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Welcome to America – we are a free and open society. Oh wait, but not if you decide to educate your own children at home... then you are a potential child abuser and must live under the iron fist of the government – at least according to an opinion piece published in the Reno Gazette Journal.ⁱ That mantra is now being headlined across the country in response to one HORRIFIC case of willful child abuse perpetrated by parents who declared themselves a private school in California.

By way of introduction, Nevada Homeschool Network (NHN) has advocated for Nevada families who have chosen to direct the education of their children since 2002.

Statistics

Let's be honest. That some people who homeschool also abuse their children is a statistical given. Short of putting a camera in every room of every home in America we won't be able to stop ALL child abuse; that's just reality. So the problem is, how do we "minimize" child abuse?

Statistically, homeschooling has less abuse than other educational settings. According to Dr. Brian Ray, [National Home Education Research Institute \(NHERI\)](#):

“There is no empirical evidence that increasing government control or regulations over homeschooling will significantly reduce the abuse of home-educated children. There is evidence that certain proposals for increasing government control over homeschooling would infringe on the basic historical and classical liberal freedoms and U.S. constitutional rights of homeschooling families.”ⁱⁱ

Statistically, public schools only report 17% of all child abuse cases turned in; relatives, neighbors, doctors, etc. are responsible for 83%.ⁱⁱⁱ In Nevada, educational neglect is a form of child abuse (only half the US States equate education neglect and abuse), so Nevada is already ahead of the game as far as legislatively distinguishing between the two ([NRS 432B.020](#), [432B.140](#)).

And finally, of course, under existing Nevada homeschool law the court can require the parent to produce an educational plan for review ([NRS 388D.050](#)). Since a court is required to adhere to a child's best interests, no Judge would accept the 1st grade plan turned in to the school district if the kid is a teenager; a parent who did that might deserve to lose child custody – so existing law already protects children in a homeschool environment when the parent is proven to be negligent.

Rights or Restrictions?

Benjamin Franklin once said: "Those who would give up essential Liberty, to purchase a little temporary Safety, deserve neither Liberty nor Safety." The temptation to apply government coercion in the name of safety is a never ending tug-of-war. This truth is iron clad when safety, politics and children are mixed. Complete safety cannot be achieved, even were complete liberty surrendered. It is the fundamental right of all parents to direct the education of their children. As Franklin says, the solution is to not surrender of our essential Liberty – nor allow it to be regulated beyond the basic requirement to notify the school district of the child's exemption from compulsory attendance in a public school.

This gets back to the type of compulsion that we have in our society. Is it "selective" or is it "universal?" A camera in every room is universal and the governmental agency has inspectors in every

home. A child abuse report turned in by a neighbor is selective; he/she saw something unusual, and the governmental agency sent someone out to investigate based on that report. A presumption must be made, in a free society that parents care for their children more than anybody else in the world, even more than the government. When abuse is found out those parents are dealt with.

Kerry McDonald, [author on education policy](#), correctly points out:

“If the homeschoolers are doing everything right, then they won’t mind some oversight,’ is a common refrain from regulation advocates. But that is like saying, if I have nothing to hide it’s okay for the government to listen to my phone calls and read my emails. It’s a breach of privacy and an inappropriate use of state power.

We can’t always protect all of our citizens from harm, but we can be aware when trying to protect them may do more harm than good. A free society depends on liberty and choice and freedom from government intervention. Instead of regulating the unfamiliar, we should seek to understand, tolerate, and perhaps learn from what it may teach us.”^{iv}

Ms. McDonald is on point. Nevada parents first came under extreme regulation in 1983 when the State Board of Education wrote regulations, based on the opinion of one [Nevada district court judge in a 1982 ruling](#) against a mother seeking “permission” from the school district to homeschool her children. By 1988, Nevada Administrative Codes (NAC) caused Nevada to become one of the most restrictive states in the country for homeschooling. Parents worked for 25 years to painstakingly get the more restrictive regulations amended or rescinded. [A Long Road to NV Homeschool Freedom; 1947-Present](#) on the NHN website traces the history of Nevada homeschool law and regulations. Additionally, detailed research shows homeschooling works regardless of the amount of regulation foisted upon parents.^v

