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RESEARCH REPORT | American Values

Protecting Parental Authority in Vaccination Decisions

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TOPLINE POINTS

- Parents possess constitutional authority over their children's medical decisions—a fundamental liberty the Supreme Court has repeatedly affirmed.
- Recent Supreme Court decisions establish heightened constitutional scrutiny for vaccination policies that interfere with parental religious authority. Four states that eliminated all non-medical exemptions now face renewed constitutional challenges.
- Federal policy is realigning with constitutional authority. HHS has strengthened enforcement of parental rights, and CDC has restructured the childhood immunization schedule to prioritize shared parental decision-making over universal agency endorsement.
- State legislatures are also reclaiming authority over vaccination policy. Idaho prohibits mandates outright. Florida has initiated rulemaking to eliminate all school vaccination requirements.
- States should eliminate universal childhood vaccine mandates. Those retaining mandates must guarantee exemptions, prohibit procedural barriers, and protect families from retaliation.

Introduction: Who Decides?

When a child has a fever, a doctor prescribes antibiotics, or a surgeon recommends an operation, parents must weigh the risks and benefits and decide what to do. American legal tradition entrusts parents to navigate these and other complex decisions on their children's behalf (*Parham v. J.R.*, 1979). The state should only become involved when parental choices place a child in immediate danger.

Vaccination sits at the intersection of parental authority and state power to protect public health. The tension is not new, but it has intensified. States are fracturing along partisan lines: Republican states are expanding exemptions, while Democratic states are eliminating them.

Schools increasingly function as gatekeepers, creating administrative barriers that, in practice, nullify the exemption rights the legislature granted (Stadlin et al., 2012).

Strip away the politics, and a simple question remains: Who decides? Not just for vaccines, but for the whole range of family medical decisions. If the government can override a parent's medical judgment whenever public health officials deem it beneficial, what principle limits state authority over any choice a parent makes for a child?

The Constitution is unambiguous. Parents hold presumptive authority over their children's medical care (*Parham v. J.R.*, 1979). The state may intervene when parental decisions pose an imminent risk of serious harm (Diekema, 2004). Declining a vaccine does not meet that standard. Securing this constitutional equilibrium supports ending mandates or, at a minimum, requires legislation that guarantees the availability of exemptions, prohibits institutional barriers, and ensures transparent processes.

Constitutional Foundations

Parental Rights as Fundamental Liberty

The liberty of parents to direct the upbringing of their children is a fundamental right. In *Meyer v. Nebraska* (1923), the Supreme Court recognized that parents possess a fundamental liberty interest, protected by the Fourteenth Amendment, in directing their children's education. The Court identified this right among the liberties guaranteed by the Due Process Clause, alongside the rights "to marry, establish a home and bring up children" (p. 399).

Pierce v. Society of Sisters (1925) reinforced this principle, holding that Oregon's compulsory public schooling law "unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control" (p. 534). The Court declared, "The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations" (p. 535).

Troxel v. Granville (2000) reaffirmed these principles, calling the right of parents to make decisions concerning their children's care, custody, and control "perhaps the oldest of the fundamental liberty interests recognized by this Court" (p. 65). The plurality emphasized that courts must accord "special weight" to parental decisions and that "so long as a parent adequately cares for his or her children (i.e., is fit), there will normally be no reason for the State to inject itself into the private realm of the family" (p. 68).

Parham v. J.R. (1979) specifically addressed parental authority over medical decisions. Upholding parental authority to commit children for psychiatric treatment, the Court rejected "the statist notion that governmental power should supersede parental authority in all cases because some parents abuse and neglect children"—a notion the Court declared "repugnant to American tradition" (p. 603). The Court explained: "The law's concept of the family rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions. More importantly, it has been recognized that natural bonds of affection lead parents to act in the best interests of their children" (p. 602).

State Authority and Its Limits

States retain police powers to address public health emergencies—including authority to require vaccination. *Jacobson v. Massachusetts* (1905) upheld a smallpox vaccination mandate during an active epidemic, and *Zucht v. King* (1922) affirmed authority to exclude unvaccinated children from schools. These precedents establish that vaccination mandates are not *per se* unconstitutional.

