



Our Position: Protect Families' Rights

Homeschooling has been a legal practice in all 50 states since 1993. Yet homeschooling families are still subject to widely varying state requirements, some of which pose significant burdens. In many cases, these families must also contend with local officials' flagrantly hostile and lawless actions, including threatening letters, impromptu home visits, and arrests.

At the American Homeschool Project (AHP), we believe that all parents have a constitutional right to educate their children at home and should be able to exercise their right without having to comply with excessive regulation; without having to defend their right in court; and without having to endure mafia-style treatment by school officials, social workers, law enforcement authorities, and other so-called "concerned citizens."

Homeschooling Regulations by State: All Over the Map

Because the Constitution does not explicitly place education under the purview of the federal government, it is up to each state to determine how to administer and regulate its educational programs. When it comes to the homeschooling families in their midst, states range from being completely laissez-faire to virtually all-powerful.

- In 10 U.S. states, homeschooling families are not required to make contact with their local school districts; state-imposed homeschooling standards do not exist.
- In 14 states, homeschooling families need only notify their local school districts of their intention to homeschool.
- Homeschoolers in 20 other states must notify their local districts as well as submit to standardized testing or evaluation of their progress by licensed educators.
- Six states—North Dakota, Vermont, New York, Pennsylvania, Rhode Island, and Maine—impose the heaviest regulatory burdens of all. They require not only parental notification and testing or evaluation, but also the use of state-approved curricula, teaching licenses for parents, and/or home visits by state officials.¹

Although many well-meaning educational experts believe more regulation of homeschooling yields better results, all available data point to a different conclusion. A comprehensive study conducted by the National Home Education Research Institute in 2008 showed that homeschoolers in minimally, moderately, and heavily regulated states scored equally outstanding average percentiles on national standardized tests: 87, 88, and 87, respectively. Likewise, parents' teaching qualifications seemed to matter little: homeschoolers with a parent certified to teach scored in the 87th percentile, while those without scored in the 88th percentile.²

Fortunately, a number of states have loosened their regulatory grip in recent years thanks to homeschooling advocates' tireless lobbying efforts. Legislators have voted to abolish testing requirements, introduce tax credits, drop demands for parity with public school standards, and waive minimum education-level requirements for parents who teach.³

While these legislative victories are certainly encouraging, not all states show signs of movement toward greater freedom for homeschooling families. Since more regulation does not affect student outcomes—and unnecessarily impedes parents' ability to teach their children in ways they deem most appropriate and effective—we continue to advocate for diminished regulatory control of homeschooling on a state-by-state basis.

Local Officials Gone Wild

Despite their best efforts to comply with state laws, a number of homeschooling families have been at the receiving end of some very harsh tactics.

In California, 2000:

The Hayward (Calif.) Daily Review reported in February 2000 that one home schooling mother in San Leandro was visited by a police officer who pepper-sprayed and arrested her in front of her daughter. Following the incident, the woman's family left town... and neither the Daily Review nor the California Homeschool Network has been able to find the family.⁴

In Michigan, 2001:

A police officer arrived at a homeschooling family's residence, demanding to see the curriculum. The mother provided the officer with a copy, which he deemed to be 'fine.' Nonetheless the officer reprimanded the mother for not being qualified to teach, to which the mother correctly responded that homeschooling parents do not have to be state-certified. The officer replied that during the previous year, the county had arrested 'all kinds of homeschoolers.' The officer left after warning the mother that he would seek an arrest warrant.⁵

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In Illinois, 2004:

Last year... [the] regional superintendent of Stark, Henry, and Bureau Counties caused much concern by his aggressive harassment of homeschoolers. The superintendent demanded home visits and curriculum reviews and sent truancy officers and police cars to homeschoolers' homes to deliver notices for pre-trial hearings. After showing [him] that such enforcement measures were illegal and a violation of the families' civil rights, [a Home School Legal Defense Association] attorney... was able to persuade him to abandon such tactics. The situations were all resolved. Unfortunately, [the superintendent] has recently started harassing other homeschoolers.⁶

In Florida, 2008:

The Smiths (name changed to protect privacy)... received an unexpected note on their front door from a social worker asking them to call the number on an attached business card.... The father, a doctor, telephoned as requested. The social worker... declared she would arrive at the home the next morning to 'enter the home and interview the children.' Dr. Smith asked what the allegations were. The social worker refused to answer but indicated she knew the family homeschooled.

