

Homeschooling Children with Disabilities: Balancing Freedom and Responsibility
Merope Pavlides, Ph.D.

Abstract: Increasing numbers of children with disabilities in the United States are being home educated. Many parents of children with special needs have elected to homeschool their children out of frustration with the public school system, while educators express concern about the quality of education homeschooled children receive. This article discusses the need for regulation which assures that these children are receiving services consistent with the Individuals with Disabilities Education Act. As an example, proposed changes to Home Instruction regulations in the State of Maryland are included.

Key Words: Homeschooling, home instruction, disability, Individuals with Disabilities Education Act

Introduction

Families reach the decision to homeschool children in many ways. For some, homeschooling is viewed as a spiritual necessity, a way to insure that specific religious or philosophical values receive primary attention in a child's education. Other homeschooling families simply do not find that the public or private educational opportunities available to them can provide their children with the rigor or flexibility that is possible in home education. Still others fear for their children's safety, either physical or emotional. Demographic studies in the United States show that although home educators are most frequently Caucasian, middle-class parents with education beyond high school, increasingly diverse populations are choosing home education (Mayberry et al., 1995). In fact, homeschooling as a national movement in the U.S. is on the rise. A 1997 study indicated that approximately 1.23 million children were being educated at home (Ray, 1997) and the Home School Legal Defense Association (1997) estimates that the practice has increased at the rate of 15% per year since 1990.

For families of children with disabilities, the decision to homeschool may not come as a first choice in education, but as a result of feeling that other avenues of schooling are closed to them. Some parents turn to home education out of frustration and desperation at the lack of affordable services that adequately address the individual education needs of their children. Many parents who homeschool children with special needs do so after dismal experiences with public education, after becoming dismayed and disheartened at how little academic progress their children make in public schools. Frequently, they are saddened by the school's inability to create a well-functioning inclusive environment, either academically or socially. Often, they simply grow weary of the intense level of advocacy they must maintain in order to assure that public schools are providing the services their children are guaranteed under American law:

“It is becoming increasingly common for parents to pull a miserable LD or ADD youngster out of school in the middle of the academic year. It is as though something suddenly snaps. The family may have quietly endured years of IEPs, long conferences, tears from the child, notes from the teacher, promises from the administrators, and bad report cards in spite of

all the energy they put into running a nightly study hall. They may have come to think of it as normal to feel trapped and helpless..." (Stevens, 1996, p. 1).

Although parents may wish to remove a child from public school, private schooling for children with disabilities is often only financially possible for parents if the child's Local Education Agency (LEA) agrees to fund a private placement. Homeschooling becomes, in the view of many parents, the only viable option for providing their children with truly individualized approaches to learning. And so they back into becoming home educators, unsure of their relationship to either public or private services. The Council for Exceptional Children (2000) recently estimated that 10 percent of the children being homeschooled in the United States have a disability.

Home educators of children with special needs are often confused about their own role in the educational system, and with good reason; most state regulations governing home schooling do not contain references to special education (Leppert & Leppert, 1999). The U.S. Federal requirements regarding special education set forth in the Individuals with Disabilities Education Act (IDEA) apply only to children in publicly funded placements. Interpretation of state regulations is necessary to determine how these affect homeschoolers (Turnbull & Turnbull, 2000). Although a 1993 policy statement from the U.S. Department of Education, Office of Special Education Programs (OSEP), encouraged school districts to "... include home educated children in their child find activities" (National Association of State Directors of Special Education, 1998, p. 1), only 12 states apply IDEA mandates to homeschooled children with disabilities. Six states have regulations with restrictions limiting options to homeschooled children with special needs:

"Two states require a specific "approval" as a condition of allowable participation in home schooling. In Iowa, written approval of the director of special education of the area education agency is required. In Pennsylvania, a student identified as in need of special education can be home schooled only if the instruction is approved by a teacher certified in special education by the state or by a certified school psychologist" (National Association of State Directors of Special Education, 1998, p. 2).

