit the use of restraints that interfere with the ability to communicate.</u></p>
<p>Maine Behavioral Healthcare expressed a concern that there was no definition of “time out” in the bill.</p>	<p>The House Amendment includes a definition of timeout, taken directly from existing regulations. <u>LD 1373 defines time out and makes clear that time out is not seclusion.</u></p>

Maine DOE expressed concerned about ambiguous language regarding when restraints are contraindicated due to a disability or medical condition.	The House Amendment removed the language identified by MDOE as ambiguous. <u>LD 1373, as amended, clearly identifies the ways in which the contraindication of restraint will be documented.</u>
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Given these amendments, what remains of LD 1373 was not generally the subject of specific concerns. As amended, LD 1373 would do the following:

1. LD 1373 would prohibit prone restraint. No one opposed this limitation at public hearing.
2. LD 1373 would prohibit restraint or seclusion when it is contraindicated based on the student’s disability or health care needs or medical or psychiatric condition. The language MDOE previously identified as ambiguous in this provision has been removed.
3. LD 1373 would permit the use of seclusion or restraint only when a student’s behavior poses an “imminent danger of serious physical injury”. Chapter 33 currently permits restraint when the behavior of a student “presents a risk of injury or harm to the student or others.” This heightened threshold for the use of emergency interventions is in line with what many who testified against the bill said they are already doing.
4. LD 1373 would provide clear statutory authority for MDOE to promulgate regulations, by requiring revisions to the current MDOE Rule Chapter 33, which would be a major substantive rule. This aspect of LD 1373 was not raised as a concern by anyone at the public hearing.
5. LD 1373 would require any school in Maine that received public funds to comply with requirements for reporting the use of restraint and seclusion. This aspect of LD 1373 was not raised as a concern by anyone at the public hearing and in fact many opponents joined in the call for more comprehensive data collection.
6. Finally, LD 1373 would require MDOE to provide technical assistance to schools to support evidence-based programs that reduce the likelihood of physical restraint and seclusion. This aspect of the bill was never controversial. MDOE has indicated it is already engaged in these efforts and many opponents of the bill also identified a need for more technical assistance and training.

ⁱ Available here: <http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1007&item=2&snum=130>

ⁱⁱ Available here: <http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1007&item=6&snum=130>

ⁱⁱⁱ This document was prepared by Disability Rights Maine. It is based on a review of the testimony in opposition to LD 1373 “*An Act To Keep All Maine Students Safe by Restricting the Use of Seclusion and Restraint in Schools*”, which is available here:

http://www.mainelegislature.org/legis/bills/display_ps.asp?ld=1373&PID=1456&snum=130&sec3 Please direct any questions to Atlee Reilly (areilly@drme.org).