



# The Phyllis Schlafly Report

VOL. 15, NO. 3, SECTION 1

BOX 618, ALTON, ILLINOIS 62002

OCTOBER, 1981

## *The Law Is On Your Side*

# Parents' and Pupils' Rights in Education

The American educational system used to be the finest in the world. It trained young people to become useful and productive citizens, and it transmitted the values and standards of our forefathers to the younger generation.

In recent years, the American people have poured an incredible sum of tax monies into the public schools. Yet it seems that the more billions we spend, the poorer the results. Scholastic aptitude tests have declined every year for the last eighteen years. Students are graduated from high school who cannot read, write, spell, or do simple arithmetic. Thousands of children have been defrauded of the basic tools of learning for which their parents have paid.

In many schools, pupils are not taught to respect and appreciate the great American constitutional republic and private enterprise system. They are taught only what is wrong with America, instead of the truth that our system has provided more political freedom and economic abundance to more people than any nation in the history of the world.

In addition to a failure to teach the basic skills and fundamental historical truths, many schools have deliberately utilized the schools to change the values of the students rather than to impart knowledge and skills. Most of this is done without the knowledge or consent of the parents or of the pupils.

The use of the schools for such purposes is often called "values clarification" – a system of probing and changing the child's values by techniques such as violent and disturbing books and films; materials dealing with parental conflict, death, drugs, murder, suicide, mental illness, poverty, despair, running away, and anger; literature which is mostly negative, rarely positive; requiring the child to engage in role-playing of death, pregnancy, abortion, anger, suicide, and hate; personal attitude surveys and evaluations which invade the private thoughts and acts of the child and his family; explicit and pornographic instruction in sex acts (legal and illegal, moral and immoral); and a deliberate attempt to

make the child question his parents' values. Such techniques drive a psychological wedge between the children and their parents.

Parents and pupils should know that they do not have to become guinea pigs for the fads and experiments which are often substituted for real learning. Parents have the primary responsibility for the teaching of their own children, and the taxpayers have the final power of the purse.

This report is designed to show parents and pupils that the law of the United States is on your side. This report is a tool by which parents and taxpayers can reassert their authority, find out what is being taught in the name of "education," and stop any assault on traditional and family values.

## *Legislation Protecting Parents' Rights*

Two provisions in the United States Code specifically deal with the protection of parents' and pupils' rights in relation to public school programs and policies. The first provision allows parents or guardians to inspect all instructional material to be used in connection with any research or experimentation program. The second provision prohibits requiring a student to submit to psychiatric or psychological examination, testing, or treatment in which the primary purpose is to reveal certain information concerning specified subjects. These two provisions represent an extremely important advance in Federal protection of parental and pupil rights.

### **Protection of Pupil Rights**

#### **20 U. S. Code 1232h**

Inspection by parents or guardians  
of instructional material.

(a) All instructional material, including teacher's manuals, films, tapes, or other supplementary instructional material which will be used in connection with any research or experimentation program or project shall be available for inspection by the parents or guardians of

the children engaged in such program or project. For the purpose of this section "research or experimentation program or project" means any program or project in any applicable program designed to explore or develop new or unproven teaching methods or techniques.

Psychiatric or psychological  
examinations, testing, or treatment.

(b) No student shall be required, as part of any applicable program, to submit to psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment, in which the primary purpose is to reveal information concerning:

- (1) political affiliations;
- (2) mental and psychological problems potentially embarrassing to the student or his family;
- (3) sex behavior and attitudes;
- (4) illegal, anti-social, self-incriminating and demeaning behavior;
- (5) critical appraisals of other individuals with whom respondents have close family relationships;
- (6) legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers; or
- (7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program), without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of unemancipated minor, without the prior written consent of the parent.

### ***Court Decisions Protecting Parents' Rights***

Many decisions of the U.S. Supreme Court, lower Federal courts, and State courts uphold parents' rights and pupils' rights in education.

These decisions constitute impressive evidence that, under U.S. law, *parents* have the primary responsibility for their children's education, and *pupils* have certain rights which the schools may not take away.