From a legislative point of view, parents who choose to utilize home education for their children with disabilities seem to do so with either no state guidance or support or with paralyzing state control. As a nation seemingly concerned about the quality of education that our children are receiving, and about our commitment to those individuals previously disenfranchised by social institutions, the lack of state validation in the U.S. of the growing community of families involved in the home education of special needs children is both unwise and unjust.

Individual Rights vs. State Interest

Nothing in the U.S. Constitution or its Amendments guarantees the nation's children an education. Yet by the mid-nineteenth century, the federal government was

sufficiently desirous of a populace receiving a "common" education that laws were enacted mandating school attendance:

“Political, economic, social, and religious factors all contributed to the common school movement of the 1830s and 1840s. The faith in public schooling has, among other factors, been closely tied to national identity... With the emergence of the nation-state came the triumph of an ideology of faith in the state as the source of ultimate social value, with national values transcending those of family, community, and even religion” (Kirschner, 1991, pp. 139-140).

A country that requires its children to attend school must then provide those schools at its expense; hence the machine of public education was fired up right alongside its industrial counterparts. For approximately a century, that machine ran best as the tool of a specific class of people, with discrimination against minorities abundant. Then in 1954, the U.S. Supreme Court's decision in *Brown v. Board of Education*, determined that the system was in need of an overhaul in order to serve all Americans adequately (Turnbull & Turnbull, 2000). Out of civil rights, anti-poverty legislation, and case law came reforms for people with disabilities. In 1970, the Education of the Handicapped Act demonstrated governmental commitment to providing educational services for children with special needs. The subsequent 1990 Individuals with Disabilities Education Act (IDEA), with its central tenant of the importance of the Individualized Education program, implied a renewed and reformulated governmental commitment to providing educational services for children with special needs. Unfortunately, the more complex the public education system became, the more complications arose in its governance.

Homeschooling, of course, did not become an "alternative" method of education until compulsory public education was well entrenched in American society. Early practitioners were primarily families who were geographically isolated, or whose religious beliefs encouraged keeping children at home during some or all of their first sixteen years (Lines, 1991). However, by the middle of the twentieth century, as critics of the public school system became increasingly vocal, home education began to appear as an alternative to public education. In 1982, education reformer John Holt published *Teach Your Own: A Hopeful Path for Education*, in which he rejected the notion that the state should in any way have supremacy over a parent's right to decide how to educate a child. According to Franzosa (1991):

“Holt's conservative libertarianism defines a society in which the individual's welfare is not the legitimate concern of the state, one's children can be thought of strictly as one's own, and the individual need feel no responsibility for the good of all. The best and wisest parent within this ideological context chooses to reject social participation in favor of personal independence and autonomy” (p. 123).

Included in Holt's argument for parental control of education is the assumption that "parents of exceptional children can adequately meet their children's therapeutic and

educational needs themselves" (Franzosa, 1991, p. 129), an assertion which is disputed by many public school systems.

For a democratic nation, political and ethical conflict arises when the legislated or perceived rights of the individual run counter to the interest of the state. In the United States, the conflict is complicated by the issue of States' Rights. The lack of Constitutional commentary on education has historically meant that the schooling of the public has been the province of the states. Each state is responsible for providing and administering public education. Thus, regulations governing home education vary from state to state. In Alaska, for example, where home education is a desirable fiscal alternative to transporting children great distances to public schools, homeschooling families are granted complete educational autonomy as well as a reduction in taxes (Leppert & Leppert, 1999). Conversely, Nebraska home educators are only sanctioned by the state when they have demonstrated "sincerely held religious beliefs" (Leppert & Leppert, 1999, p. 566). The level of actual regulatory involvement varies dramatically from state to state, and frequently from school district to school district within a state. Because home education is frequently regarded as operating outside the compulsory school attendance laws, conflict often arises between parents, who view making any and all decisions regarding how their children are educated as a fundamental right, and school districts, which maintain that, under compulsory attendance laws, children receiving home education still fall within their jurisdiction. Opposing interests can become even more polarized in the case of children with special needs for whom educational goals and methods may be more difficult to determine and implement. Is it possible then, to create a system in which both the rights of the parents to determine how to best raise and educate their children, and the States' interests in educating individuals with disabilities to become contributing members of society, are protected? It is difficult, but absolutely possible. Balance can be achieved if the individual needs of the child with disabilities are truly made paramount, and if well-considered and well-implemented measures are taken to assure each child the opportunity to reach his/her educational potential.