But neither case provides unlimited government authority. Jacobson arose during a smallpox outbreak; at the time, variola major commonly had case-fatality rates exceeding 20% in unvaccinated populations, though severity varied by strain and conditions (Fenner et al., 1988). The plaintiff could claim a medical exemption by demonstrating that "he was not a fit subject" for vaccination (*Jacobson*, 1905, p. 39). The Court cautioned that mandates must not extend "so far beyond what was reasonably required for the safety of the public" (p. 28) as to become "a plain, palpable invasion of rights secured by the fundamental law" (p. 31). *Zucht* addressed school exclusion as a public-health response at a time when vaccine-preventable diseases killed thousands of children annually. It does not support the categorical elimination of exemptions or a generalized exclusion detached from disease prevalence.

Both cases predate modern parental rights jurisprudence. Legal scholars analyzing jurisprudence on the anniversary of *Jacobson* observed that constitutional law has evolved. What was once a broad endorsement of state police power now operates alongside stronger protections for individual liberty (Mariner et al., 2005). Accordingly, state vaccination authority operates today within the bounds of the fundamental parental rights articulated since *Jacobson*.

The Constitutional Line: Imminent Serious Harm

The proper balance of power between parents and the state requires a narrow definition of harm in the government's exercise of its police power. In the context of medical decisions, the commonly invoked "best interest" standard offers little guidance but merely invites outsiders to second-guess parental choices (Diekema, 2004). The harm principle represents a more appropriate gauge for state intervention than the best-interest standard: state intervention should occur only when (1) the parental decision places the child at significant risk of serious harm, and (2) the intervention is likely to be effective in preventing that harm (Logan, 2018).

Applying this standard to vaccination reveals why vaccination refusal does not justify state intervention. A vaccine may provide a statistical risk reduction, but it does not treat an existing illness. An unvaccinated healthy child may face elevated odds of contracting certain diseases, but is not experiencing immediate harm. The situation differs fundamentally from cases that could justify intervention: parents refusing chemotherapy for a child with cancer, declining insulin for a diabetic, or rejecting surgery for a life-threatening condition. Those children might face imminent harm without treatment. An unvaccinated child may never encounter the diseases in question, may have acquired natural immunity against them, or may be otherwise healthy and unaffected.

The distinction carries constitutional weight. In *Reno v. Flores* (1993), Justice Scalia distinguished between the best-interest standard appropriate in custody disputes between parents and broader assertions of state authority: "'[T]he best interests of the child' is not the legal standard that governs parents' or guardians' exercise of their custody: So long as certain minimum

requirements of child care are met, the interests of the child may be subordinated to the interests of other children, or indeed even to the interests of the parents or guardians themselves" (pp. 303–304). If declining preventive medicine constituted neglect, states could mandate any intervention arguably offering a statistical benefit: annual checkups, dental cleanings, prophylactic medications. Such authority would eviscerate parental rights.

States Lack Authority to Eliminate Exemptions

The imminent harm standard defines when states may override parental medical decisions. A separate question is whether states may categorically eliminate religious and philosophical exemptions from vaccination requirements.

Four states—California, Connecticut, Maine, and New York—prohibit all non-medical vaccine exemptions. California eliminated non-medical exemptions in 2015 following the Disneyland measles outbreak. Maine and New York followed in 2019, and Connecticut joined in 2021. Parents challenged each elimination, and every court rejected those challenges. Courts applied rational basis review under *Employment Division v. Smith* (1990), distinguishing *Wisconsin v. Yoder* (1972) as limited to the unique existential threat compulsory high school posed to the Amish way of life.

Two Supreme Court decisions in 2025 fundamentally altered this landscape. In *Mahmoud v. Taylor* (2025), the Court held 6–3 that Montgomery County, Maryland, violated the First Amendment by refusing to permit parents to opt their children out of LGBTQ-themed curriculum materials. Justice Alito's majority opinion established that government policies substantially interfering "with the religious development" of children trigger strict scrutiny, regardless of whether facially neutral and generally applicable. The Court characterized *Yoder* as articulating "general principles" about parental authority to direct children's religious upbringing, not limited to Amish education. The Court rejected claims that parental rights "stop at the schoolhouse door."

