

THE SCHOOLBOOK PROTEST MOVEMENT

40 QUESTIONS & ANSWERS

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30. What is the Hatch Amendment and what does it have to do with the schoolbook protest movement?

The Hatch Amendment on psychological testing became part of Public Law 95-561 on 1 November 1978. The amendment follows:

Protection of Pupil Rights

(a) All instructional material, including teacher's manuals, films, tapes, or other supplementary instructional material which will be used in connection with any research or experimental program or project shall be available for inspection by the parents or guardians of the children engaged in such program or project. For the purpose of this section "research or experimentation program or project" means any program or project in any ap-

plicable program designed to explore or develop new or unproven teaching methods or techniques.

(b) No student shall be required, as part of any applicable program, to submit to psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment, in which the primary purpose is to reveal information concerning:

- (1) political affiliations;
- (2) mental and psychological problems potentially embarrassing to the student or his family;
- (3) sex behavior and attitudes;
- (4) illegal, anti-social, self-incriminating and demeaning behavior;
- (5) critical appraisals of other individuals with whom respondents have close family relationships;
- (6) legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers, or
- (7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program), without prior consent of the student (if the student is an adult or emancipated minor), or in the case of unemancipated minor, without the prior written consent of the parent.

Little attention was paid to the amendment until Phyllis Schlafly and the Eagle Forum persuaded the Department of Education to conduct a series of public hearings on it in 1984. The hearings led to the implementation orders in November 1984 as well as to the publication of Schlafly's *Child Abuse in the Classroom*, which consists of excerpts from "official transcripts" of the hearings.

Two months after the implementation order, the Eagle Forum published a copy of a letter to school board presidents prepared by the Maryland Coalition of Concerned Parents on Privacy Rights in Public Schools. By February 1985 the letter had been submitted to school boards by parents in 17 states who thought the Hatch Amendment applied to classroom activities as well as to psychological testing. The letter is reprinted here as it appeared in *The Eagle Forum Newsletter*:

PARENTS; HOW TO PROTECT YOUR RIGHTS — Here is a sample letter which you can copy and send to the president of your local School Board (with copy to your child's school principal) in order to protect parental and student rights under the Hatch Amendment Regulations effective Nov. 12, 1984. This letter does not ask for the removal of any course or material;

it merely demands that the school obey the law and secure written parental consent before subjecting children to any of the following. Parents are NOT required to explain their reasons for denying consent.

Date:

To: School Board President

Dear :

I am the parent of _____ who attends _____ School. Under U.S. legislation and court decisions, parents have the primary responsibility for their children's education, and pupils have certain rights which the schools may not deny. Parents have the right to assure that their children's beliefs and moral values are not undermined by the schools. Pupils have the right to have and to hold their values and moral standards without direct or indirect manipulation by the schools through curricula, textbooks, audio-visual materials, or supplementary assignments.

Accordingly, I hereby request that my child be involved in NO school activities or materials listed below unless I have first reviewed all the relevant materials and have given my written consent for their use:

- Psychological and psychiatric examinations, tests, or surveys that are designed to elicit information about attitudes, habits, traits, opinions, beliefs, or feelings of an individual or group;
- Psychological and psychiatric treatment that is designed to affect behavioral, emotional, or attitudinal characteristics of an individual or group;
- Values clarification, use of moral dilemmas, discussion of religious or moral standards, role-playing or open-ended discussions of situations involving moral issues, and survival games including life/death decision exercises;
- Death education, including abortion, euthanasia, suicide, use of violence, and discussions of death and dying;
- Curricula pertaining to alcohol and drugs;
- Instruction in nuclear war, nuclear policy, and nuclear classroom games;
- Anti-nationalistic, one-world government or globalism curricula;
- Discussion and testing on inter-personal relationships; discussions of attitudes towards parents and parenting;
- Education in human sexuality, including pre-marital sex, extra-marital sex, contraception, abortion, homosexuality, group sex and marriages, prostitution, incest, masturbation, bestiality, divorce, population control, and roles of males and females; sex behavior and attitudes of student and family;

- Pornography and any materials containing profanity and/or sexual explicitness;
- Guided fantasy techniques; hypnotic techniques; imagery and suggestology;
- Organic evolution, including the idea that man has developed from previous or lower types of living things;
- Discussions of witchcraft, occultism, the supernatural, and Eastern mysticism;
- Political affiliations and beliefs of student and family; personal religious beliefs and practices;
- Mental and psychological problems and self-incriminating behavior potentially embarrassing to the student or family;
- Critical appraisals of other individuals with whom the child has family relationships;
- Legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers;
- Income, including the student's role in family activities and finances;
- Non-academic personality traits; questionnaires on personal and family life and attitudes;
- Autobiography assignments; log books, diaries, and personal journals;
- Contrived incidents for self-revelation; sensitivity training, group encounter sessions, talk-ins, magic circle techniques, self-evaluation and auto-criticism; strategies designed for self-disclosure (e.g., zig-zag);
- Sociograms, sociodrama; psychodrama; blindfold walks; isolation techniques.

