



## TESTIMONY BEFORE THE SENATE COMMITTEE ON EDUCATION K-16 IN SUPPORT OF SJR 12

By: **Andrew Brown**, Texas Public Policy Foundation  
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### **Chairman Creighton, Vice Chair Campbell, and members of the committee:**

My name is Andrew Brown, and I serve as Vice President of Policy for the Texas Public Policy Foundation where I oversee our work on child and family issues. As an attorney, my primary areas of focus are the child welfare system and parental rights. Thank you for the opportunity to testify in support of SJR 12.

Both the United States and Texas Constitutions have long recognized that the right of parents to direct the care and upbringing of their children is a fundamental constitutional right. Constitutional jurisprudence on this matter is well-settled through a consistent line of cases stretching back for over one hundred years.

In fact, the case that is often cited as the first in this century-long line of precedent deals with the very issue that is the subject of SJR 12: education. The Supreme Court's landmark 1923 decision in *Meyer v. Nebraska* affirmed that the Constitution protects, among other things, "the right of the individual to ... acquire useful knowledge, to marry, establish a home and bring up children" (1923). At issue in *Meyer* was a Nebraska law that prohibited teaching grade school children any language other than English. The plaintiff in the case was a teacher at a Lutheran school who was convicted under the law for teaching his students German. In overturning the law, the Supreme Court held that Meyer's "right thus to teach and the right of parents to engage him so to instruct their children" are included among the fundamental liberties protected by our Constitution (1923).

Two years later, the Supreme Court again weighed in on the right of parents to direct the education of their children in the 1925 case, *Pierce v. Society of Sisters*. In overturning an Oregon law that required parents or guardians to send children to public school, the Supreme Court held that "the child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations" (1925). Moreover, the Court in *Pierce* recognized that "the fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children by forcing them to accept instruction from public teachers only" (1925).

In the century since *Meyer* and *Pierce*, courts have consistently held that parents have an expansive liberty interest in directing the upbringing of their children, especially when it comes to decisions regarding education. The common thread linking the cases in this long line of precedent is that the rights of parents to raise their children are derived and inseparable from their obligation to protect, nurture, educate, and care for their children (See *Meyer v. Nebraska*, 1923; *Pierce v. Society of Sisters*, 1925; *Legate v. Legate*, 1894; *The State v. Deaton*, 1900; *Mumma v. Aguirre*, 1963). Thus, it is the children of Texas who will be the ultimate beneficiaries of the rights guaranteed by this resolution.

SJR 12 represents a continuation of our state's long history of recognizing that it is parents who possess the fundamental right and sacred responsibility for directing the education of their children. The language of the resolution is deeply rooted in this history, while also relevant to our modern context, as the resolution specifies that this right applies not only to selecting the best school for the parent's child, but also to reviewing instructional materials, obtaining the child's school records, and interacting with school officials. To put it more simply, SJR 12 affirms that the long-recognized fundamental right of a parent to direct their child's education encompasses the principles of transparency, respect, accountability, and choice.

Thank you for your time and I look forward to answering your questions.

## REFERENCES

*Legate v. Legate*, 87 Tex. 248 (1894). <https://casetext.com/case/legate-v-legate>

*Meyer v. Nebraska*, 262 U.S. 390 (1923).  
<https://supreme.justia.com/cases/federal/us/262/390>

*Mumma v. Aguirre*, 364 S.W.2d 220 (Tex. 1963).  
<https://law.justia.com/cases/texas/supreme-court/1963/a-9149-0.html>

*Pierce v. Society of Sisters*, 268 U.S. 510 (1925).  
<https://supreme.justia.com/cases/federal/us/268/510>

*The State v. Deaton*, 93 Tex. 243 (1900). <https://casetext.com/case/the-state-v-deaton>

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