In late 2025, *Miller v. McDonald* demonstrated the Supreme Court's readiness to extend *Mahmoud* to vaccination. In 2019, New York eliminated its longstanding religious exemption. The state subsequently fined three Amish schools (Dygert Road School, Twin Mountains School, and Shady Lane School) a combined $118,000 for allowing unvaccinated children to attend (*Miller v. McDonald*, 2025). The schools and parents sued, claiming violations of the First Amendment.

The Second Circuit upheld New York's law, applying rational basis under *Smith*. The court distinguished *Yoder*, finding that while *Yoder* involved an "existential threat" to the Amish way of life from additional high school years, vaccination requirements posed no comparable burden. The court concluded *Yoder* "took pains explicitly to limit its holding" (*Miller v. McDonald*, 2025).

New York's health commissioner urged the Supreme Court not to take the case. In a brief filed on behalf of James V. McDonald, the state argued that *Yoder* does not extend to school vaccination laws that promote public health, safety, and child welfare and that nothing in the high court's *Mahmoud* decision altered that (Brief for Respondents in Opposition, *Miller v. McDonald*, 2025, pp. 25-26).

The Supreme Court rejected this position. On December 8, 2025, the Court granted the petition, vacated the Second Circuit's judgment, and remanded for reconsideration in light of *Mahmoud*

v. Taylor (*Miller v. McDonald*, 2026). This procedural move signals the justices' view that strict scrutiny from *Mahmoud* applies to the elimination of religious exemptions.

Blanket exemption bans face serious difficulties under strict scrutiny. The government must demonstrate that its policy serves a compelling interest, is narrowly tailored, and represents the least restrictive means. Blanket bans struggle to satisfy these requirements.

First, a compelling state interest must be demonstrated "as applied to the child involved." Blanket bans cannot satisfy individualized requirements. They apply identical rules to children with family histories of adverse reactions and those without, to children with natural immunity and those never exposed, and to children in rural areas with zero disease prevalence and those in urban outbreak zones.

Second, narrow tailoring requires precise calibration. Blanket bans fail this test. They apply continuously regardless of outbreak status, unlike the epidemic-specific context in *Jacobson*. They extend to diseases that are not highly contagious in schools (e.g., hepatitis B, which is transmitted through blood or sexual contact, not classroom interaction). They mandate vaccines for diseases posing minimal mortality risk to healthy children. They apply equally to all districts, regardless of vaccination rates or local outbreak status.

Third, less restrictive means exist and work. States can implement outbreak-specific exclusion. When confirmed outbreaks occur, states can temporarily exclude unvaccinated children from affected schools for that specific disease, provide alternative educational arrangements, and restore attendance when outbreaks end.

The constitutional question remains formally unresolved. No court has yet applied *Mahmoud's* strict scrutiny to a blanket exemption ban following the *Miller* remand. The Second Circuit will address this on remand. Other circuits may reach the issue as parents in California, Connecticut, and Maine challenge those eliminations. But the trajectory is clear. States that eliminate all exemptions through population-level mandates applied uniformly, without individualized assessment, that extend requirements beyond outbreak contexts, and that ignore demonstrably effective alternatives face serious constitutional vulnerability under *Mahmoud* and *Miller*.

Recent State Court Decisions

Recent state court decisions reinforce constitutional protection for parental medical authority. While *Mahmoud* and *Miller* address the constitutionality of policies eliminating exemptions, state courts in Massachusetts and North Carolina have addressed circumstances where state authorities attempted to vaccinate children without or against parental consent.

In May 2025, the Massachusetts Supreme Judicial Court, in *Care and Protection of Eve* (Mass., 2025), ruled unanimously that the Department of Children and Families violated the state constitution when it vaccinated a child in its temporary custody over parental religious objections. Applying strict scrutiny, the court concluded that while protecting children through vaccination constitutes a compelling government interest, granting an exemption to these parents would not "substantially hinder the fulfillment of the goal."

