

Even the Law Recognizes Parents Know Best
U.S. Constitution, 14th Amend, Due Process
US Code and CFRs
ORS & OAR

“*The child is not the mere creature of the state...*[the state of Oregon, by forcing parents to place their children in public school] unreasonably interfere[d] with *the liberty of parents and guardians* to direct the upbringing of their children under their control.”

-*Pierce v. Society of Sisters* (1925)

“It is cardinal with us that the custody, care and nurture of the children reside *first in the parents*, whose primary functions and freedom include preparation for obligations *the state can neither supply nor hinder.*”

-*Prince v. Massachusetts* (1944)

“The primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition...[*Parents’* duty to prepare children for] *additional obligations...include the inculcation of moral standards, religious beliefs, and elements of good citizenship.*”

-*Wisconsin v Yoder* (1972)

“Our decisions establish that the Constitution protects *the sanctity of the family* precisely because the institution of the family is deeply rooted in this Nation’s history and tradition. *It is through the family that we inculcate and pass down many of our most cherished values, moral and cultural.*

-*Moore v. East Cleveland* (1977)

“[O]ur constitution long ago rejected any notion that a child is a mere creature of the State and, on the contrary, asserted that *parents have the right coupled with the high duty* to recognize and prepare [their children] for additional obligations.”

-*Troxel v. Granville* (2000)

***Family Educational Rights & Privacy Act (FERPA), 20 USC §1232g** (with regulations at 34 CFR 99) protects privacy of family records and information (e.g., surveys)

***Protection of Pupil Rights Act, 20 USC §1232h** requires all instructional materials, surveys, etc. to be available for inspection by parents and guardians

Oregon

Oregon parents/guardians and students have the constitutional and statutory **right to opt out** of objectionable human sexuality or HIV/AIDS curriculum, including for accommodation of religious beliefs (*See* 14th Amendment; ORS 336.035(2); OAR 581-022-1440(5), 581-022-1910(1))

Parents and guardians have the **right to inspect** the instructional materials to be used before or during the time the course is taught (*See* ORS 336.035(2))

Parents and guardians have the **right to be notified in advance** of any instruction on human sexuality or HIV/AIDS (*See* ORS 336.035(2))

Refusal to take part or participate in any class, course, survey, assembly or school-sponsored activity on human sexuality or HIV/AIDS **shall not be reason for harassment, suspension or expulsion of a student** (*See* ORS 336.465)

School teachers or staff who do not want to participate in presentation of human sexuality or HIV/AIDS curriculum **cannot be sanctioned, disciplined or otherwise compelled** to participate against their conscience (*See* First Amendment; ORS 336.035(3))

A parent or guardian has the **right to request disclosure of public records** relating to presentation of human sexuality or HIV/AIDS instruction and other subjects under federal and state law (5 USC §552; ORS 192.420, 192.440)

A parent or guardian **can require a school district's attorney to generate a legal opinion** explaining how the school district is addressing the legal interests of all parties in connection with human sexuality or HIV/AIDS instruction and other subjects.

PARENTS' TOOL BOX FOR PUBLIC EDUCATION

Compiled by a Local Attorney at Law

Beaverton, Oregon

1. Imperatives:

- a) **Be for school choice** (even if you don't utilize it, a little competition is a good thing)
- b) **Be vigilant and informed** (ask questions, review policies, make public records requests, know who's driving decisions)
- c) **Be persistent** (don't fall for the bureaucratic "brush-off")
- d) **Be active** (ask questions, review curriculum, opt your kid out, make the appropriate school officials justify "why" rather than making you prove "why not")
- e) **Be together** (safety in numbers, don't enable "divide and conquer")
- f) **Be sure to document** (print or write down what you're told, send confirming letters/emails)
- g) **Be known** (assumes you're involved, you know the decision-makers, and they know you)

2. Seek out resources for information, strategic alliances and possible legal representation

3. Suggestions for interactions with school officials:

- a) Remember you are the customer, and you want them to listen and respond favorably
- b) Try to understand before trying to persuade (start with questions to make sure you understand their position and their constraints)
- c) Have key talking points prepared to keep you on track
- d) Don't be abusive (remember, honey works better than vinegar)

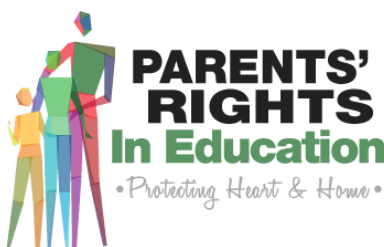
4. Have a form "opt out" letter to work from (from district or create it yourself).

5. Questions to ask school officials (if applicable):

- a) How and when can I see curriculum materials?
- b) What is the school's policy re notifying parents of sexuality education, potentially objectionable reading assignments and other sensitive curriculum matters? How are parents actually informed or contacted?
- c) What is the policy or process for me to "opt out" my child from a class or assignment? What forms if any do I need?
- d) Who determined which non-school personnel would be teaching certain material? How were their qualifications verified? If these personnel are permitted to do instruction, can other non-school personnel with different viewpoints also be approved for instruction? What policies govern these decisions?
- e) May parents observe classroom instruction? If not, why not? If so, what if any procedure must be followed? What policies govern these decisions?
- f) What is the cost to the school district for these non-school instructors? What is the benefit to the school district for using non-certified instructors? What is the benefit realized by the non-school instructors or their affiliated organization(s)?
- g) If money is changing hands, what is the source of those funds? Who is paying whom?

WHEN YOU'RE TRYING TO SEE THE SEXUALITY EDUCATION CURRICULUM...

1. When (not if) can I see the actual curriculum materials, as required by ORS 336.035(2)?
2. What, if any, notice is given to parents concerning an opportunity to review the sexuality curriculum in advance of instruction, as required by ORS 336.035(2)?
3. What was the process for adoption of this sexuality curriculum, and were parents given the opportunity to be part of the adoption process?
4. Were any outside groups advocating for adoption of this curriculum, including Planned Parenthood, WISE, SIECUS or related groups?
5. If parents want to opt their children out of sexuality instruction, how do you notify them of their right to do so under ORS 336.035(2)? What do they have to do to implement that choice?
6. If parents actually opt their children out of sexuality instruction, how is that actually implemented, and what is done to provide alternatives to the sexuality curriculum?
7. If parents do opt their children out of sexuality instruction, what impact does that have on a student's grade in the class?
8. Are any outside instructions besides certified teachers actually involved in the presentation of instruction in the classroom? If so, who, and how are they approved or selected?
9. Does the school (or district) offer the Teen Outreach Program (TOP), and why?
10. What outside resources are used or paid for in presentation of classroom instruction?
11. If you won't allow me to see the actual curriculum, to whom do I direct a public records request?



“Protect and advocate for parents’ rights to guide the education of their children.”

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