

POLICY NOTE

How to help parents direct the education of their children after COVID

By Liv Finne, Director, Center for Education

January 2021

Key Findings

1. The U.S. Supreme Court has ruled that it is the right and responsibility of parents to direct the education of their children.
2. When Governor Inslee shut down the public schools in March, parents quickly realized the remainder of the school year would largely be lost to learning.
3. In the fall of 2020, parents pulled some 32,000 children out of traditional public schools.
4. The continuing COVID crisis has dramatically shown that parents need more education options for their children.
5. SB 6520, introduced last session, proposed giving tax-credit scholarships of up to \$15,000 to the parents of special needs children and the legal guardians of foster children.
6. Tax credit scholarships would provide families with access to private therapists, tutors and other resources to help make up learning losses for the most vulnerable.
7. HB 2933, also introduced last session, proposed providing a \$12,000 Education Freedom Scholarships to any family that requested one.
8. Education Freedom Scholarships would ensure that all children have access to a range of public and private educational services to meet their needs.

Introduction

Parents have the right to direct the education of their children. Public education administrators have sometimes tried to dispute that right, but the U.S. Supreme Court has ruled that this right is based on the fundamental liberties enjoyed by every American, and protected by the U.S. Constitution.

This study briefly describes these constitutional cases, and describes how policymakers can improve the ability of parents to fulfill the responsibility to provide for the education of their children.

Lost educational opportunity

When Governor Inslee shut down the public schools in mid-March, 2020, parents quickly realized the remainder of the school year would largely be lost to learning. Washington's 1.1 million students were offered only instruction packets, or a disorganized roll-out of online learning. Washington students did not receive the education they were owed by the state for the rest of the year, a full third of the 2019-20 school year.

Then, when school began in September, the great majority of public schools in Washington state continued the policy of providing students with only remote instruction online.

These decisions effectively shifted to parents the state's responsibility to provide child care and instruction. School officials continue to receive about \$17 billion a year, the amount taxpayers provide to educate the children of Washington state. Yet school officials have essentially hired parents to do the work of teachers, without providing parents compensation for this work.

As a result, many parents have lost confidence in the public schools. COVID has brought many parents into conflict with their public schools, for the first time. Parents have filed lawsuits against the state's education agencies. They have staged rallies before school boards. They have filed petitions and written angry letters. But this discontent is not just a feature of COVID. The current system of public education often frustrates parents seeking an education for their children.

Courts have held it is parents' fundamental right and high duty to educate their own children

Parental rights have been recognized in law for 100 years as part of the natural rights of men and women. In the case of *Meyer v. Nebraska* (1923), the U.S. Supreme Court struck down a Nebraska law prohibiting schools from teaching the German language. The court said the liberties protected by the U.S. Constitution include the liberty of citizens to bring up their own children.¹ The court in *Meyer v. Nebraska* also wrote:

*“Evidently the Legislature has attempted materially to interfere with the calling of modern language teachers, with the opportunities of pupils to acquire knowledge, and with the power of parents to control the education of their own.”*²

Then in 1925, in *Pierce v. Society of Sisters*, the U.S. Supreme Court struck down as unconstitutional an Oregon law prohibiting families from sending their children to private school. The court said:

*“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.”*³

More recently, in the 1980's and 1990's, public school districts began raising obstacles to families who had decided to homeschool their children. Homeschoolers turned to state legislatures, and successfully passed laws in all fifty states which protect the right of families to homeschool their own children.

In 2019-20 about 2.5 million school children were homeschooled. This number is significantly larger today, as many more families have responded to the COVID crisis by deciding to formally homeschool their children.⁴

Parents have the responsibility to raise their children

These consistent court rulings are a recognition in law of what most people already recognize, that it is parents, not school administrators or other government employees, who have the primary responsibility to raise their children, using whatever outside assistance they choose.

Parents love and nurture their children, and teach them the difference between right and wrong. Parents are responsible for preparing their children to become independent, self-reliant adults who contribute their talents and energy to the benefit of society.

1 *Meyer v. Nebraska*, 262 U.S. 390 (1923).

2 *Ibid.*

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

4 “Interest in homeschooling has ‘exploded’ during the pandemic,” by *The Associated Press*, August 12, 2020, at <https://www.mprnews.org/story/2020/08/12/interest-in-homeschooling-has-exploded-amid-pandemic>

No teacher or school employee can fulfill this function as well, or provide the level of consistent, long-term practical and emotional support that parents can. Decades of social research finds that children thrive best and consistently reach their highest potential when they live in a supportive and stable two-parent household.

Parents know access to a good education is critically important for a child to make the most of his or her talents and opportunities in life. Yet often parents are not allowed to choose the school their child attends. Instead, school district officials who know nothing about individual children or their families are given the power to decide which school a child attends. The burden of the automatic-assignment system falls hardest on families who cannot afford private school or access to other alternatives.

Traditional public schools often fail to educate students

Many parents are dissatisfied with the factory model of standardized public education because it often fails to meet the learning needs of children.