The North Carolina Supreme Court reached a similar conclusion in *Happel v. Guilford County Board of Education* (N.C., 2025). The court held that the state constitution protects both "the right to bodily integrity" and parents' right to control their children's upbringing. Federal immunity provisions under the PREP Act do not shield state actors who vaccinate children without parental consent from state constitutional claims. Chief Justice Newby wrote that "the fundamental and paramount constitutional rights to bodily integrity and parental control" cannot be "discarded without second thought" (*Happel v. Guilford County Board of Education*, N.C., 2025, slip op. at 30).

The 2025 Policy Landscape

Recent State Developments

Twenty states have enacted statutes protecting parental rights in medical and educational decisions. Three—West Virginia (pre-1973), Michigan (1996), and Texas (1999)—codified these protections before *Troxel* (Parental Rights Foundation, n.d.). The movement accelerated afterward. Between 2003 and 2024, 17 additional states enacted parental rights legislation: Colorado, Nevada, Virginia, Kansas, Oklahoma, Arizona, Idaho, Utah, Wyoming, Florida, Montana, Georgia, North Dakota, Iowa, Alabama, North Carolina, and Tennessee (Parental Rights Foundation, n.d.).

Texas made constitutional history in November 2025. Proposition 15 passed with 70% support (Ballotpedia, 2025), making Texas the first state to enshrine parental rights in its constitution. The amendment affirms "that a parent has the responsibility to nurture and protect the parent's child and the corresponding fundamental right to exercise care, custody, and control of the parent's child, including the right to make decisions concerning the child's upbringing" (Tex. Const. art. I, § 37). Legislative support was substantial, with unanimous passage in the state Senate and a 112–22 vote in the state House (SJR 34, 2025).

Several states expanded vaccination-specific protections in 2025:

- **Idaho**: Idaho enacted the Medical Freedom Act (SB 1210, 2025), prohibiting governments and schools from mandating vaccines. Schools may exclude symptomatic children during confirmed outbreaks, but cannot exclude healthy unvaccinated children as a blanket policy.
- **Florida**: Florida announced plans to eliminate all school vaccine mandates and initiated rulemaking to remove requirements for hepatitis B, chickenpox, Hib, and pneumococcal vaccines (The Florida Channel, 2025).
- **West Virginia**: West Virginia's Governor Patrick Morrisey issued Executive Order 7-25 (2025) directing health officials to grant religious exemptions, which is the first time such exemptions have been available in the state's history.
- **Texas**: Texas made exemption forms downloadable online (HB 1586, 2025).
- **Utah**: Utah incorporated exemptions into permanent school records (HB 228, 2025).
- **Iowa**: Iowa required schools to post exemption information prominently (HB 299, 2025).

Other states moved toward restricting parental choice through regional coordination. The Northeast Public Health Collaborative (composed of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and New York

City) coordinates vaccine policy across state lines (Massachusetts Department of Public Health, 2025). California, Oregon, and Washington formed a West Coast Health Alliance (Office of Governor Gavin Newsom, 2025). These compacts aim to increase vaccination uptake and create uniform policies, eliminating interstate variation.

Federal Policy Realignment

HHS Enforcement and Parental Consent Protections

Recent federal actions have begun reshaping the policy environment in which parents are making vaccination decisions. On December 3, 2025, the Department of Health and Human Services (HHS) announced enforcement actions to protect parental consent rights in pediatric medicine (HHS, 2025). HHS opened an investigation into a Midwestern school that allegedly vaccinated a child with a federally provided vaccine without parental consent, ignoring a religious exemption submitted under state law. The Office for Civil Rights is examining whether the school violated the requirements of the Vaccines for Children Program (a federal program that provides vaccines at no cost to eligible children) by conditioning federal vaccine provision on compliance with state exemption laws.

