



Know Your Rights: Child Protective Services (CPS) and Homeschooling in Michigan

I. Michigan's Homeschooling Laws

Parents in Michigan currently enjoy the freedom to homeschool their children pursuant to Section 380.10 of the Michigan Revised School Code titled, "Rights of parents and legal guardians; duties of public schools," which states, in part, "It is the natural, fundamental right of parents and legal guardians to determine and direct the care, teaching, and education of their children."¹

This right is further articulated in subsection (3) of Section 380.1561 of the Michigan Revised School Code titled, "Compulsory attendance at public school; enrollment dates; exceptions" which states, in part, "A child is not required to attend a public school in any of the following cases: ... (f) The child is being educated at the child's home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar."²

II. CPS Issues and Homeschooling

Child Protective Services (CPS) workers perform a necessary function in our society in protecting abused and neglected children in many instances. However, homeschooling is not abuse or neglect.³

However, in the event that CPS conducts an investigation in response to your right to homeschool, this document seeks to inform you of the state of the current law.

¹Michigan Legislature. (1996). The Revised School Code: Act 451 of 1976. [Section 380.10: Rights of parents and legal guardians; duties of public schools.](#)

²Michigan Legislature. (1996; last amend. 2017). The Revised School Code: Act 451 of 1976. [Section 380: 1561: Compulsory attendance at public school; enrollment dates; exceptions.](#)

³For additional resources disputing the claim that homeschooling increases probabilities for abuse, see Williams, R. (2018). [Child Abuse and Neglect Fatalities Report 2016](#) (based off of data collected from the U.S. Department of Health & Human Services and the U.S. Department of Education, among others), indicating that "homeschoolers have both a lower fatality rate and a lower fatality count when compared to [their non-homeschooling counterparts]." See also the National Home Education Research Institute's "Gen 2 Survey" (2015), finding that that homeschoolers were 257% less likely to be sexually abused, available in full [here](#). See also Ray, B. (2018). [The Relationship Between the Degree of State Regulation of Homeschooling and the Abuse of Homeschool Children \(Students\)](#). *National Home Education Research Institute*. Additionally, school safety concerns are often cited as one of the primary reasons why parents are turning to homeschool as a viable, alternative educational option. For more on this, see Hermani, J. (2023). [Bullying, school shootings become lead reasons for homeschooling](#). *Michigan Live*.

A) Your Rights Relating to Searches by Government Officials (CPS)

Federal Law:

- The 4th Amendment to the United States (US) Constitution protects people from unreasonable searches and seizures by the government (i.e. CPS).⁴
- The 5th Amendment and the 14th Amendment to the U.S. Constitution prohibit the deprivation of “life, liberty, or property” by the federal and state governments, without due process of law.⁵
- The U.S. Supreme Court case *Troxel v. Granville*, 530 U.S. 57 (2000), states “The Due Process Clause prevents the government from intruding on fundamental rights and liberty interests, one of which is the liberty interest that patrons have in controlling the care and custody of their children.”⁶

Michigan Law

- The Michigan Constitution, Article I, Section 11 states “The person, houses, papers, and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation.”⁷
- According to *Michigan In re A.P.*, 770 N.W.2nd 403, 412 (Mich. Ct. App. 2009): “...due process precludes a government from interfering with parents’ fundamental liberty interest in making decisions regarding the care, custody, and control of their children absent a compelling state interest.”⁸
- This case also states, “Generally, the state has no interest in the care, custody, and control of the child and has no business interfering in the parent-child relationship. ... As a practical matter, the state is not equipped to supply a child with necessary care and direction that a parent is equipped to provide.”⁹

⁴U.S. Const. amend. IV., available [here](#).

⁵U.S. Const. amend. V., available [here](#).

⁶*Troxel v. Granville*, 530 U.S. 57 (2000), available [here](#).

⁷MCL Art. 1 § 11: Searches and Seizures, available [here](#).

⁸*In re AP*, 770 N.W.2d 403, 283 Mich. App. 574 (Mich. Ct. App. 2009), available [here](#).

⁹*Ibid*.

Recommended Guidance if CPS Engages You

- Stay calm and be polite, but do not allow the CPS worker into your home. Engage at your doorstep.
- Record the interaction if possible. At the beginning of recording, state your name and the date and ask each CPS worker involved to state their name and title.
- Ask to see the CPS worker's business card/paperwork and take photos of each.
- Explain that you will not discuss any allegations until your attorney has reviewed them, and that your attorney will be in contact with CPS. Do not be afraid of silence.
- Visit CDF's Michigan webpage at citizensdefendingfreedom.com/michigan should you need additional instruction or assistance, including our "Contact Us" option.¹⁰



¹⁰**DISCLAIMER:** The information provided in this document does not, and is not intended to, constitute legal advice, or serve as a substitute for legal counsel. Instead, the material herein is for general informational purposes only and should not be relied upon for any particular matter or situation. The seeking of independent legal counsel depending upon the unique facts or circumstances of a particular matter or situation is advised.