



Maryland Family Institute Comment in Response to Maryland Department of Education Request for Comment on the Need for Changes to COMAR Title 13A

INTRODUCTION

The Maryland Family Institute is a non-profit, 501(c)(3) organization which exists to support Maryland families. This includes promoting the integrity of families and the education of children.

Pursuant to Maryland's compulsory attendance law under Education Article §7-301 of the Annotated Code of Maryland and the regulatory framework established by COMAR 13A.10.01, homeschooling—formally termed "home instruction"—affords parents the statutory authority to elect an educational modality tailored to their child's individual learning style, thereby safeguarding fundamental parental rights protected under the Fourteenth Amendment's Due Process Clause, as affirmed in seminal U.S. Supreme Court precedents such as *Pierce v. Society of Sisters* (1925), which recognized parents' liberty to direct the upbringing and education of their children, and *Wisconsin v. Yoder* (1972), which upheld exemptions from uniform schooling requirements where they infringe on familial autonomy.

This liberty constitutes a core civil rights imperative, as access to an education compatible with a child's needs represents the quintessential civil right, enabling equitable opportunity and personal development irrespective of socioeconomic or cultural variances. The extant regulations, furnish a balanced oversight mechanism that fulfills the state's compelling interest in educational adequacy without encroaching on parental rights.

This equilibrium mitigates fiscal burdens on Maryland's public education infrastructure whilst positioning homeschooling as a societal asset to the state. Accordingly, we cautiously advise against any initiative to heighten regulatory burdens - such as imposing mandatory testing, elevated certification thresholds, or intensified ad-hoc scrutiny - that could precipitate violations of established parental rights doctrines and limit education options for Maryland's children.

1. Do the current regulations continue to be necessary for the public interest?

In part, but only if used as a vehicle for educational diversity. Facilitating the ability of families to access alternative educational arrangements strengthens and diversifies the state's educational environment. The need for continual refinement in Maryland's education paradigm is paramount to address developing academic and societal demands.

The U.S. Supreme Court's decision in *Mahmoud v. Taylor* (2025) underscores this imperative, with Justice Thomas in his concurring opinion articulating that "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.

2. Do the current regulations continue to be supported by statutory authority and judicial opinion?

Yes. The case law regarding homeschooling is a branch of the jurisprudence informing our understanding of fundamental parental rights as well as religious freedom. Both were strongly reaffirmed in the case of [*Mahmoud v. Taylor* 606 U.S. \(2025\)](#) in which the Court held that, consistent with its decision in [*Wisconsin v. Yoder*, 406 U.S. 205 \(1972\)](#), the confluence of parental rights and religious freedom is protected by strict scrutiny where a government policy would "substantially interfer[e] with the religious development' of the parents' children. . . . and . . . pose 'a very real threat of undermining' the religious beliefs and practices that the parents wish to instill in their children."

While this does not necessarily involve a constitutional right to homeschool, it does emphasize the value of and need for the education system to maintain a flexible and diverse

educational environment in order to comply with the requirements of the Constitution in a way that minimizes the potential for legal disputes and supports families' efforts to supply their children's educational needs with minimal hinderance.

Meanwhile, states across the country have moved to open their education systems to initiatives like school choice and charter schools which, like homeschooling, reduce the strains placed on state resources and support greater educational diversity while helping to improve teacher student ratios. Homeschooling is, in this respect, even better since it does not draw on the pool of available teachers or require public funding. The state legislature also signaled support for an open educational ecosystem by retaining the BOOST scholarship program – even in the face of a strained fiscal environment.

3. Are the current regulations obsolete or other[wise] appropriate for amendment or repeal?

No. The current regulations continue to satisfy the interest of the state in confirming the adequacy of the education received by children in this state. Changes in the system that require more extensive oversight, or more stringent requirements would impose greater burdens on homeschooling parents and on education officials.

4. Are the current regulations effective in accomplishing their intended purpose?

Yes. The purpose of the regulations regarding homeschooling is set forth as follows:

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.

[COMAR 13A.10.01.01\(A\).](#)

The procedures established under the existing framework have adequately served the purpose of allowing the superintendent to determine if the child is receiving the required instruction. A systematic, unified, and individualized review, as required by COMAR 13A.10.01.01(E), gives a record of confirmed educational results which is a superior assessment tool to those used in many schools, while the modest time investment required for a school

reviewer, whether working individually or with an umbrella organization review helps to ease the strain on the school system's resources.

CONCLUSION

The current homeschooling regulations effectively balance the state's interest in educational standards with the constitutional right of parents to direct their children's education, as protected under explicit and constantly reinforced Supreme Court constitutional doctrine. Expanding these regulations would increase administrative costs to the state and impose undue compliance burdens on homeschooling families, who are already making the valuable but costly decision to educate at home. Absent evidence of deficiencies in educational outcomes, additional requirements are neither necessary nor justified. Accordingly, the existing regulatory framework should remain unchanged to avoid unnecessary fiscal and legal risks while preserving parental autonomy.