HHS also issued a Dear Colleague Letter reminding health care providers of federal law that requires them to provide parents with access to their children's health information under HIPAA (HHS Office for Civil Rights, 2025). The letter reinforced that parents who are their children's personal representatives can exercise their children's rights regarding protected health information. HHS should issue additional guidance affirming parents as primary decision-makers in childhood vaccination. A Dear Colleague Letter to healthcare providers and state health departments would reinforce that federal vaccination programs support—rather than supplant—parental authority, and that providers receiving federal funds must comply with state exemption laws and respect parental medical decision-making consistent with constitutional parental rights.

Additionally, HHS directed the Health Resources and Services Administration to require grant recipients to comply with all applicable federal and state parental-consent laws for services provided to minors at HRSA-supported health centers. "Today, we are putting pediatric medical professionals on notice: you cannot sideline parents," Secretary Robert Kennedy stated. "When providers ignore parental consent, violate exemptions to vaccine mandates, or keep parents in the dark about their children's care, we will act decisively" (HHS, 2025).

Federal Funding Mechanisms

Beyond these enforcement actions, the administration has broader administrative authority to address the elimination of state exemptions. HHS can formalize existing guidance through binding program requirements. The Vaccines for Children Program (VFC) (42 U.S.C. § 1396s) and Section 317 grants (42 U.S.C. § 247b) provide mechanisms for conditioning federal vaccination funding on state maintenance of accessible religious and philosophical exemptions. States receiving these funds could be required to approve exemptions without delay, mandatory counseling sessions or educational prerequisites, notarization requirements, or physician signature requirements for non-medical exemptions.

The constitutional foundation for such spending conditions is well-established under Congress's Article I, Section 8 authority. Courts consistently uphold conditions that are clearly stated,

related to the federal interest in the program, and not coercive (*South Dakota v. Dole*, 1987). VFC and Section 317 conditions would be clearly stated in program regulations, directly related to ensuring vaccination programs respect constitutional rights, and not coercive, because states could decline federal funds if they preferred eliminating exemptions.

Interagency Coordination

The Department of Education can issue parallel guidance through Dear Colleague Letters explaining that *Mahmoud v. Taylor* established constitutional requirements for accommodating religious objections to school policies that substantially interfere with parents' religious upbringing of children, and that vaccination requirements fall within this framework when parents assert sincere religious objections.

The Department of Justice can strengthen constitutional challenges to exemption bans through amicus briefs. Twenty-one states filed an amicus brief in *Miller v. McDonald,* arguing that New York's elimination of religious exemptions violated the First Amendment (Brief of Amici Curiae States in Support of Petitioners, 2025). Federal participation in such cases would signal the administration's priorities and provide authoritative legal analysis supporting parental rights, without requiring congressional authorization.

The need for a whole-of-government approach is particularly acute given coordinated state resistance to exemption protections. As mentioned previously, the Northeast Public Health Collaborative (11 states and New York City) and the West Coast Health Alliance (California, Oregon, and Washington) work to create uniform vaccination policies that eliminate interstate variationhttps://www.mass.gov/news/several-northeastern-states-and-americas-largest-city-announce-the-northeast-public-health-collaborativehttps://www.gov.ca.gov/2025/09/03/california-oregon-and-washington-to-launch-new-west-coast-health-alliance-to-uphold-scientific-integrity-in-public-health-as-trump-destroys-cdcs-credibility/. These regional alliances represent organized efforts to eliminate exemptions and restrict parental rights.

CDC Schedule Restructuring

Alongside these administrative developments, federal health agencies have begun restructuring vaccination guidance. On December 5, 2025, the Advisory Committee on Immunization Practices voted to replace its universal recommendation for the hepatitis B vaccine birth dose with shared clinical decision-making for infants born to mothers who tested negative (Branswell, 2025). This change reversed a policy in place since 1991.

On January 5, 2026, the Centers for Disease Control (CDC) formally revised the childhood immunization schedule. The revised schedule distinguishes vaccines universally recommended for all children without individual assessment (those with consensus among all peer nations) from vaccines recommended for high-risk groups and vaccines recommended through shared decision-making between parents and physicians (HHS, 2026). Hepatitis A, hepatitis B, rotavirus, influenza, and COVID-19 now fall partly or entirely into these latter categories, still recommended by the CDC, but requiring parental discussion rather than universal recommendation. The revision reduced the number of vaccines universally recommended for all children from ages 11 to 17.

