March 22, 2023

Chair Dembrow and Members of the Committee,

Thank you for considering my concerns about SB 633. I appreciate this measure is rooted in the best of intentions. I am grateful for the many efforts of the sponsors to improve opportunity for all Oregon students. However, as an advocate and mother of an individual with intellectual and developmental disabilities, this is a measure that raises significant concern and causes very real pain.

All students, including those with disabilities, learn best when they are included in community. Federal law requires that students with disabilities be educated in the most inclusive possible environment alongside nondisabled peers. This foundational value is based in the principles established in Brown v. Board of Education which famously declared that separate is not equal. In the years following, courts cited this landmark case in their decisions granting students with disabilities equal access to schools as a fundamental right. Later, the Section 504 of the Rehabilitation Act, the Americans with Disabilities Act and the Individuals with Disabilities Education Act further cemented these principles.

The proponents of SB 633 suggest creating an additional 400 slots in segregated "special" schools. With just 773 Oregon students currently in such a placement, this proposal expands that population by over 50% and disproportionately impacts students with Intellectual and Developmental Disabilities, Autism and Emotional Disability. If expansion mirrored current special school enrollment, it would result in 9% of all Oregon students with ED being sent away to segregated schools. 2% and 2.7% of students with ID/DD and autism would be sent away to these schools.

SB 633 and its proponents argue there are some children that cannot be educated in their local public schools. This is simply not true. Until we firmly reject such dangerous assumptions, we will never realize the promise of Section 504 of the Rehabilitation Act or the Americans with Disabilities Act. Indeed, SB 633 creates a financial incentive to remove children with significant disabilities from their community schools and place them out of sight and out of mind in a separate, segregated school system with questionable accountability. At the same time, it takes needed financial and staff resources out of our local districts which will lead to even worse experiences for students that are able to remain in their community schools.

Consideration of this measure is particularly concerning in the context of J.N v Oregon Department of Education—a class action lawsuit alleging that Oregon systemically denies students with disabilities access to public schools through abbreviated school days. This another way of segregating students from nondisabled peers and impacts a similar subset of special education students. The court has affirmed standing for this suit, and certified the class stating that "plaintiffs have shown that misuse of shortened school days to address disability-related behaviors is widespread among Oregon schools."

Ironically, this surfaced in the SB 633 hearing when a Serendipity parent explained that the local school district informed her that her child could no longer attend public school and referred her to Serendipity. It took a year for her son to begin attending, during which time he was ostensibly not educated by his public school. This is an example of the inappropriate use of abbreviated learning time. It is also an example of how our system is already pushing kids out and forcing parents to settle for segregated education--- or no education at all.

Investing in segregated programs without addressing these persistent underlying issues could create further legal risk for the state as demonstrated by current actions by the federal government. For example, The federal government is suing the State of Georgia over a publicly funded network of segregated schools for disabled students similar to what is proposed in SB 633. In relevant part, the complaint reads:

> The United States alleges that Defendant, the State of Georgia ("State"), discriminates against thousands of public school students with behavior-related disabilities by unnecessarily segregating them… in a separate and unequal educational program known as the Georgia Network for Educational and Therapeutic Support Program, which is financed, operated and administered by the State. This segregation is unnecessary for the vast majority of students and, therefore, violates Title II of the Americans with Disabilities Act, which prohibits unnecessary segregation of persons with disabilities in state programs, services and activities…. Such unjustified isolation and segregation of persons with disabilities in state programs, services and activities violates the ADA's mandate that public entities "administer services, programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities."
>
> The State discriminates against students with behavior-related disabilities in or at risk of placement in the GNETS Program by denying them equal opportunity to access and benefit from the educational services available to students throughout the State who are not in the GNETS Program. Educational services and supports needed to help students succeed can be provided to students with behavior-related disabilities in integrated settings, including general education classrooms in students' zoned schools…
>
> The United States brings this lawsuit to vindicate the rights of thousands of students unnecessarily segregated in the GNETS Program, or at risk of such segregation, and to compel the State to administer its educational programs, services and activities in a non-discriminatory manner."

If there is any need for regional segregated schools, it is not because of the students. It is because of a public school system that systematically excludes, disregards and disrespects students with significant disabilities. This is demonstrated by lack of investment in these kids even with an unprecedented influx of federal funds and by the language of the measure's advocates. Supporters talked about how this measure was a "win" because these are kids that "can't be educated" in public schools and that segregated schools are their "last chance." Others said segregated regional programs would "take stress off the system" and "ease the burden" on local schools. A lobbyist even asked disability advocates to stop using the word "segregation" because it inappropriately inspires thoughts of the civil rights movement and discrimination.

This is a civil rights issue and there is a long history of activism to eliminate disability discrimination in all of its forms, including segregated environments. Calling segregation by another name does not change what it is or correct the harms that segregation causes to people with disabilities. This clip of a young Judy Heumann following the leak of proposed Section 504 regulations that would allow for segregated education environments speaks to some of this history. https://youtu.be/52XqupjXHIM?t=667

The oral and written testimony on SB 633 reflect the words spoken by Judy nearly 50 years ago and demonstrates that trusted disability advocates resoundingly oppose this measure. Multiple disability organizations, including Disability Rights Oregon, FACT and the Oregon Developmental Disabilities Coalition submitted powerful testimony about the harm caused by segregation and the dangers of this measure. When the disability community tells nondisabled people that a well-intentioned idea is actually harmful, we should listen. Passing this measure over the loud objections of the disability community would not be appropriate.

I implore the committee to refocus our efforts on supporting and requiring our school districts to meet their basic obligations to students with disabilities under state and federal law. Thank you for your consideration.

Sincerely,

Sara