

# SB 223

## Opposition Opinion Testimony March 16<sup>th</sup>, 2021

For Oregon Senate consideration: This bill as written serves as a weapon against private schools, to exclude them from Oregon interscholastic sports or activities (OSAA) and other interscholastic organizations such as the national honor society if they do not comply and submit to Oregon Department of Education (ODE) and Oregon Board of Education (OBE) edicts and rules. This bill puts no bounds or limits on OBE scope of rulemaking, makes no exceptions for academic or religious freedom, and submits public schools to arbitrary future decisions by OBE. The timing of this legislation, at a time when many Oregonians have decided that private schools are a better fit for their kids needs than public schools is highly questionable. This bill would require private schools teach for a period of time EQUIVALENT to public schools, without allowance for private schools to exceed the standards set for public schools. This is exceptionally concerning given the resistance from teachers unions to going back to full time work and requests for expanding 'teacher planning days' such that schools may NEVER go back to full time 5 days a week teaching. The effect of these changes would be to remove freedom and excellence factors which distinguish private from public education.

For decades, private schools have operated successfully under the free market process, that poor performing schools or schools which come to be associated with bad conduct will be known and fail due to free choice of parents to select different schools. This is in stark contrast to the lack of freedom of selection offered by public schools. This distinction is a large part of why private schools have become more attractive to parents in their academic rigor and fit with what parents care to and consider is appropriate to teach their kids. What this bill initiates is an invasion of control of unelected OBE officials, and rather than offering an optional licensure to private schools which should *stand on its own merit* as a stamp of ODE registration, the bill attempts to *force* private schools into compliance by leveraging the substantial power of the public school system to *force* independent scholastic organizations to exclude private school participation in organized activities (competition, awards, student recognition, etc.) unless they have submitted themselves to OBE oversight.

Furthermore, the high level problems with this bill are carefully hidden in the headline descriptions selected for display for public comment:

Editor's summary for the bill, in order of importance (order **reversed** from publication):

- **Prohibits school district from being member of voluntary organization that administers inter-scholastic activities unless organization limits participation in interscholastic activities to private schools that are registered.**
- Prescribes requirements for registration. Provides that representation as registered private school when private school is not registered is punishable by not more than 30 days' imprisonment, \$1,250 fine, or both.

- Provides process by which private school may become registered with Department of Education.

**Senate public hearing bill description casts this bill in a completely different light:** “Provides process by which private school may become registered with Department of Education.”

**This is a complete misrepresentation of the bill contents and impact.**

**Specific issues:**

- 1) The bill proposes to convene an advisory committee to provide consultation of the rules of registration for private schools, yet the bill prescribes 7 criteria which are non-negotiable (Section 2 (4) (a-g)) and states that the state Board of Education may unilaterally define new criteria and rules for registration at its sole discretion (Section 4 (2) (h)).
- 2) Section 2(4)(f) states that “*Courses for educational programs are taught for a period of time equivalent to the period of time required for students attending public schools.*” The effect of this requirement is that private schools who wish to teach courses for a greater number of days than public schools will be penalized. This is wholly inappropriate. We already hear calls for future short school weeks and ‘planning days’ for Oregon public schools, and private schools should not be bound to the same pressures which erode public education quality.
- 3) The bill does not recognize nor carve out any areas of protection of private schools from public oversight as dictated by the OBE. Textbook selection, gender issues, restroom use, teacher selection, costs, academic excellence, number of days of education in a schoolyear, freedom of religious incorporation into lessons and behavioral guidance, the age of sex education and education on sex-related issues (LGBTQ+) are all left open for oversight by the Board in future rules.
- 4) The bill immediately creates enforcement actions designed to pressure independent scholastic organizations into enforcing these rules on private schools under penalty of inability to participate as a competitor school in those organizations. It does so under the threat of withdrawal of public school participation from these sports organizations competitions. (Section 10(1)(e)E).

**For these reasons, this bill would substantially harm the future independence of private schools and undermine the ability of parents living in Oregon to freely choose the best schooling for their children. The bill is irretrievably flawed, and the hidden sponsor(s) should be ashamed of this attempt to damage educational freedom in Oregon.**