Federal policy is shifting decisively toward parental authority and shared decision-making. Many states are moving in the opposite direction, eliminating exemptions, tightening procedures, and coordinating regional enforcement. The divergence makes state-level parental rights protections more important, not less. Parents now navigate a vaccination landscape where some immunizations are universally recommended, others are recommended for specific populations, and still others are left for parents to evaluate based on individual circumstances. Legal protection of parental authority ensures that families can make such decisions without institutional coercion.

Why Parental Discretion Matters

Science and Risk

The case for parental discretion rests not on rejecting science but on recognizing scientific reality: vaccines carry risks, disease risks vary by individual, and parents are best positioned to weigh these factors for their children.

The CDC acknowledges this through its contraindications, which are official guidance identifying circumstances where vaccines pose a heightened risk to certain individuals (CDC, 2024a). If universal vaccination without individual assessment makes scientific sense, contraindications would not exist.

No medical decision made by parents, including vaccination, is risk-free. The rotavirus vaccine RotaShield was withdrawn in 1999 after causing one excess case of intussusception (a potentially fatal bowel obstruction) per 10,000 vaccinated infants (Murphy et al., 2001). The risk emerged only through post-market surveillance, demonstrating that even vaccines completing clinical trials can pose unforeseen dangers to identifiable populations. More recently, certain COVID-19 vaccines were associated with an elevated risk of myocarditis in young males, prompting revised recommendations (Oster et al., 2022).

Individual circumstances matter as well. Age, health status, family medical history, geographic location, and lifestyle all influence disease exposure and severity. A healthy teenager in a suburban community faces different risks than an immunocompromised infant in an urban outbreak zone. Blanket mandates that ignore these variations fail to serve either public health or individual welfare.

Allocation of Consequences

If vaccines carry risks and disease risks vary from person to person, parental discretion serves an important function. Parents bear the consequences of medical decisions for their children. If vaccination causes serious adverse effects, parents care for the injured child—sometimes for life. If disease strikes an unvaccinated child, parents manage the illness. Those who bear responsibility for outcomes should possess authority over decisions.

Consider a family with a documented history of autoimmune disorders. The parents may reasonably conclude that vaccination poses an elevated risk for their child relative to disease risk, especially for diseases with low local prevalence. Formal contraindications may not capture this nuanced family history, yet the parents possess precisely this information and can weigh it appropriately. Mandates prohibiting such individualized assessment treat parents as obstacles rather than decision-makers, inverting the Constitution's apportionment of authority.

The Supreme Court articulated this principle in *Parham*: parents are presumed to "act in the best interests of their children" because they possess "what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions" (1979, p. 602). Parents weigh risks with their child's welfare as their primary concern. Government officials prioritize population-level statistics and administrative considerations.

Trust Serves Public Health

Coercive vaccination policies erode social trust in ways that harm long-term public health. Parents who feel bullied and dismissed do not merely resist the immediate mandate; they become alienated from the medical system entirely (Wiley et al., 2020). Research consistently shows that voluntary compliance, grounded in trust, produces better outcomes than forced compliance built on power (Leask, 2011).

Parents who receive respectful answers to their questions, who feel heard rather than lectured to, and who retain decision-making authority while receiving accurate information are more likely to vaccinate than those facing ultimatums (Helps et al., 2019). Rigid mandates alienate parents who might otherwise comply, drive some toward medical exemptions or homeschooling, and transform the relationship between families and institutions into an adversarial one (Helps et al., 2019; Wiley et al., 2020).

The structure of exemption processes matters independently of formal availability. When states make exemptions accessible and treat parental authority with respect, they communicate that vaccination represents a choice made by informed parents, not an imposition by government. Respectful engagement builds confidence in vaccination programs; heavy-handed enforcement undermines it (Navin & Largent, 2017).

