
The Roles, Responsibilities, and Rights of Parents

American College of Pediatricians – May 2013

ABSTRACT: Parents provide the foundational role of support, nurturance, and guidance for their children. That role includes the fundamental right to direct the child’s upbringing. It is essential that society support parents by respecting their natural right and present legal authority to make decisions for their children, including educational and medical decisions. Parents, in this context, include biological and adoptive parents, as well as state-appointed guardians and custodial grandparents. Nothing in this statement should be interpreted as in any way condoning the physical, sexual, or emotional abuse or neglect of children.

Defining the Legal Parameters of Parental Rights

Parental rights have long been viewed as foundational to the benefit of family and society, and this view has been consistently upheld by the United States Supreme Court. Why is it important for a society to recognize and respect parental rights? The courts have stated it best:

“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. . . . It is in recognition of this that these decisions have respected the private realm of family life which the state cannot enter.”

- Prince v. Commonwealth of Massachusetts, 321 U.S. 158 (1944)

“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.

Even more markedly than in Prince, therefore, this case involves the fundamental interest of parents, as contrasted with that of the State, to guide the religious future and education of their children.

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.”

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

“Our decisions establish that the Constitution protects the sanctity of the family precisely because the institution of the family is deeply rooted in this Nation’s history and tradition. It is through the family that we inculcate and pass down many of our most cherished values, moral and cultural.”

-Moore v. East Cleveland, 431 U.S. 494 (1977)¹

Current Challenges to the Legal Status of Parental Rights

During the past two decades, the ability of parents to make decisions for their minor children has been questioned and undermined by judicial decisions. The most notable Supreme Court pronouncement was in *Troxel v. Granville*, 530 U.S. 57 (2000) in which the Supreme Court provided six different opinions with only Justice Thomas holding that parental rights were fundamental. Since then, lower courts have often failed to protect parental rights, and, in fact, have lessened the ability of parents to determine what is best for their children. For example, in *Brown v. Hot, Sexy and Safer Productions, Inc* (1995), the First Circuit of Appeals denied that the Constitution gave parents any right to be informed of their children's attendance at a sexually explicit public school assembly. In another case, parents of kindergarten students were denied the right to opt their child out of classroom lessons focused on homosexual rights (*Parker v. Hurley*, 514 F. 3d 87 (2008)). Yet another federal appeals court determined that schools can distribute condoms without parental consent, basing the decision on the promotion of public health and stating that parents therefore lacked standing to file suit (*Parents United for Better Schools, Inc. v. School District of Philadelphia*, 148 F.3d 260 (1998)). The Ninth Circuit Court of Appeals "affirm(ed) that the (fundamental parental) right does not extend beyond the threshold of the school door" in *Fields v. Palmdale School District*, 427 F.3d 1197 (2005) and numerous courts have ruled that parents do not have the right to be on the school grounds when their children are in attendance there.² Schools are even directing how students will spend their out-of-school hours by requiring "volunteer" hours in organizations and activities determined appropriate by the school district. Under the policy of privacy and the federal Health Information Portability and Accountability Act (HIPAA), parents are also deprived from viewing some of their children's medical records, including those related to reproductive health, mental health, and alcohol and substance abuse, even when the parents are legally and financially liable.³

These court decisions greatly undermine the ability of parents to guide their children's health and education, and ultimately affect the parents' ability to protect and guide health decisions, instill the values of the family, and share the practice of religious beliefs with their children.

The Expansion of Children's Rights

As parents' rights have been diminished, children's rights have been expanded. In the past it has been deemed to be common sense that minor children lack the understanding and life experience to make important decisions. As Lainie F. Ross, MD, noted, "Children need a protected period in which to develop 'enabling virtues' – habits, including the habit of self-control, which advance their life-time autonomy and opportunities."⁴ She goes on to say, "A second reason to limit the child's present-day autonomy is the fact that the child's decisions are based on limited world experience and so her decisions are not part of a well-conceived life plan."

Unfortunately, in the United States today, the concept of privacy is being applied as a "right" to children. In *Frazier ex rel. Frazier v Winn* (2008),⁵ a court in the 11th Circuit considered the child's right to religious freedom when deliberating parental rights. And, as noted above, HIPAA has been used to prevent parents from accessing important medical information.

Scientific Findings on Brain Development and Human Potential

The undermining of parental rights and expansion of children's rights is happening during an era when scientific studies clearly demonstrate that children need their parents. This is based on imaging technology in the assessment of brain development. The frontal lobe, the judgment center or CEO of the brain, allows the individual to contemplate and plan actions, to evaluate consequences of behaviors, to assess risk, and to think strategically. It is also the "inhibition center" of the brain that restrains the individual from acting impulsively. The frontal lobe ultimately develops connections to many other areas of the brain, so that experiences and emotions are processed through this judgment center. However, the

frontal lobe does not fully mature until approximately 23 – 25 years of age.⁶ Consequently even older adolescents benefit from parental insight, experience, and oversight.