Parents have the right to make sure that their children's religious faith and moral values are not undermined by the schools. Pupils have the right to have and to hold their religious faith and moral standards without direct or indirect attack by the schools, by the curriculum, by the textbooks, or by the assigned supplementary materials.

1. Parents have the right to determine the subject matter taught to their children in school. (The Court struck down a Nebraska law which forbade the teaching of the German language.)

#### **Meyer v. State of Nebraska, 262 U.S. 390 (1923)**

*U. S. Supreme Court*

"The Fourteenth Amendment . . . guarantee[s] . . . the right of the individual . . . to marry, establish a home and bring up children . . ." (p. 399)

"The right of parents to engage him [the teacher] so to instruct their children, we think, are within the liberty of the [Fourteenth] Amendment." (p. 400)  
The Court protected "the power of parents to control the education of their own." (p. 401)

2. Parents have the right to send their children to private schools. (The Court struck down the Oregon Compulsory Education Act which attempted to force all children to attend public schools.)

#### **Pierce v. Society of Sisters, 268 U.S. 510 (1925)**

*U. S. Supreme Court*

"We think it entirely plain that the Act of 1922 unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control." (p. 534)

"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. 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." (p. 535)

3. The parents have the primary responsibility for the care of their children.

#### **Prince v. Massachusetts, 321 U.S. 158 (1943)**

*U. S. Supreme Court*

"It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder." (p. 166)

4. Parents may withdraw their children from public schools, during school hours, in order to go to church for religious instructions or services.

#### **Zorach v. Clauson, 343 U.S. 306 (1952)**

*U. S. Supreme Court*

"We are a religious people whose institutions presuppose a Supreme Being. We guarantee the freedom to worship as one chooses. We make room for as wide a variety of beliefs and creeds as the spiritual needs of man deem necessary. We sponsor an attitude on the part of government that shows no partiality to any one group and that lets each flourish according to the zeal of its adherents and the appeal of its dogma. When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our

traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs. To hold that it may not would be to find in the Constitution a requirement that the government show a callous indifference to religious groups. That would be preferring those who believe in no religion over those who do believe." (pp. 313-314)

5. Secular Humanism is recognized (in a footnote) as a "religion" which does not teach "a belief in the existence of God."

**Torasco v. Watkins**, 367 U.S. 488 (1961)

*U. S. Supreme Court*

"Among religions in this country which do not teach what would generally be considered a belief in the existence of God are Buddhism, Taoism, Ethical Culture, Secular Humanism and others." (p. 495, note 11)

6. The state may *not* require that an official state prayer be recited in the public schools, *however*, this decision does *not* indicate a hostility toward religion or toward prayer.

**Engel v. Vitale**, 370 U.S. 421 (1962)

*U. S. Supreme Court*

"The history of man is inseparable from the history of religion. And perhaps it is not too much to say that since the beginning of that history many people have devoutly believed that 'More things are wrought by prayer than this world ever dreams of.'" (p. 434)

"School children and others are officially encouraged to express love for our country by reciting historical documents such as the Declaration of Independence which contain references to the Deity or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or with the fact that there are many manifestations in our public life of belief in God." (p. 435, note 21)

7. Pupils had the right to express their opinion by wearing black armbands to protest U.S. policy in Vietnam, so long as the pupils were not disruptive.

**Tinker v. Des Moines School District**,

393 U.S. 503 (1969)

*U. S. Supreme Court*

"School officials do not possess absolute authority over their students. Students in school as well as out of school are 'persons' under our Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect

their obligations to the State. In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved." (p. 511)

8. Parents have the right to keep their children out of all high schools when they believe that school attendance would endanger their children's religious faith and salvation. (The Court upheld the rights of the Amish against the Wisconsin Compulsory School Attendance Law.)

**Wisconsin v. Yoder**, 406 U.S. 205 (1972)

*U. S. Supreme Court*

"The values of parental direction of the religious upbringing and education of their children in their early and formative years have a high place in our society. . . . Thus, a State's interest in universal education, however highly we rank it, is not totally free from a balancing process when it impinges on fundamental rights and interests, such as those specifically protected by the Free Exercise Clause of the First Amendment, and the traditional interest of parents with respect to the religious upbringing of their children so long as they, in the words of *Pierce*, 'prepare [them] for additional obligations.'" (pp. 213-214)

"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 of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition." (p. 232)

9. Although the state may not require Bible reading or the recitation of the Lord's Prayer in public schools, the state also may not establish a religion of secularism.