Understanding Parental Vaccine Concerns

A CDC survey of parents in June–July 2024 found that among parents who have sought or plan to seek an exemption from school vaccination requirements, 37.5% cite personal or philosophical reasons (CDC, 2024b). Broader surveys find most parents, even those whose children receive all recommended vaccines, have questions, concerns, or misperceptions about them (Kennedy et al., 2011). Dismissing these concerns as ignorance misses the point. These are parents exercising judgment about their own children's circumstances.

Safety concerns figure prominently in parental hesitancy. Many parents today (and many healthcare providers) lack direct familiarity with diseases that have been all but eliminated in the United States. Their risk calculus has shifted from disease prevention toward concern about vaccine injury (Kennedy et al., 2005). This is a rational response to changed epidemiological circumstances.

Concerns about autonomy also motivate many families. Parents perceive mandatory vaccination as infringing on fundamental rights—a perception with solid constitutional grounding. Researchers have documented that vaccine mandates are frequently perceived as civil liberties violations resulting from excessive government control (Amin et al., 2017).

Skepticism about pharmaceutical profit motives leads some families to conclude that companies prioritize financial returns over safety considerations (Quinn et al., 2017). A

systematic review of studies examining trust and vaccination found that pharmaceutical companies were widely distrusted, often due to perceived profit motives (Quinn et al., 2017). Government health agencies' shifting and sometimes contradictory messaging during the COVID-19 pandemic eroded trust that extended well beyond COVID vaccines (Fridman et al., 2021).

In November 2025, the CDC revised its website on vaccines and autism, adding language stating that the claim "vaccines do not cause autism" is "not an evidence-based claim because studies have not ruled out the possibility that infant vaccines cause autism" (CDC, 2025). The agency also announced a comprehensive assessment of the causes of autism, including "investigations on plausible biologic mechanisms and potential causal links" (CDC, 2025). Whatever one's view of the underlying science, parents now navigate an information landscape where federal agencies are publicly revisiting prior positions. This shifting terrain alone is reason enough to preserve space for family choice over uniform mandates.

Other families' decisions are driven by religious and moral concerns. The use of fetal cell lines derived from abortions in vaccine development creates genuine ethical dilemmas for pro-life parents. The Pontifical Academy for Life has acknowledged these concerns while noting that parents have a duty to advocate for ethically acceptable alternatives and may, in some circumstances, take recourse to conscientiously object to vaccines derived from aborted fetal cells (Pontifical Academy for Life, 2019). No MMR vaccine lacking this connection to fetal cell lines is currently available in the United States. While a few organized religious groups oppose all vaccines categorically, many individual believers hold sincere convictions that conflict with particular vaccine requirements (Grabenstein, 2013).

Sound policy accounts for this diversity. Parents seeking exemptions do not constitute a monolithic group. They are individuals reaching different conclusions based on different concerns about different vaccines for different children. Accessible exemptions respect that reality and serve public health better than rigid mandates, generating resistance and evasion.

Recommendations for State Action

End Childhood Vaccine Mandates

The constitutional principles outlined in this paper support ending vaccine mandates for children entirely. If state intervention in parental medical decisions is justified only when children face imminent serious harm—a standard that declining vaccination does not meet—then mandates compelling vaccination lack a constitutional foundation.

A recommendation-based model in which parents make immunization decisions with support from their children's health care provider better respects the constitutional structure. Idaho has enacted this approach. Florida has initiated rulemaking toward the same end. Federal policy now embraces shared decision-making over population-level mandates. States should follow.

Adopt Minimum Parental Rights Protections

States that retain mandates should protect parental rights in vaccination policy by adopting legislation that guarantees broad access to exemptions, prohibits institutional barriers, and

ensures transparency in the vaccination process. Following *Mahmoud* and *Miller*, vaccine policies that substantially interfere with parental authority may now be subject to strict scrutiny. To prevail, effective legislation should embody these core principles: (1) parental primacy in medical decisions, (2) legislative authority to establish policy within constitutional limits, (3) institutional implementation without independent policymaking discretion, and (4) prohibition of barriers that functionally nullify related rights.