Sure enough, when the social worker showed up at the Smiths' doorstep the next morning, she again refused to explain what the allegations... were. [She] also did not have a search warrant, so Mr. Smith initially refused to let her enter the family home. This prompted the social worker to call for two police officers. With this intimidation, Mr. Smith allowed the social worker to start talking to the children on the front porch.... [at some point] the social worker had one of the police officers move toward Dr. Smith, and she told the officer to handcuff him so she could remove the children from his home. After being threatened to this extreme, the family felt they had no choice but to let the social worker into their home to interview the children, who were now crying and wailing. During the interview, the social worker would not let the witness the family provided be present....

The social worker found nothing—but said she wanted the family to 'undergo a formal psycho-social assessment.' When the Smiths asked 'Why?' the social worker replied, 'This is done in all investigations with homeschooled children.'⁷

In Tennessee, 2010:

Mrs. Murdoch (name changed to protect privacy) had never had any legal problems with her homeschool program. But in July 2010, while she was homeschooling her youngest three children, a truant officer visited her. [He] spoke harshly, ordering Mrs. Murdoch to provide him with the names and ages of all the children who lived at home. When she asked the reason for the officer's visit, he said he was just 'trying to do his job.' His visit was followed by a warrant for Mrs. Murdoch to appear in court on truancy charges in two weeks.

Mrs. Murdoch contacted [the HSLDA] legal department for help. HSLDA employed the services of [a] local Tennessee attorney... who promptly contacted the assistant district attorney. [He] explained that the truant officer's report was premature and failed to follow the requirements of Tennessee law for truancy cases.... The prosecutor agreed to dismiss the case before it went to court.⁸

Unfortunately, these are not isolated cases. Since 1983, the Home School Legal Defense Association (HSLDA), a nonprofit legal advocacy group, has been called upon to defend numerous homeschooling families in conflict with local authorities who appear to be either ignorant of applicable statutes or intent on establishing their authority without regard to the law.

While many of these cases are ultimately resolved in homeschooling families' favor, we believe that even a single abuse of power is too many. The emotional distress these events can cause is more than any homeschooling family should have to endure.

We believe that growing public awareness about these violations of families' constitutional rights will pressure local authorities to think twice about harassing law-abiding homeschoolers in their midst. It's a goal we will continue to pursue on behalf of the estimated 2 million home-based students who are working toward an exceptionally bright future.

To Learn More, Please Visit:

The Home School Legal Defense Association, www.hsllda.org

The Home School Foundation, www.homeschoolfoundation.org

Parentalrights.org, www.parentalrights.org

The National Home Education Network, www.nhen.org

The National Association for Child Development, www.nacd.org

The National Home Education Research Institute, www.nheri.org

NOTES

¹“State Laws,” Home School Legal Defense Association, 2011, accessed May 1, 2012, <http://www.hslda.org/laws/default.asp>.

²“Homeschool Progress Report 2009: Academic Achievement and Demographics,” Home School Legal Defense Association (2009), accessed April 28, 2012, http://www.hslda.org/docs/study/2009/2009_Ray_StudyFINAL.pdf.

³Scott Somerville, “Together for Freedom: Passing Liberty to the Next Generation,” *The Home School Court Report*, March 2003, accessed May 1, 2012, <http://www.hslda.org/courtreport/V19N2/V19N201.asp>.

⁴“Home Schoolers Face Investigation, Harassment From Government Officials,” *Education Report*, September 8, 2002, accessed May 1, 2012, <http://www.educationreport.org/pubs/mer/article.aspx?ID=4611>.

⁵“Home Schoolers Face Investigation.”

⁶“Infamous School Superintendent Continues to Harass Homeschoolers,” Home School Legal Defense Association, January 30, 2004, accessed May 1, 2012, <http://www.hslda.org/hs/state/il/200401300.asp>

⁷“Social Worker: ‘All Homeschoolers Get Psychological Evaluations,’” Home School Legal Defense Association, November 6, 2008, accessed May 1, 2012, <http://www.hslda.org/hs/state/fl/200811060.asp>.

⁸Joshua Kamakawiwoole, “Truant Officer Threatens Homeschool Family,” *The Home School Court Report*, March 2011, accessed May 1, 2012, <http://www.hslda.org/courtreport/V27N2/V27N207.asp>.

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