Additional research demonstrates that there are parenting styles that are more beneficial for children. The *authoritative parent*¹ integrates and balances nurturing responsiveness to the child with reasonable expectations of appropriate behavior, imposes logical sanctions for misbehavior and monitors the child's activities and behaviors, while encouraging age-appropriate autonomy. In numerous studies, children raised by engaged, authoritative parents are more likely to be successful in academics, be independent, self-reliant, and less prone to depression and anxiety.^{8, 9, 10}

Research also indicates that adolescents benefit from being connected to and monitored by their parents. In one of the first reports from the National Longitudinal Study on Adolescent Health, Dr. Resnick and colleagues found “Parent-family connectedness and perceived school connectedness were protective against every health risk behavior measure except history of pregnancy.”¹¹ Other studies indicate that teens who feel connected to their parents are less likely to engage in sexual activity and fathers seem to have a particularly strong influence.^{12, 13}

The Columbia Center for Alcohol and Substance Abuse (CASA) studied “hands on” parents – those parents who monitored most, if not all, of their adolescents’ activities. Adolescents consistently participated in fewer high-risk behaviors when parents were involved in and knowledgeable of their activities. In one CASA study published in 2000, one thousand American teens between 12 and 17 years of age were observed. The study found that only 1 in 4 live with a “hands on” parent who had established “a household culture of rules and expectations for their teen’s behavior and monitor what their teens do: such as the TV shows they watch, the CDs they buy, what they access on the Internet and where they are evenings and weekends.” Those teens who lived with a “hands on” parent had a significantly reduced risk of smoking, drinking, and using drugs as teens whose parents were not as involved.¹⁴

Thus, current scientific research demonstrates that:

1. Brain development in humans continues for at least 5-10 years after the completion of physical and hormonal maturation.
2. Children and adolescents have immature brain development indicating need for strong parental guidance in decision making.
3. Children and adolescents do better in an authoritative environment in which parents state their expectations and provide consequences for inappropriate behavior.
4. Adolescents are less likely to participate in high-risk behaviors if their parents are “hands on” parents who monitor and guide all of their activities.
5. Adolescents are less likely to participate in high-risk behaviors if they feel connected to their parents and family.
6. Successfully navigating adolescence and avoiding high-risk behaviors will allow youth to enter adult careers, relationships, responsibilities, and parenting with better skills and increased likelihood of optimal outcomes.

Therefore, with scientific studies supporting both common sense and natural law, the American College of Pediatricians strongly supports the right of parents to parent their children. Parents have the natural authority, legal mandate, and scientific backing to determine how their children are to be educated, what values are to be instilled, how their children are disciplined, and how their children’s activities and

¹ Authoritative parenting is balanced, warm, responsive, and involved and is not to be confused with the authoritarian style which is rigid, repressive, coercive, and punitive.

environment are to be monitored. There are also other obvious responsibilities that come with these parenting rights – this statement’s purpose is to emphasize the importance of parental rights in promoting the best for children, and ensuring a healthy society.

Primary Author: Jane Anderson, MD, FCP

Originally posted May 2013

The American College of Pediatricians is a national medical association of licensed physicians and healthcare professionals who specialize in the care of infants, children, and adolescents. The mission of the College is to enable all children to reach their optimal physical and emotional health and well-being.

References

1. The Supreme Court’s parental rights doctrine. Parental Rights Organization Web site.http://www.parentalrights.org/index.asp?Type=B_BASIC&SEC={3051ABFF-B614-46E4-A2FB-0561A425335A}&DE=. Accessed April 18, 2013.
2. *Fields v. Palmdale School District*, 427 F.3d 1197 (2005).
3. English A, Ford C. The HIPAA privacy rule and adolescents: Legal questions and clinical challenges. *Per on Sex Rep Hlth*. 2004; 36(2).
<http://www.guttmacher.org/pubs/journals/3608004.html>. Accessed April 18, 2013.
4. Ross LF. Health care decision-making by children: is it in their best interest? *Hasting Center Report*. 1997; 27(6):41-45.
5. *Frazier ex rel. Frazier v. Winn*, 535 F.3d 1279 (11th Cir. 2008).
6. Giedd JN. Structural magnetic resonance imaging of the adolescent brain. *Annals N.Y. Acad Sci*. 2004;1021:77-85.
7. Baumrind D, Streight D, ed. *Parenting for Character: Five Experts, Five Practices*. Portland, OR: Council for Spiritual and Ethical Education; 2008.
8. Steinberg L, Elmen JD, Mounts NS. Authoritative parenting, psychosocial maturity, and academic success among adolescents. *Child Dev*. 1989; 60(6): 1424-1436.
9. Dewar, G. The authoritative parenting style: Warmth, rationality, and high standards: A guide for the science-minded parent. Parenting Science Web site.
www.parentingscience.com/authoritative-parenting-style.html. Accessed March 12, 2013.
10. Resnick MD, Bearman, PS, et al. Protecting adolescents from harm: Findings from the national longitudinal study on adolescent health. *JAMA*. 1997;228(10): 823-832.
11. Karofsky PS, Zeng L, Kosorock, MR. Relationship between adolescent-parental communication and initiation of first intercourse by adolescents. *J of Adol Hlth*. 2000; 28:41-45.
12. Ellis BJ. Impact of fathers on risky sexual behavior: A genetically and environmentally controlled sibling study. University of Arizona Norton School of Family and Consumer Sciences. *Dev Psychopathology*. 2012.

13. Davis, R. CASA national survey of American attitudes on substance abuse VI. USA TODAY Web site. <http://usatoday30.usatoday.com/life/2001-02-22-drugs.htm>. Accessed April 16, 2013.