Let’s remember that government is accountable to the people, the people are not accountable the government – including those who choose to homeschool. A parent legally assuming **full responsibility** for the education of their child should not be cowed into having to prove they are doing the job to the government, either through paperwork or inspection. Further, U.S. Supreme Court decisions and Nevada state law recognize the fundamental right of parents to direct the health, education, and welfare of their children ([NRS 126.036](#)). J. Michael Smith, President of [Homeschool Legal Defense Association \(HSLDA\)](#) said:

“It makes no sense to assume that someone who makes a lawful choice—in this case, to homeschool—is more likely to act illegally. The principle that individuals are innocent until proven guilty has always been at the heart of the American tradition of liberty.”^{vi}

Liberty for all

The longstanding mission of NHN has been to advocate for homeschool freedom and the fundamental right of parents to direct the education of their own children as they see fit. Further, we believe the state’s regulation of education is secondary to this fundamental parental right.^{vii} As stated by James Mason, HSLDA Vice President:

“Parenthood, family life, educational choices and the sanctity of the home all implicate constitutional rights just as much as religion does. The U.S. Supreme Court has reaffirmed these constitutional principles many times. [The high court said in 1979](#):

‘That some parents ‘may at times be acting against the interests of their children’ ... creates a basis for caution, but it is hardly a reason to discard wholesale those pages of human experience that teach that parents generally do act in the child’s best interest. ... The statist notion that governmental power should supersede parental authority in all cases because some parents abuse and neglect children is repugnant to American tradition.’”^{viii}

The Nevada Supreme Court also weighed in on a parents right to direct the education of their children in [Schwartz v. Lopez](#). Although the court was addressing the Constitutionality of the 2015 Nevada ESA bill, they referred to discussions of the delegates of the Constitutional Convention of 1874 on compulsory attendance in public school vs. parental choice:

“And although the debates surrounding the enactment of Article 11 reveal that the delegates discussed the establishment of a system of public education and its funding, they also noted ***the importance of parental freedom over the education of their children, rejected the notion of making public school attendance compulsory***, and acknowledged the need to vest the Legislature with discretion over education into the future.”^{ix} [Emphasis added]

Jenna Ellis, a [constitutional law professor](#), explains the problem with limiting the rights of some parents: “Further, these types of proposed “solutions” pose a myriad of constitutional problems. First, it treats homeschool families as suspect child abusers without any legitimate legal basis. It is similar to requiring all drivers to undergo a breath or blood test to prove they are not under the influence simply because they chose to exercise a valid legal option of driving.

The Constitution requires the government to have probable cause before any test, and the burden is always on the government to prove their case, not for an individual to waive the presumption of innocence simply because they chose to drive. Parents who choose to “drive” in the homeschool lane constitutionally must have all of the same rights and protections as parents who choose to “drive” in the traditional public school lane.”^x

Even a self-identified “liberal” blogger, Richard Wexler of the [National Coalition for Child Protection Reform](#), acknowledges this push to control homeschool parents will hurt the very children the do-gooders are trying to protect:

“Increasing government-mandated surveillance would do significant collateral damage to thousands of innocent Muslims – sorry, I meant children – because a few Muslims – er, homeschoolers – are terrorists – oh wait, I mean child abusers.”^{xi}

Concluding Thoughts

To our knowledge there have been NO CASES of educational neglect by a Nevada homeschool family that warrant a return to the reign of government control that existed in Nevada prior to 2007. Further, reinstating restrictive law is a step backward in history – and in this case, without merit or justification. For this reason and with no other basis in fact than the “opinion” of some, NHN will oppose any attempt to reverse our sound homeschool law that would return Nevada homeschool parents to the old days of extreme government control.

- Therefore, NHN stands firm in our commitment to defend the 2007 Nevada Homeschool Freedom bill, sponsored by Senator Maurice Washington and [passed with unanimous bipartisan support](#) by the Nevada Legislature.
- Further, we hold that the resulting statutes, [NRS 388D.010 to 070](#), protect Nevada children by authorizing a court to review complaints of education neglect by a homeschool parent without burdening all parents with wasteful red tape, inspections, or any other restrictive means.
- We urge lawmakers to consider the rights and responsibilities NV homeschool parents have faithfully adhered to for over 30 years. Reverting back to more restrictive homeschool laws could actually harm children whose parents would again live in fear of government oversight.

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