

The Case Against Government Regulation of Homeschooling

While our right to homeschool has been clearly established and homeschooling is legal in some fashion in every state, homeschoolers face a growing threat to educational freedom in the form of government regulation. In our country today, there is a pervasive sense of distrust of individuals, of parents and children, and an ever increasing reliance on experts and statistics. Parents are not trusted to be competent, to act in the best interest of their children, nor even to refrain from physical abuse without the threat of someone checking up on them. Distrust of children is rapidly degenerating into outright fear and hatred. Most of society would have us believe that children will not learn without the threat of testing or evaluation, that they will not become socialized without being bullied, and that they will not succeed in life without mastering a curriculum planned and executed by experts.

It is true that the surest way to preserve our right to homeschool is to exercise it; our freedoms do easily fall victim to disuse. But today, merely exercising these rights through homeschooling is not enough to prevent encroaching regulation. There are many parties, both within and beyond the homeschooling community, intent on controlling what homeschoolers do. If we are to prevent further regulation, if we are to preserve our freedom, we must educate ourselves and act. We must have ready and convincing answers for every conceivable argument used to justify regulation. We must speak out about homeschooling so that our families, our neighbors, our legislators and the whole of society might get to know us better in all our diversity, for ignorance breeds mistrust. And we must acknowledge that in this age of declining personal freedoms, homeschooling is more than a lifestyle or educational choice. It is a political act, and political acts by their very nature draw opposition.

Reasons Against Increasing Regulation:

The following is a brief list of arguments opposing increased regulation. A more extensive list may be found in [_Taking Charge Through Home Schooling_](#) by M. Larry and Susan D. Kaseman.

Historical

Home education is not new. Throughout human history, children have been educated at home by their parents. It is a time-tested tradition, and one that has worked well the world over with no regulation whatsoever. Such a long and successful history is compelling evidence that government regulation is not necessary.

Logical

A free society cannot survive without diversity of ideas and protection of the free formation and expression of belief. Educational institutions are powerful forces in the shaping of consciousness. In order to promote diversity, we must not only allow, but encourage educational alternatives unbound by social and pedagogical orthodoxy.

Regulations force homeschoolers to conform to conventional ideas of schooling, and they reduce a families' freedom to choose an alternative or more effective course.

There is no evidence that regulation increases the success of homeschoolers or prevents any problems they might be having. There are many cases, though, of problems and frustrations that are solely caused by the regulations themselves.

Homeschooling parents must be presumed to be concerned with their children's educational welfare. Parents who do not care about their children are unlikely to want to be with them all day. Parents who lack a real interest in their children's education are not likely to choose homeschooling. It is much easier for parents to send children to school.

Legal

Although our U. S. Constitution never specifically mentions education, it nonetheless guarantees our right to homeschool. Our educational freedoms are grounded in the first, fourth, fifth, ninth and fourteenth amendments to the Constitution, through the guarantees of freedom of speech, of religion, of belief, the rights to privacy and due process and the right to equal protection under the law, as well as through many other rights derived from the Constitution by interpretation.

Landmark supreme court rulings have established that parents have a right to educate their children according to their beliefs, and that the state may not have a monopoly in education.

There would be no homeschooling laws and regulations without compulsory attendance laws. The state can compel a child to attend an educational program, but it cannot require that the child learn. When courts have ruled that government schools cannot be held responsible for a child's failure to become educated after faithfully attending, how can the state then require a different standard, compulsory education rather than compulsory attendance, for homeschoolers?

Practical

Every child educated at home saves taxpayer money. It only makes sense to support parents' willingness to shoulder responsibility for their own children. Every regulation that makes homeschooling more burdensome, every regulation that limits parents' ability to choose alternative methods discourages parents from taking on that responsibility. Ultimately the state pays more for regulation.

Homeschooling works and is clearly a more effective and practical approach to education for some children than conventional schooling.

Homeschooling provides an opportunity to learn about how children learn, free from the artificial constraints of a classroom or laboratory. Regulation shifts the focus from a valuable perspective on learning, to meeting bureaucratic and pedagogical concerns.

When children in government schools fail, the schools generally blame parents, claiming that parents are the strongest influence in a child's education. If regulations maintained in schools cannot overcome parental influence, it does not make sense to argue that regulating homeschools will improve outcomes either.

