

SB 223 should not be enacted into Oregon law as it likely violates the Supreme Court decision in *Pierce v. Society of Sisters* (1925). Nearly 100 years ago, the State of Oregon enacted the racist, anti-religion Compulsory Education Act, requiring all children ages 8-16 to attend public schools with limited exceptions, including private instruction approved by government leaders, much like SB 223. The United States Supreme Court unanimously rejected Oregon's Compulsory Education Act and preserved the unfettered right of parents to choose private education for their children and the right of private schools to provide such education without undue interference from the state. SB 223 vaguely proposes unlimited interference in private school education, as well as overregulation of childcare providers. In addition to its unconstitutionality, there are several reasons the bill should be rejected.

First, SB 223 is overbroad in that it lumps prekindergarten and kindergarten programs with 1st-12th grade programs, whereas currently prekindergarten and kindergarten programs are handled uniquely by the Early Learning Division. Prekindergarten and kindergarten are not required years of instruction in Oregon and should not be treated the way 1st-12th grades are treated. Many kindergarten programs are licensed as daycares, not as schools—a fact of utmost importance during the last year when schools were ordered to be closed but working parents were in desperate need of childcare, particularly for the youngest students. The common treatment of programs for 3-6 year olds would deprive parents of necessary childcare should the governor choose to close schools again for any reason. This is unfair to children and parents, particularly working mothers who have struggled to juggle caring for their children while simultaneously working without community support. ODE should not have control over curriculum for non-required educational years.

Second, parents must be free to choose appropriate education for their children. For some families, this means selecting a religious education, a right vigorously protected by the Supreme Court. *Espinoza v. Montana Dept. of Revenue* (June 30, 2020). But for many families, finding an appropriate education has nothing to do with religion. For example, one of my close friends has an autistic son. His public education through third grade impaired his ability to function effectively in society. Over the summer of 2020, this friend investigated several private school options and found one in rural Washington County with a principal who had previously worked extensively with autistic students. Instead of being stuck in online education administered by the Beaverton School District special education program, this fourth-grader is thriving in an in-person classroom with neurotypical children. It was critical for my friend to find a school with smaller class sizes, individualized attention, and an environment that helped her son become conversant, articulate, and confident. The United Nations shares the view that "Parents have a prior right to choose the kind of education that shall be given to their children." UN Universal Declaration of Human Rights, Article 26 (3). SB 223 threatens these fundamental rights of parents.

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