Outcome and Assessment

Professional educators repeatedly articulate their concern that children who are being home educated are receiving an inadequate education. The National Education Association stated in its 1999-2000 Resolutions that it "believes that home schooling programs cannot provide the student with a comprehensive educational experience" (National Education Association, 2000, p. 1). Yet no outcome data exists indicating that homeschoolers fall behind their publicly educated peers, either in terms of academics or social skills. In fact, a 1998 study, which utilized standardized testing to measure outcome, showed that home schoolers' test scores were "exceptionally high" and that children receiving a home education often work above grade level as compared to students enrolled in public or private school (Rudner, 1999). According to a 1999 study conducted by the Home School Legal Defense Association involving 20,000 homeschoolers:

“... Students taught at home scored higher than their public- and private-school counterparts in every subject of the Iowa Test of Basic Skills... By

eighth grade, the average home student performs four grade levels above the national average” (Cook, 1991, p. 2).

In addition, although critics of home education frequently question home educators' ability to provide ample opportunities for social experiences, this concern also seems unwarranted:

“The home schooled also appear to be at no great risk with respect to socialization. The research indicates that their self-concept is high; they are socially/emotionally well-adjusted; they are involved in many activities that are predictors of adult leadership; they are consistently engaged in social activities with peers and adults” (Ray & Wartes, 1991, p. 57).

Furthermore, Ray and Wartes found in a 1987 sampling of homeschoolers in Washington that neither level of parent education nor formality of curriculum structure impacted upon successful educational outcome (1991).

Most of the research that has been conducted on homeschooling, however, does not examine the success rate of children with special needs. A 1997 study published in the journal *Education & Treatment of Children* demonstrated that children with special needs who were home educated "made more progress overall than public school students as measured by standardized tests," improving in skill acquisition across the curriculum (Duvall, 1997, cited in Home School Legal Defense Association, 1997, p. 1). The parents of the children involved in Duvall's study did not receive, or have prior training in special education. No related services were provided for the families involved in the study by their public school systems.

While no data exists showing homeschoolers with special needs are at risk, educational critics question whether the needs of children with disabilities are indeed being met in public schools. Public school systems are being urged to examine both their accountability and assessment procedures for children with special needs in order to comply with the 1997 Amendments to IDEA (Erikson, 1998). Under federal law, public school systems must "include students with disabilities in general state and district-wide assessment programs" (Erikson, 1998, p. 4). Yet, Erikson found that many school districts are not including children with special needs in assessment programs-either with or without accommodations, in spite of federal mandates:

“Since the passage of P.L. 94-142, special educators and administrators at local and state levels have been accountable for complying with many state and federal regulations overseeing the delivery of services to students with disabilities... Unfortunately, this focus on inputs and processes has drawn the field's attention away from expectations of results for students with disabilities” (Erikson, 1998, p. 12).

The lack of accountability and assessment measures at the state level prompts many home educators to fear that state regulations which focus specifically on

homeschoolers with special needs will mean that they will be held to a higher standard than their public and private school peers.

