

## HOME SCHOOLING AND THE LAW

The 1980's ushered in an awareness that all was not well with public schools. Cautiously, families banded together to form private academies or strike out on their own into the home schooling frontier. Today, over two million children are educated at home, in addition to the thousands of private schools training our children. Although government harassment and court cases burdened the early years, home and private schools are currently legal in every state.

However, laws vary from state to state. In Texas, homeschoolers enjoy the freedom to educate their children without any government regulation. Classified as private schools, they are minimally required to teach reading, spelling, grammar, math, and a course in good citizenship. Other states, though, may mandate annual testing, registration, text book approval, teacher certification, or even weekly "check-ups" with an assigned teacher from the local public school. Because these regulations vary from state to state, parents should become familiar with one's state laws while investigating the possibility of home schooling. The Home School Legal Defense Association ([hsllda.org/orgs/](http://hsllda.org/orgs/)) catalogs the current legal status for home schooling in every state, along with contacts for local support groups.

Besides becoming familiar with local laws, an understanding of our constitutional rights is imperative. According to John Whitehead, the constitutional attorney and founder of the Rutherford Institute, the right of parents to control the education of their children is protected by numerous provisions of the United States Constitution, including free exercise of religion, free speech, family privacy, and parental liberty, and has been consistently recognized by the courts.

- Wisconsin v. Yoder (1972): *The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role in the upbringing of their children is now established beyond debate as an enduring American tradition.*
- In Pierce v. Society of Sisters (1925): *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.*
- People v. Levison (1950): *Parents must be accorded reasonable choice and discretion in respect of teachers, curriculum and textbooks.*

While home education is legal nationwide, most home schooling families oppose government regulation. You may wonder why. Shouldn't there be state guidelines and standards to insure that every child receives a thorough education? If standards are not 'double standards', then home educators agree that standards can be helpful, but not mandates. Yet, those who promote standards usually want to require testing. If the homeschooler fails to meet the minimum standard, then officials would force him to attend public school. The problem with this approach is that it is not applied in the same way with students attending public schools. Perhaps if those who fall below the minimum standard in public schools would be required to homeschool, we would achieve a 'standard' instead of a 'double standard'. You may chuckle, but it does make the point about the double standard!

A common fallacy about state regulation is that whenever the government controls something, it leads to a quality product. Nothing could be further from the truth. One of the most regulated institutions in our country, public schools are hemorrhaging problems. Studies show no difference between the test scores of homeschoolers in unregulated states and those from states with extreme regulations ([nheri.org](http://nheri.org)). No evidence exists to prove that government control leads to quality education.

While most homeschooling families enjoy the peaceful benefits of our constitutional rights, some have been traumatized by intimidating school officials. Overextending their jurisdiction, these government employees attempt to coerce families to comply with illegal regulations. Knowledge is power; it dispels fear. Parents that familiarize themselves with their constitutional rights and state laws will avoid the pitfalls of yielding to overbearing government

employees, who either do not know the law or who hold malintent towards homeschoolers.

Fortunately, though, because home education is rapidly becoming an acceptable educational alternative, officials are recognizing that we are here to stay. Today, many government representatives are encouraged by the success of home schooling and want to understand more about it. As home schooling parents, we have the opportunity to pave the way for less government regulation for the future generations by standing firm in our constitutional rights and by educating our representatives.

#### **LEGAL ASSISTANCE**

HOME SCHOOL LEGAL DEFENSE ASSOCIATION, prepaid legal protection for home educators; [hsllda.org](http://hsllda.org)

RUTHERFORD INSTITUTE, legal services without charge dedicated to preserving our constitutional rights; [rutherford.org](http://rutherford.org)

AMERICAN CENTER FOR LAW AND JUSTICE, network of attorneys who provide counsel and services for those whose constitutional rights are being threatened; [aclj.org](http://aclj.org)

#### **OTHER HELPS**

NATIONAL HOME EDUCATORS RESEARCH INSTITUTE, research clearinghouse that educates the public and officials about homeschooling; [nheri.org](http://nheri.org)