Moral

We have a moral obligation to provide a suitable education for all our children. Since schools are not able to offer individualized education, families must be able to choose appropriately for each child from a wide range of alternative approaches. Regulations which force homeschools to be more like conventional schools limit the ability of parents to meet the needs of individual children.

Allowing homeschooling free from regulation strengthens families. It returns us to the presumption that parents are competent, and it supports parents in their efforts to take responsibility for their children.

Countering Arguments Used to Justify State Regulation

Many arguments used to justify state regulation of homeschooling arise out of genuine concern for children. Homeschooling skeptics and opponents persist in the notion that homeschooled children are more physically and socially at risk than children in public schools. We might approach these arguments with the principle that "hard cases make bad law," which is to say that laws based on the worst case scenarios will be difficult to comply with and hard to enforce. These laws do nothing to solve the problems of high risk children and unfairly punish all homeschoolers in the process. Problems of child abuse and neglect are not problems resulting from homeschooling. They are most appropriately

dealt with under existing child protection laws and agencies.

Another common area of concern for homeschooled children is that parents might deliberately deprive their children of certain knowledge or pass on to them narrow or unpopular beliefs. The courts have upheld alternatives to public school specifically to protect these parents' right to educate their children according to their beliefs. Parents may not be punished through regulation or otherwise discriminated against because they hold minority views, nor may they be forced to educate their children in a manner which violates their beliefs.

Some regulation proponents, most notably professional educators, seek to make homeschools more like conventional schools, arguing that only experts should determine what should be taught, how best to teach it, and at what age it should be mastered. They often argue that standardized testing or assessment by a qualified expert is necessary to insure that an appropriate education is taking place. We can point out that neither experts nor lay persons can agree about what children need to know and when they should learn it, about the best methods of education, nor even about the validity of standardized testing or other forms of assessment.

Regulations such as those which require parental qualifications, approval of a homeschooling program, use of an approved curriculum or covering school, and assessment or testing violate the presumption of innocence. They force homeschoolers to shoulder the burden of proving they are competent and doing a good job, even when there is no evidence to suggest otherwise.

Methods used in mass institutional schooling are generally inappropriate for and often an impediment to individualized education. Regulation that makes homeschools more like conventional schools forces standardized education and denies homeschoolers the freedom to create true alternatives. Without alternatives, the government has an unconstitutional monopoly in education.

There are special interest groups, some homeschoolers among them, who seek to impose their educational choices on others, and to make homeschoolers accountable to the state or to homeschooling organizations approved by the state. The existence of homeschoolers who are in agreement with the regulation does not justify violating the beliefs and restricting the educational freedoms of other homeschoolers. Homeschoolers are a diverse lot with widely varying beliefs, educational philosophies and reasons for homeschooling. We must make it clear that no group, no matter how vocal, can possibly speak for all homeschoolers.

Choosing and Presenting Arguments Effectively

It is tempting to rely on the idealism and elegance of constitutional arguments to make our case for freedom, but these will not get us very far with our legislators or with the people in our communities. While we as homeschoolers may be primarily concerned with our individual liberties, those who seek to regulate homeschooling are not. We must directly address the concerns of those who attempt to regulate us if we are to argue successfully against regulation.

In general, it is wise to avoid making homeschooling a partisan issue and to refrain from attacking public schools. It is far more effective to choose arguments which explain how your audience will benefit by not increasing regulation, to establish that homeschooling is currently working well, and to show that further regulation would be harmful and unnecessary.

For formal situations such as hearings and public meetings, it may be helpful to prepare a paper that summarizes your position and outlines your main points. Remember to keep to the issue at hand, and to be concise. Proof read carefully and take the time to create a professional appearance, so as not to distract from what you are saying. Whether you are writing a paper or speaking, be sure to state clearly if you are expressing your personal views, or those of a group.

It is especially important to take the time to communicate our concerns to new homeschoolers. Families just beginning to homeschool are often more conventional in their approach, and thus are less likely to find homeschooling regulations burdensome. Personal stories of our own homeschooling journeys illustrate how regulations can become unbearable over time. Introducing new homeschoolers to a wide variety of educational approaches helps to keep options open for all homeschoolers by not perpetuating the notion that there is a right or wrong way to homeschool.

Finally, emphasizing the diversity among homeschoolers is essential to maintaining our homeschooling freedoms. It is clearly impossible to protect the individual rights of such a varied group with a narrow definition of homeschooling, or with regulations which restrict the ability of families to meet the educational needs of their children.

Laura Derrick

Austin, Texas

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