Giving the IEP Meaning for Home Education

So how do the states assure the quality of education for children with disabilities at the same time they refrain from requiring stricter accountability measures from home educators than from professionals? A good place to start is with IDEA itself. The philosophical essence of IDEA certainly lies in its recognition of learning differences. The fulcrum of this legislation is the requirement that all children with disabilities must receive an Individualized Education Program, that the plan must be approved by a professionally diverse team which includes the child's parents, and that any changes in the IEP are subject to due process. Few would argue that the intentions of this legislation are in the child's best interest. In practice, however, the mandates of IDEA and the implementation of the IEP have often simply created a legal instrument with which professional educators and parents do battle for control of the child's education. Professional educators intimidate parents with their knowledge of the intricacies of the public education system, sometimes not providing parents with a clear understanding of the extent of their rights to involvement in their child's education. Parents, on the other hand, are able to force the IEP approval process to grind to a halt by electing to undertake expensive and time-consuming due process mediations and hearings. Whenever there is conflict in approving or changing an IEP, the child suffers educationally, and sometimes, emotionally.

For those children not enrolled in publicly funded schools—including private schools that accept federal funding of any kind—IEP concerns are virtually nonexistent. Technically, under IDEA, any homeschooled children with disabilities who are supervised by their local district should have IEPs (Turnbull & Turnbull, 2000). However, because specific mention of children with disabilities frequently does not occur in state regulations of home schools, few districts seem to follow through with this mandate. From the perspective of the public education system, providing and assessing IEPs for homeschoolers would tax an already overburdened system. Home educators do not push for—or even desire—their children to have IEPs because they believe this would mean further unnecessary and unwelcome involvement in their educational choices on the part of the state. Yet it also means that children with disabilities may not be receiving all of the educational services—such as speech therapy or occupational therapy—they require and are entitled to at public expense. In a few instances, it may mean that children with disabilities are not truly being given the education and training that would allow them to fulfill their personal potential for independence in adulthood.

Before home and professional educators can establish a system which best allows children with disabilities to be educated in the manner most suited to their learning needs and to specifics of family priorities, it is necessary for these two interests to establish a more cooperative view of home education. Those on both ends of the spectrum hinder attempts to create an educational system which prioritizes the individual needs of the child. Misperceptions abound. A 1996 study (Mayberry et al.), which surveyed 118 school superintendents in Washington, Nevada and Utah, reflected the widely held professional opinion that homeschooled children receive an inadequate education,

although the superintendents admitted to ignorance regarding actual data on homeschooling. Likewise, some homeschool proponents, such as the editors of *Home Education Magazine*, urge parents to shun any relationship with the public education system, including screening and special education services, without providing data:

“By undermining confidence of both parents and children, screening actually makes it less likely that children will be able to develop their strengths and abilities. Ironically, rather than supporting children and helping them develop their abilities to the fullest potential... it interferes with and hinders their development” (Kaseman & Kaseman, 1993).

In order to formulate policy that best serves children with special needs, it is incumbent upon both home and professional educators to request and access accurate outcome data, and to use this data to design programs which make it possible for children with special needs to learn in a manner which is suited to individual learning style.

An Example of Proposed Regulation

In the State of Maryland, there are three possible options for the home education of children. A parent may choose to homeschool his/her child under the guidance of a church group. The Constitutional separation of Church and State means that this option for home education takes it out of the province of the state altogether. If, however, a home educator does not choose to use a church-affiliated umbrella group, two other legal avenues to home education remain. An approved, nonpublic school may be employed to provide curricula and guidance. Only two nonpublic schools have been approved by the State of Maryland to provide Home Instruction. Neither has curricula designed for children with special needs; it is up to the parents to make acceptable modifications to meet the needs of the child with learning differences. The ease of this task is frequently dependent on the type and level of involvement of the child's disability, and upon the parents' access to supplemental resources for educating a special needs child. Finally, homeschooling may be under the supervision of the child's local school district. No state regulations govern how this supervision will be conducted, thus quality of supervision varies greatly from one school district to the next.