The monopoly system as a whole delivers generally mediocre results, with many children allowed to drop out or fall behind year after year. Examples of these systematic failures in Washington state include:

- State spending on public schools has doubled, from \$13.5 billion in the 2011-13 biennium to \$27.3 billion in the 2019-21 biennium, with no improvement in student learning;
- Every year school officials assign 44,000 students, many the most at risk of dropping out, to 118 state-identified failing schools;
- The percentage of low-income, minority children passing academic assessments is between 20 and 30 percentage points lower than their peers;
- Public schools are top-heavy with administrators; only 50 percent of school employees are teachers;
- During the COVID crisis, the public schools failed to transition students successfully to online learning;
- The public schools failed to train teachers how to effectively provide online instruction;
- School districts withdrew critically needed services to special needs children, children who may now be irretrievably behind in their learning.

The COVID crisis shows that parents need access to more educational options

The COVID crisis has dramatically shown parents need more education options for their children. Popular options for families include the following:

- Access to more online education. Washington state has two popular public online schools, Washington Virtual Academy (WAVA) and Insight Schools, serving over 10,000 students. Both online schools have waiting lists.
- Access to more community-based charter schools. Washington has 12 popular charter schools, serving 4,000 students. Most schools have waiting lists, especially those located in low-income urban communities.
- More opportunity to attend private schools. During COVID restrictions many private high schools safely provided in-person instruction, while the public schools were closed. In the past year, enrollment in private schools in Washington state has increased by 10 percent, for families who can afford it.⁵
- Families need more informal options. During the COVID shutdown families created learning pods, micro-schools, homeschooling groups and other forms of collaboration. In the past year, parents pulled some 32,000 children out of traditional public schools.
- When COVID-related executive orders closed the public schools, many families were suddenly thrown into a desperate state. Innovative parents sought alternatives to protect children and keep their education on track. As a result, the need and desire of parents to direct the education of their children is stronger than ever.

Policy recommendations

The COVID school shutdown has increased many of the inequities in the present system of public education. Elite and well-off families were protected, while working families lost income and were subject to greater emotional and social stress. When the governor's order closed the schools, school district employees continued to be paid, while the household income of many of their students fell to zero.

Washington lawmakers have a paramount duty under the state constitution to provide for the education of every child living in the state. One way to fulfill that duty is for lawmakers to allow more family choice in accessing learning options.

One bill from the 2020 legislative session, SB 6520, proposed giving tax-credit scholarships of up to \$15,000 to the parents of special needs children and the legal guardians of foster children, to provide for each child's education. These fully-funded accounts would provide access to private therapists, tutors and other resources to help make up learning losses for the most vulnerable.⁶

HB 2933, also introduced last session, proposed providing a \$12,000 Education Freedom Scholarships to any family that requested one, to ensure all children had

⁵ Author interview of Suzie Hanson, Executive Director of Washington Federation of Independent Schools, November 17, 2020.

⁶ Senate Bill 6520, "Establishing a tax credit for contributions to student scholarship organizations," introduced by Senator Mark Schoesler (R-Ritzville) to the 2020 Session of the Legislature on January 20, 2020, at <https://app.leg.wa.gov/bills/summary?BillNumber=6520&Initiative=false&Year=2019>.



Liv Finne is the Director of the Center for Education at Washington Policy Center. She is the author of *An Option for Learning: An Assessment of Student Achievement in Charter Public Schools*, which in 2011 reignited the charter school debate in Washington state. She wrote “*Why parents will love charter schools*,” “*Why teachers will love charter schools*,” and many other publications during the 2012 public debate on Initiative 1240, the nation’s first charter school initiative. When charter schools came under attack from the state teachers union, she wrote “*Analysis: Why the state supreme court ruling against charter schools is wrong*.” She is also the author of Washington Policy Center’s widely-read education blog, and of Washington Policy Center’s Education Reform Plan: *Eight Practical Ways to Improve Public Schools*. Liv holds a law degree from Boston University School of Law and a Bachelor of Arts degree from Wellesley College. She retired from civil litigation practice to raise two children and work as business partner for a small business she owns with her husband.

Washington Policy Center is an independent research organization in Washington state. Nothing here should be construed as an attempt to aid or hinder the passage of any legislation before any legislative body.

Published by
Washington Policy Center
© 2021

washingtonpolicy.org
206-937-9691

access to a range of public and private educational services to meet their needs.⁷ Such scholarships would disproportionately benefit low-income families who are consistently underserved by traditional schools.

These bills were blocked by special interests in the state legislature that benefit financially under the current, unreformed system. After the experience of COVID-19, however, the future needs of families should come before those of entrenched interests, no matter how well funded and politically connected.

Conclusion

The blame for the lack of options families face lies squarely with the special education interests of Washington state. Washington’s powerful unions and school bureaucracies have blocked the growth of public online and public charter schools, and blocked bills designed to help needy parents enroll their children in private schools, thus reserving the best education programs for the rich.

These learning options would have been invaluable to parents during this COVID crisis, and would have helped thousands of children stay on track in their learning.

As traditional schools re-open, many families will continue to be neglected or underserved. After COVID, policymakers should respect the long-recognized right of parents to direct the education of their children by introducing more flexibility and choice into the system, so every child is matched with the form of learning, among a range of choices, that works best.

Parents need more education options, and direct funding from the state, so all children can learn and obtain the full measure of opportunity that society owes them. Policymakers should be helping parents fulfill their responsibility to direct the education of their children.

⁷ House Bill 2933, “Creating the education choice scholarship program,” introduced by Representative Vicki Kraft (R-Vancouver) to the 2020 Session of the Legislature on February 10, 2020 at <https://app.leg.wa.gov/billssummary?BillNumber=2933&Initiative=false&Year=2019>.