



# MADSEC

## Maine Administrators of Services for Children with Disabilities

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Beth Lorigan  
School Union #60

January 30, 2012

To: Senator Langley, Representative Richardson, and members of the Education Committee

My name is Jill Adams and I am the Executive Director of the Maine Administrators of Services for Children with Disabilities, MADSEC. MADSEC is offering testimony neither for nor against LD 1783.

MADSEC finds it difficult to offer testimony on Chapter 140, Public Charter School Rules in isolation of the changes that are being proposed to the Public Charter School Law. The changes to the rules and statute are intertwined. With this consideration MADSEC offers the following comments.

MADSEC would ask that you please review the attached testimony which MADSEC submitted to the DOE when these rules were proposed. It is rather lengthy; therefore I will not read it. This testimony includes many questions that we believe need to be answered or clarified.

MADSEC would like to thank the Department of Education for the proposed change to the public charter school statute that requires public charter schools to follow all federal and state special education laws, regulations, and rules. Many of MADSEC's concerns have been addressed by this change. It is extremely important to MADSEC that children with disabilities in public charter schools have the same rights and protections as children with disabilities in non-charter public schools. The only way a public charter school will reach its desired destination of success with all students who choose to attend, is to successfully implement special education.

Thank you for your time and consideration of our concerns.

### Staff:

#### Executive Director

Jill V. Adams

#### Administrative Asst.

Pamela W. Ouellette



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December 1, 2011

Deborah Friedman, Director, Policy and Programs  
Maine Department of Education  
State House Station 23  
Augusta, ME 04330-0023

Dear Ms. Friedman:

The Maine Administrators of Services for Children with Disabilities, MADSEC, is offering the following as testimony on Chapter 140, rules dealing with Public Charter Schools.

Since charter schools in Maine will be “public” charter schools that are open to all students and financed by public tax dollars, it will be important that these rules clearly delineate the responsibilities of the public charter schools for students with disabilities. The only way a public charter school will reach its desired destination of success with all students who choose to attend, is to successfully implement special education.

We have many concerns and questions that have not been answered by the proposed public charter school rules. We believe the charter school statute insinuates that public charter schools are required to follow both federal and state special education statute and rules, although this is not clearly stated. We would ask that this be clarified and clearly delineated in the proposed rule. This clarity would assist public charter schools as to which rules they are required to follow. MADSEC asks for clarity on other Maine statutes and rules that public charter schools must comply with such as Chapter 33, Restraint and Seclusion, or Chapter 14, Homeless students. It should be clearly delineated in the public school rules, which rules that public charter schools need to follow. Since is not clear in the proposed rule which Maine statutes and rules that public charter schools need to follow, we are unable to make comment on this critical component. We do question why we would consider these rules important for our public schools and not necessary for public charter schools.

3. State and Local Funding. This section does not contain any reference as to how special education funding will be calculated or dispersed to the charter school. This needs clarification. The law says the following:

**Section 9. Department report.** The Department of Education shall submit a report to the Joint Standing Committee on Education and Cultural Affairs by November 1, 2011. The report must include the status of the following initiatives:

1. A draft version of the major substantive rules that the department determines are necessary to implement this Act, including but not limited to rules relating to **the provision and funding of special education services to public charter school students**, the process for transferring funds to public charter schools and standards for department oversight and authority over public charter school authorizers. The provisionally adopted rules must be transmitted to the Legislature on or before January 13, 2012.

This statement in the law leads MADSEC to believe that this would be part of the rule language and it does not appear to be. We would request that there be clarity as to how special education funding will work and that it be part of these rules.

4. Federal funds. A. If an LEA authorizes a charter school, then the LEA is responsible for the special education. This says the federal special education funds would go to the charter school. Why would this occur if the LEA is responsible for the services? This needs to be clarified.

5. Staff. Will special education teachers and related services providers need to be certified and/or licensed? If Chapter 101, Maine Special Education Regulations are required to be followed, which is not clearly spelled out in the proposed rules, then we believe special education staff will be required to be certified and/or licensed.

#### **Section 4. School Administrative Units**

2. Transfer of records to charter school. MADSEC would suggest there also needs to be timely transfer of records from the charter school to the public school in compliance with Title 20-A section 6001-B, sections 1 and 2.

#### **Section 5. Other; General**

1. Petition for conversion of a noncharter public school. If a non-charter public school converts to a charter school, the charter school is then attended by choice. What are the options for a student that does not want to attend the charter school if the LEA has no other schools that have that grade level?

There are many questions that are unanswered in relationship to special education in public charter schools. MADSEC would ask if these questions are not addressed during rule making where these questions will need to be answered in order for Public Charter Schools and LEAs, to each understand their responsibilities. Clearly, it makes sense to have these questions answered before any public charter schools are authorized.

It appears from the statute and rules that there is a difference of responsibility for special education in a public charter school determined by who authorizes the school therefore, we have different questions that need to be answered according to the whether the public charter school is authorized by an LEA or the Charter School Commission.

#### LEA Charter School Questions

1. Since the LEA retains responsibility for special education services, how are the logistics of this arrangement determined?
2. Who employs and supervises special education staff?
3. Does special education staff need to be special education certified?
4. Do related services providers need to be state licensed?
5. How will special education funding work? Does the LEA only have to spend what would have been the per pupil special education cost?
6. If an IEP meeting can not come to consensus on a child's program, who makes the decision, LEA or public charter school?
7. If there is a complaint or due process, who is responsible for the costs?
8. Who will be responsible for state special education forms and reports?
9. Will the state monitor the special education program at the charter school as a separate entity or as part of the LEA?
10. If an LEA authorizes a charter school, and a student with an IEP chooses to attend from another district, how will the special education funds flow? Will they go to the LEA who authorized the charter and has responsibility for the special education services, or to the charter school?
11. If the student is not a resident of the LEA which authorized the charter school, and the cost of special education services to that student are above the amount of special education funds that follow the child, who will be responsible for the additional costs?
12. If a charter school determines that a student requires an outside placement, who is responsible for the placement and the cost?

#### Commission Charter School Questions

1. Since the public charter school will be responsible for special education, will there be a requirement that the charter school employ someone who has expertise in managing special education? We would suggest language similar to that used in Chapter 101, Section XII.1.A (1)f.
2. Do special education staff need to be state certified in special education?
3. Do related services providers need to be state licensed?
4. Special education funding will follow the child. If the cost of the child's special education services are above these funds, will the charter school be responsible for the cost of those services?
5. If a parent does not agree with a child's IEP decision, is the charter school responsible for complaint and due process costs?
6. What are the charter school's child find responsibilities?
7. Will the charter school be required to use the Maine required special education forms?
8. Will there be someone in the charter school that will be responsible for FERPA?
9. Will the state monitor the charter schools' special education program the same as all other public schools?
10. Will the charter school be responsible for all special education forms and reports?

11. If a student requires transportation as a related service, will the charter school be responsible?
12. If a charter school determines that a student requires an outside placement, who is responsible for the placement and the cost?

As you can see from the questions above, we have many questions or clarifications. MADSEC would like all, or at least as many as possible answered before the first charter school occurs. By understanding what responsibilities are whose, it will clearly make the process smoother for all involved but most importantly for the student with a disability.

MADSEC is concerned about the capacity of the MDOE to be able to offer all of the technical assistance that will be needed in order for public charter schools to understand and implement appropriate special education programming. Currently, MDOE does not have enough personnel to offer special education technical assistance to the public schools. By having more schools to assist, technical assistance will be spread even thinner.

Thank you for the time to address MADSEC's questions and concerns.

Sincerely,

Jill Adams  
Executive Director