The following is a proposal for amendments to the existing Home Instruction regulations in Maryland (COMAR 13A). The intention of this proposal is not to create hurdles for home educators, but rather to help assure that the needs of the child with disabilities are addressed. Under these guidelines, it is the responsibility of the parents to articulate appropriate educational goals for the child and assure that they are being met; conversely the state must demonstrate that an acceptable Individualized Education Program is not in place in order to interfere with the child's homeschool curriculum and placement. All changes and additions to existing regulations are highlighted in bold italics.

Title 13A

STATE BOARD OF EDUCATION

Subtitle 10 HOME INSTRUCTION

Chapter 01 General Regulations

Authority: Education Article § 7-301, Annotated Code of Maryland

.01 Home Instruction Program

A. Purpose. The purpose of this regulation is to establish a procedure to be used by the superintendent of each local school system to determine if a child participating in a home instruction program is receiving regular, thorough instruction during the school year in the studies usually taught in the public schools to children of the same age. ***It is the responsibility of the local superintendent or superintendent's designee to supply evidence demonstrating lack of compliance with this policy in order to instigate a student's change of placement from a home instruction program to a public school placement.***

B. Written Agreement. A parent or guardian who chooses to teach a child at home shall sign a statement of a form prescribed by the State Department of Education which:

- (1) Indicated consent to the requirements set for in §§ C, D, and E; and
- (2) Shall be submitted to the local superintendent at least 15 days before the beginning of a home instruction program.

C. Instruction Program. The home instruction program shall:

- (1) Provide regular, thorough instruction in the studies usually taught in public schools to children of the same age ***and ability level;***
- (2) Include instruction in English, mathematics, science, social studies, art, music, health, and physical education ***unless otherwise indicated in the child's Individualized Education Program;***
- (3) Take place on a regular basis during the school year and be of sufficient duration to implement the instruction program.

D. Educational Materials. A parent or guardian who chooses to teach a child at home shall maintain a portfolio of materials which:

- (1) Demonstrates the parent or guardian is providing regular, thorough instruction during the school year in the areas specified in § C(1) and (2);
- (2) Includes relevant materials, such as instructional materials, reading materials, and examples of the child's writings, worksheets, workbooks, creative materials, and tests;

(3) Shall be reviewed by the local superintendent or the superintendent's designee at the conclusion of each semester of the local school system at such times as are mutually agreeable to the local superintendent or designee and the parent or guardian.

E. A parent or guardian shall agree to permit a representative of a local school system to review the portfolio of educational materials, discuss the instructional program, and observe instruction provided that all of the following requirements are met:

(1) The review is at a time and place mutually agreeable to the representative of the local school system and the parent or guardian;

(2) The purpose of the review is to ensure that the child is receiving regular, thorough instruction as set forth in § C;

(3) There are not more than three reviews during a school year.

F. Children with Special Needs. All aspects of Part B of the Individuals with Disabilities Education Act (20 U.S.C., Ch. 33, §§ 1400-1491) and its implementing regulation (34 CFR 300) shall apply to children receiving home instruction who have a disability as defined therein. Each child shall have an Individualized Education Program as mandated in IDEA, written and approved by an IEP team. Any related services specified in the IEP shall either be provided and funded by the county or provided and funded privately according to the determination of the parent or guardian. Related services which may be funded by the parent or guardian and provided either by the home teacher or independent contractor include, but are not limited to, special education consultation, speech and language therapy, occupational therapy, physical therapy, functional behavior assessments and academic tutoring.

G. Additional Requirements. A local school system may not impose additional requirements for home instruction programs other than those in these regulations.

