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April 1, 2013

Oregon Senate
Attention: Education and Workforce Development Committee
State Capitol
900 Court Street Northeast
Salem, Oregon 97301

Re: SB 215 and SB 501

Dear Chairman Haas and Honorable Committee Members:

I greatly appreciated the opportunity to speak before you during your hearing March 28, 2013, on Senate Bill 215, as amended. As I indicated at that time, I support the bill as it was proposed in its original form. I also support Senate Bill 501, which removes the authority of state education bureaucrats to withhold money from public schools solely because partisan agency members don't like a community's expression of itself.

I do not support the amended version of Senate Bill 215 because, like a similar bill proposed in the Oregon House of Representatives (HB 3397), the amended version doesn't go far enough to protect the expression of the public guaranteed under Oregon's Constitution, and under the Constitution of the United States.

Having a government agency ban a community from using words and images the agency doesn't like is a very troubling and dangerous phenomenon. Having a small, unelected group of government officials ban words, and punish people or groups who use them, is a terrifying concept.

Whose words or images will be banned next? Who decides what words or images to ban? Do all people decide, or only the few appointed persons in the government agency, who have no accountability to anyone but the one individual who appointed them?

This kind of tyranny is exactly what happened in Nazi Germany during the 1930s as the government took gradual steps of repression, which led eventually to the extermination of millions of people of various ethnic groups and religions. This kind of tyranny, it appears, is now happening here, in Oregon—in the United States. To realize that, is mind-blowing.

It sounds more like Russia or Central Asia today, where xenophobic governments with little history of real democracy have been conducting similar campaigns of linguistic cleansing. Government officials there feel it important to purify the language of the people, to eliminate the words of certain ethnic or religious groups, and to control the way that people think of their communities and society.

This is exactly what Oregon's Board of Education started last year when it prohibited communities from using names for their schools or students that include words like "Indians," "Braves" or "Chiefs." The Board also banned images related to American Indians, tribes, customs and traditions.

Official representatives of the Department of Education have said that the ban is to protect Native Americans from discrimination. Nothing could be further from the truth. The logic and research cited by the Department (and other detractors of using Indian-related words and images) are subjective at best, having been largely based on a single subjective study and testimony from members of a wide variety of far-left special interest groups.

The so-called research cited by a representative of the Oregon Indian Education Association was a single, unduplicated study. In it, study participants were asked to give opinions that could not be empirically measured and that were based on having been presented with grossly exaggerated caricatures of Native American people, rather than images resembling any of the mascots in use in Oregon today.

The Board of Education's ban is not about "equal opportunity for all students," or about what is right or wrong. It is about the politics of political correctness run amok, and of pandering to the interest groups that provide succor and support to left-wing politicians.

The Native American peoples of this state and country have a rich history of customs and traditions. Regulating communication about those customs and traditions won't help preserve the traditions or protect the people. Regulating thought and communication will only serve to perpetuate the propensity of certain small-minded people to forget or disdain the very Americans that bureaucrats say they want to protect.

The Molalla area residents I know have always only wanted to honor the original inhabitants of the Molalla area, and at the same time to pay respect and tribute to Native peoples throughout our entire nation. Few people of Native American ancestry who live in Molalla today come from the original Molalla tribe.

My own children are descended from Cherokee and Algonquin tribes (on their mother's side). Other Molalla area residents have descended from such tribes as Cheyenne and Blackfeet.

Despite some misinformed claims to the contrary, the image that Molalla High School uses to depict an American Indian is both respectful and representative of Native Americans who have lived in the Molalla area and throughout Oregon. Numerous photographs and documentary evidence are available to support this from various sources including state and federal governments, Oregon Public Broadcasting and individual Oregonians.

To be sure, I understand why individual Native Americans would be mad as hell about treatment that they and their ancestors suffered at the hands of European-descended settlers. I understand why these first Americans would want to deny all people of European ancestry the ability to speak for them or about them, or to use their images or symbols. But I also understand that this kind of denial, no matter how understandable or seemingly justified, creates a dangerous precedent for denying communication of other ideas and concepts. It also does not engender the kind of cooperation and understanding that must be created and preserved if we are all to live in peace in a world that grows ever-more diverse and densely populated.