1. Exemption Availability

Both religious and philosophical exemptions should be recognized without requiring parents to demonstrate the sincerity or internal consistency of their beliefs. The Supreme Court has long recognized that religious beliefs need not be "acceptable, logical, consistent, or comprehensible to others" to warrant constitutional protection (*Thomas v. Review Board*, 1981, p. 714). States that have eliminated religious exemptions (i.e., California, Connecticut, Maine, and New York) now face constitutional challenges following the Supreme Court's application of strict scrutiny to such eliminations in *Miller*. Additionally, medical exemptions should rest on physician judgment without bureaucratic second-guessing by state officials.

2. Process Accessibility

A right on paper means nothing if parents cannot exercise it in practice. Research shows that procedural complexity significantly reduces exemption rates, even when parents want to claim exemptions (Blank et al., 2013). No administrative public health scheme should have the effect of (or be intended to) preventing the exercise of a right approved by the legislature. To the extent that exemptions require certain forms, those documents should be available for immediate download or same-day processing. No mandatory counseling sessions, educational modules, notarization requirements, or physician signatures should be imposed for non-medical exemptions. Parents should not be subjected to mandatory appointments or presentations designed to change their minds.

3. Preemption of Local Requirements

When the legislature recognizes a parent's right to make vaccine decisions and claim exemptions, local entities—i.e., school districts, health departments, municipal governments—function as administrators of that policy, not independent policymakers. State law should therefore preempt local action, prohibiting requirements that exceed what the legislature authorized. Without such preemption, administrators hostile to exemptions can erect procedural obstacles the legislature never sanctioned, nullifying state policy at the point of implementation (Mello et al., 2020).

4. Natural Immunity Recognition

Natural immunity deserves formal recognition. Children with documented evidence of prior infection or laboratory-confirmed antibody levels should qualify for exemption from vaccines targeting those specific diseases. Research confirms that natural immunity confers robust and durable protection (Kojima & Klausner, 2022). Natural immunity accomplishes what vaccination seeks to achieve.

5. Outbreak Response Authority

Outbreak response authority should be narrowly tailored. During confirmed disease outbreaks, health departments may temporarily exclude unvaccinated children from schools in affected

areas for that specific disease. Exclusion orders should specify duration limits, geographic scope, and appeal procedures. Narrow tailoring addresses genuine emergencies without swallowing parental authority whole.

6. Protection from Medical Neglect Investigations

Exercising a lawful exemption is not medical neglect. State law should say so explicitly. Lawful exercise of statutory exemption rights cannot constitute medical neglect, trigger child protective services investigations, or serve as a factor in custody or welfare proceedings. Explicit statutory language should remove any threat of retaliation for exercising a lawful right.

7. Enforcement Mechanisms

Meaningful enforcement ensures statutory protections have a practical effect. Private rights of action allowing parents to sue for violations, statutory damages provisions, attorney's fees for prevailing plaintiffs, and personal liability for officials who willfully violate parental rights create accountability. Statutory rights without enforcement mechanisms are hollow.

8. Record Portability and Privacy

Record portability and privacy protections round out these safeguards. Exemptions should transfer automatically when children move between schools or districts without requiring parents to re-justify decisions. Exemption status should remain confidential and not be disclosed beyond what enrollment procedures strictly require.

Conclusion

The question before policymakers is not whether vaccination serves public health. The question is who decides whether individual children receive specific vaccines: parents exercising constitutional authority over their children's medical care, or government officials implementing population-level policies over which families have no meaningful influence.

The Constitution is clear. Parents decide. State intervention is appropriate only when parental choices create imminent serious harm to children.

Federal policy has begun to reflect this constitutional allocation. Many state policies have not. The constitutional principles established in *Meyer*, *Pierce*, *Parham*, and *Troxel* protect parental authority over medical decisions. *Mahmoud* and *Miller* hold that policies that substantially interfere with parental religious authority are subject to strict scrutiny. The police power recognized in *Jacobson* and *Zucht* permits state action during active public health emergencies, but does not authorize the elimination of parental discretion based on population-level risk calculations.

The path forward is straightforward: state legislatures establish public health policy within constitutional limits, parents exercise authority over their children's medical care within that framework, and schools implement legislative decisions without adding unauthorized barriers.

BIOGRAPHIES

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