The purpose of this letter is to preserve my child's rights under the Protection of Pupil Rights Amendment (the Hatch Amendment) to the General Education Provisions Act, and under its regulations as published in the *Federal Register* of Sept. 6, 1984, which became effective Nov. 12, 1984. These regulations provide a procedure for filing complaints first at the local level, and then with the U.S. Department of Education. If a voluntary remedy fails, federal funds can be withdrawn from those in violation of the law. I respectfully ask you to send me a substantive response to this letter attaching a copy of your policy statement and procedures for parental permission requirements, to notify all my child's teachers, and to keep a copy of this letter in my child's permanent file. Thank you for your cooperation.

copy to School Principal _____ Sincerely,

Shortly after the regulations had been published and after the aforementioned letter had been distributed in a number of states, Senator

Orrin Hatch, author of the Hatch Amendment, attempted to clarify the intent of his act in a speech on the Senate floor. He said that he was “amazed at the overreaction of educational lobby groups to the [Education] Department’s regulations.”¹

Directing part of his remarks to such groups as Phyllis Schlafly’s Eagle Forum, Senator Hatch said:

some parent groups have interpreted both the statute and the regulations so broadly that they would have them apply to all curriculum materials, library books, teacher guides, et cetera, paid for with State or local money. They would have all tests used by teachers in such non-federally funded courses as physical education, health, sociology, literature, et cetera, reviewed by parents before they could be administered to students. Because there are no Federal funds in such courses, the Hatch amendment is not applicable to them. A number of states do, however, have statutes or State board regulations which do safeguard these parental rights.

Some other parent groups contend that because school districts receive some Federal funds on a formula basis such as impact aid, Chapter I, et cetera, when a teacher made test is given that may ask such pupils to make a value judgment on a topic, this would invoke the Hatch amendment. This was never the intent of the Hatch amendment.

Were a school district to use its Chapter II funds to establish experimental, demonstration or testing programs, the primary purpose of which is to elicit the type of information proscribed by the Hatch amendment, that activity would fall within the purview of the amendment. A direct relationship can be determined, and Federal funds would be paying for an activity that could be challenged under the Department of Education regulations.

On the other hand . . . if the Chapter II funds were used to pay for a course in citizenship — as authorized by Chapter II — and the local school board agrees to allow a political science graduate student whose dissertation project is funded from non-Federal sources to administer a survey — which is actually a test — to the class, and that survey attempts to elicit information about the student’s perceptions of politics, politicians, people who work for governments, and so forth, because such questions may cause a student to divulge his or her — or their parent’s — political persuasion, a parent may ask to have their child excused, but if re-

fused, the relief, it would seem to me, would have to be on some basis other than the Hatch amendment.

. . . there are also those who would have certain courses, such as sex education, paid for with other than Federal funds, eliminated from the curriculum. They contend that the Hatch amendment prevails because in such courses, pupils cannot discuss the course content without making some value judgments about sexual behavior. Were such a course to be funded with Chapter II funds, for example, it certainly would be covered by the Hatch amendment and the Department of Education regulations. If the course is nonfederally funded, the Hatch amendment does not prevail.²

Senator Hatch said that the purpose of the amendment was “to guarantee the right of parents to have their children excused from federally funded activities under carefully specified circumstances.” The “activities we are talking about are non-scholastic in nature.”³

At the beginning of the 1985-86 academic year, the letter distributed by the Eagle Forum was being used by parents in several dozen states and in at least one Department of Defense school in Germany. The confusion over the amendment continued with the same question being asked throughout the nation: Which is actually the amendment — what was passed in the Senate or what was published in the letter distributed by the Eagle Forum? The answer to that question should be obvious. Unfortunately, members of the Eagle Forum and other protesting groups do not recognize the obvious answer. Consequently, the amendment is being used in an attempt to rid the schools of courses, teaching materials, and teaching methods that were apparently not the target of Senator Hatch when he drafted the amendment.

[*note (jaw)*: The letter reproduced here on pp. 82-83 is included as an Appendix in Schlafly, Phyllis, and United States. Dept. of Education. Child Abuse in the Classroom : Excerpts from Official Transcript of Proceedings before the U.S. Department of Education in the Matter of Proposed Regulations to Implement the Protection of Pupil Rights Amendment, Section 439 of the Gepa, Also Known as the Hatch Amendment. Alton, Ill.: Pere Marquette Press, 1984. 0934640106 (pbk.)]