**Abington School District v. Schempp**,

374 U.S. 203 (1963)

*U. S. Supreme Court*

"The State may not establish a 'religion of secularism' in the sense of affirmatively opposing or showing hostility to religion, thus 'preferring those who believe in no religion over those who do believe' . . . It might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistently with the First Amendment." (p. 225)

"The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind." (p. 226)

10. Teachers do not have a right to unlimited free speech in the classroom; they are subject to regulations depending on the age and sophistication of the pupils and the context and manner of presentation of the subject.

**Mailloux v. Kiley**, 448 F.2d 1242 (1st Cir. 1971)  
*U. S. Court of Appeals*

"Free speech does not grant teachers a license to say or write in class whatever they may feel like, and . . . the propriety of regulations or sanctions must depend on such circumstances as the age and sophistication of the students, the closeness of the relation between the specific technique used and some concededly valid educational objective, and the context and manner of presentation." (p. 1243)

11. School books can be removed by the same authority that selected them.

**Presidents Council, Dist. 25 v. Community School Board No. 25**,  
457 F.2d 289 (2d Cir.)  
*cert. denied*, 408 U.S. 998 (1972)  
*U. S. Court of Appeals*

"It would seem clear to us that books which become obsolete or irrelevant or where improperly selected initially, for whatever reason, can be removed by the same authority which was empowered to make the selection in the first place." (p. 293)

12. A public school may require a period of silence for prayer or meditation at the beginning of the school day, so long as students are not compelled to participate in any religious exercise.

**Gaines v. Anderson**, 421 F. Supp. 337 (Mass. 1976)  
*U. S. District Court*

"The statute and guidelines do not compel participation by any student in a religious activity which violates his liberty of conscience. . . . The statute and guidelines here do not operate to confront any student with the cruel dilemma of either participating in a repugnant religious exercise or requesting to be excused therefrom." (p. 345)

"Because the statute and the guidelines compel no participation in any religious exercise by the students, the state infringes no parental liberty protected by the Due Process Clause." (p. 346)

13.. The public school may not compel pupils to stand during the singing of the National Anthem where this intereferes with their religious beliefs. (The case involved the Jehovah's Witnesses.)

**Sheldon v. Fannin**, 221 F. Supp. 766 (Ariz. 1963)  
*U. S. District Court*

"Where, however, a particular application of a general law not protective of some fundamental State concern materially abridges free expression or practice of religious belief, then the law must give way to the exercise of religion." (p. 774)

14. School boards may remove books from the school library which the school board finds inconsistent with the basic values of the community.

**Pico v. Board of Education, Island Trees Union Free School**,  
474 F.Supp. 387 (E.D.N.Y. 1979)  
*U. S. District Court*

"One of the principal functions of public education is indoctrinative, to transmit the basic values of the community." (p. 396)

"Here, the issue is whether the first amendment requires a federal court to forbid a school board from removing library books which its members find to be inconsistent with the basic values of the community that elected them. . . . Respect for the traditional values of the community and deference to the school board's substantial control over educational content . . . preclude any finding of a first amendment violation arising out of removal of any of the books from use in the curriculum." (p. 396-397)

15. The courts should not interefere with the schools' policy on corporal punishment.

**Ware v. Estes**, 328 F. Supp. 657 (N.D. Tex. 1971), *aff'd*,  
458 F.2d 1360, *cert. denied*, 409 U.S. 1027 (1972)  
*U. S. District Court*

"The state cannot unreasonably interfere with the liberty of parents and guardians to direct the upbringing and education of children under their control." (p. 658)

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Box 618, Alton, Illinois 62002  
ISSN0556-0152

Published monthly by The Eagle Trust Fund, Box 618, Alton, Illinois 62002.

Second Class Postage Paid at Alton, Illinois.

Subscription Price: \$10 per year. Extra copies available: 25 cents each; 6 copies \$1; 50 copies \$5; 100 copies \$8.