



# The Phyllis Schlafly Report



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## Courts Like Nosy Questionnaires

After reading the NEA resolutions and policies, parents should reflect on the way many courts have adopted the notion that the “village” (*i.e.*, the schools) should be in charge of raising children. Two federal appellate courts have held that parents have no right to stop the offensive, privacy-invading interrogation of their own children in public schools. Judges apparently prefer to side with schools and against parents.

When a New Jersey mother was horrified to learn that her daughter and classmates had been asked how many times they tried to kill themselves, she filed suit to protect the rights of parents and pupils. She won on the first appeal to the Third Circuit in *C.N. v. Ridgewood Board of Education*, but the school was relentless in litigation to assert its primary authority and the judges finally ruled in favor of the school.

At issue was a 156-question survey called “Profiles of Student Life: Attitudes and Behaviors,” which probed students about their personal lives and activities. The survey included questions about sex, drugs, suicide, incriminating behavior, spirituality, tolerance, and other personal matters. Questions 92-93 in this survey given to Ridgewood children demanded to know “how many times, if any” they “had used cocaine” in their lives, or during the last 12 months, and the answer choices were 0, 1, 2, 3-5, 6-9, 10-19, 20-39, and 40+. This gave students the false impression that casual use of cocaine is common and acceptable.

Misleading questions can have a powerful effect. Our legal system recognizes this by providing dozens of reasons for lawyers to object to questions in court in order to protect their witnesses from having to answer improper questions. Children lack the maturity to tell the difference between questions they should or should not answer. Children are trained in school that they must answer the teacher’s questions or face discipline or a poor grade.

But judges who routinely uphold lawyers’ objections to improper questions in court think it is okay to ask offensive questions of children in school. In the *Ridgewood* decision, the court agreed with the parents that the students’ partici-

pation in the survey may have been mandatory, and conceded that the leading questions could be suggestive to students, but nevertheless ruled that parents’ and pupils’ rights were not violated.

The Ninth Circuit went even further, marking the school door as the line where parents’ rights end and the “village” takes over. In *Fields v. Palmdale School District* last November, the court ruled that parents’ fundamental right to control the upbringing of their children “does not extend beyond the threshold of the school door,” and that a public school has the right to provide its students with “whatever information it wishes to provide, sexual or otherwise.”

In the same 30 days as the *Ridgewood* and *Palmdale* cases, the U.S. Supreme Court refused to review another parental rights case, *Crowley v. McKinney*, in which the Seventh Circuit had ruled against the parent, saying that the school has a constitutional right of “the autonomy of educational institutions.” It hasn’t grabbed the attention of the Supreme Court that the Third, Seventh and Ninth Circuits have ignored what we all thought was the “settled law” of *Pierce v. Society of Sisters*, which in 1925 recognized the constitutional right of parents to control the education of their own children.

Parents’ rights cases are seldom accepted by the Supreme Court. That’s why it is important to be vigilant that only constitutionalist judges are appointed to lower federal court life-tenured positions. This year, rather than hear a single case about parents’ rights to raise their own children, the Supreme Court spent its time on a slew of cases about prisoners’ rights, including the appeal of Osama bin Laden’s driver and a case about the alleged right of prisoners to read pornographic magazines.