02. Voluntary Participation in Standardized Testing.

Upon request of a parent or guardian, a child receiving home instruction may participate in the regularly scheduled standardized testing programs that are administered in the public school the child is eligible to attend. ***Children with special needs as defined in the Individuals with Disabilities Education Act must be allowed "appropriate accommodations" as mandated by that Act [612(a)(17)(A)].***

03. Noncompliance with Requirements.

A. Failure to Consent. If a parent or guardian does not agree to the requirements of Regulation .01B, C, and D, above, a child shall be enrolled promptly in a public school or nonpublic school as defined in COMAR 13A.09.09.02B(4)(a).

B. Deficiencies in the Program. If a local superintendent determines on the review of the home instructions program or inspection of the portfolio that a child is not receiving a regular, thorough instruction program in conformity with Regulation .01C and D, the local superintendent shall notify the parent or guardian in writing of any deficiencies in the program.

The following apply:

(1) Within 30 days of receipt of notification of any deficiencies, the parent or guardian shall provide evidence to the local superintendent that the deficiency has been or is being corrected.

(2) If a local superintendent determines there is not a satisfactory plan to correct a deficiency or if a deficiency is not corrected, a child shall be enrolled promptly in a public school or a nonpublic school as defined in COMAR 13a.09.09.02b(4)(a).

(3) For children with special needs, it is incumbent upon the superintendent or superintendent's designee to demonstrate that progress toward the goals set forth in the child's Individualized Education Program has not occurred in order for the program to be considered deficient. Removal of a child with special needs from a home instruction program is considered a "change of placement" under the Individuals with Disabilities Education Act, and may only occur after the parents have been given an opportunity to contest the decision through a due process hearing as stipulated in the IDEA Part B regulation (34 CFR 300).

04. Placement in Public School

Upon application of a child for admission to a public school from a home instruction program, the local superintendent shall determine by an evaluation the placement of the child and any credits to be awarded toward high school graduation. The evaluation may include administration of standardized tests and examinations and interviews with the child. ***Children with special needs shall be placed according to the Individualized Education Program. Any standardized tests administered to children with special needs must include appropriate accommodations as mandated by the Individuals with Disabilities Education Act.***

05. Home Instruction Under Supervision of Nonpublic School

A parent or guardian may provide instruction for a child at home without compliance with the requirements of this regulation, other than the requirements of Regulations .01B(2) and .04, if that instruction is offered through correspondence courses and is under the supervision of a:

A. School or institution offering an educational program operated by a bona fide church organization, and the supervision includes at a minimum all of the following components:

(1) Preenrollment conferences with parents or guardians, (2) Textbooks, lesson materials, and other instructional materials or equipment designed to be used independently by the pupil at a site other than a school, (3) Annual visits by supervisory personnel to the site where the pupil is receiving instruction and (4) Conferences with parents or guardians at appropriate intervals during the period of enrollment; or

B. Nonpublic school with a certificate of approval from the State Board of Education, and the supervision includes at a minimum all of the following components:

(1) Textbooks, lesson materials, and other instructional materials or equipment designed to be used independently by the pupil at a site other than a school, and (2) Assignment of a school-based teacher to assist the home teacher in using the correspondence courses and to assist the pupil by issuing progress reports, marking papers, and grading tests.

Accommodations for children with special needs, including whether an Individualized Education Program will be utilized, will be made at the discretion of the supervising organization. Related services will be either provided and funded by the supervising organization or the parent or guardian, and may include, but are not limited to, special education consultation, speech/language therapy, occupational therapy, physical therapy, behavioral assessments and management, and academic tutoring. (COMAR 13A, 10.01).

Merope Pavlides, is an independent scholar working in the area of Disability Studies. She holds a Ph.D. from the University of Wisconsin-Madison in Dramatic Literature and is currently pursuing a M.S. in Special Education from Johns Hopkins University. In 2000, she co-founded a center for children with learning disabilities. She is the mother of two children with disabilities.

Correspondence regarding this manuscript should be sent to Merope Pavlides, Ph.D., Independent Scholar, TEL: 410-750-8728, FAX: 410-750-0170 or email: meropel@aol.com.

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