No matter how hard it may seem at times, we must all honor and respect each other. Centuries of misdeeds cannot be undone by reversing the flow of discrimination. We must all of us look past the exterior attributes of each other. Skin, eye and hair color are not important. What is important is that we all honor and respect each other, and that none of us practices discrimination in any form.

To that end, government must not restrict the public's right to free expression. Government must create and nurture an atmosphere of cooperation and education, not competition and hostility.

Unlike other government institutions, public school districts are not just government agencies that exist for providing and regulating public order. Just as with private schools, public schools exist to provide both community and individual benefit, accomplished through education which, to be effective, depends on tolerance and a free exchange of ideas. Our state's founders and chief jurists recognized the need for such tolerance when they provided even broader rights of expression than those provided for in our nation's constitution.

To put this notion into perspective, consider private schools alone. What do you suppose would have been the outcome in the U. S. Supreme Court if the Board of Education had made its ban apply to private schools too? That the ban doesn't apply to private schools is fairly telling. Free speech of private citizens, regardless of the educational setting, cannot be infringed, except in extraordinary cases. Over the decades, the federal courts have made it clear that such extraordinary cases are not reserved for speech that is merely unpopular or offensive.

Apart from turning aside free expression, the Board of Education's "mascot" ban suffers from a number of other inadequacies, which are outlined below. Some of these issues are more legal in nature, while others are more philosophical. In any case, these problems should be corrected, even if legislators fail to reverse the ban.

- A number of schools throughout the United States that are operated specifically for or by Native Americans use words for their teams including "Indians," "Braves" and "Lady Indians," and use images similar to the one used at Molalla High School. If Native American groups throughout the country have such broad opposition to these words and images, as the Oregon Indian Education Association claims, then why do Native Americans themselves use these words and images for their own schools and teams?
- The OBE rule bans the use of words and symbols that any reasonable person would hold in high esteem (e.g., "Indians" and "Braves"), but allows the use of words and symbols that are associated with theft, robbery, pillaging, rape, murder and warfare, to wit: Outlaws, Raiders, Pirates, Warriors, etc. What kind of message does this convey to our kids and our communities?
- The OBE rule is overly broad and provides incomplete parameters for ensuring that regulated agencies understand how to comply. Rather than limiting banned words or images with specific parameters, the rule leaves compliance open to broad, unspecified interpretation, at the sole discretion of the agency, by using the term "such as" to describe the words/images that are banned.
- The OBE rule provides unequal protection under the law by singling out one group for special treatment, while not providing that same treatment for all other similar kinds of groups, to wit: Japanese, Irish, Scots, etc.

The problem with the amended SB 215-2 is that, while it creates compromise, it still creates an unconstitutional regulation of speech and expression. The amendments seek to bring compromise among dissenting Native American groups, but don't deal with the core issue: the banning of protected speech in the form of a community's identification of itself and the expression of its ideals.

Some proponents of the compromise amendments say that requiring schools to seek tribal permission to use Indian-related words or images as school symbols will improve communication and understanding between tribes and non-tribal people. The requirement, they say, will lead to stronger relationships, more cooperation and better education of students.

Better communication, understanding and cooperation are extremely important. So is the need to provide better education about Native Americans to all Oregonians. But rather than promoting these ideals, I fear the bill's amendments will provide a false sense of cooperation and communication that will do little to address real problems relating to Native Americans and the issues that affect them.

Communication and cooperation are only effective, are only genuine, if they are voluntary and heartfelt, not compulsory. Expecting something great from the SB 215-2 amendments is a bit like expecting the elementary-schoolers who just tried to beat the stuffing out of each other to forget everything because they were forced to shake hands. They'll shake hands—but they won't forget.

Another issue with the SB 215-2 amendments is that they are unnecessarily restrictive. They allow an Oregon public school to have an "Indian" mascot if the school enters into an agreement with a federally-recognized tribe. Yet, the new provisions limit such tribe to only that tribe in closest proximity to the school, not taking into account any other factor that might make another tribe farther away a more logical or reasonable match for the school.

In closing, I urge you to refer SB 501 and the original version of SB 215 (as introduced) to a full vote of the Senate. If, despite all the information provided here, your committee members cannot agree in sufficient number to take this action, then I would next ask that you refer the amended SB 215 to a full Senate vote. In the latter case, at least some communities may be able to retain their "Indian" symbols and, thereby, continue to honor our state's first inhabitants.

Sincerely,



Craig Loughridge
Resident, Molalla River School District