Black parents protect children's privacy through home schooling, research shows

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Credit: Earl Richardson

Privacy is among the most cherished of American rights. Yet, one of society's most vulnerable populations—Black children—are denied the benefits of the right to privacy through discriminatory educational

practices, and a growing number of Black parents are turning to home education to protect that right, according to a University of Kansas privacy law scholar.

In a landmark 1890 article, Samuel Warren and Louis Brandeis outlined the right to privacy, in essence, as the right to be left alone. Privacy law and jurisprudence have followed from that inspiration, codifying in law the right for individuals to have privacy in body, property and mind. However, discriminatory practices in U.S. education have continued to deny Black children the right to be let alone and to fully reach their potential without excessive discipline, underrepresentation in gifted and talented programs, placement in the school-to-prison pipeline and more, according to Najarian Peters, associate professor of law, who recently published "The Right to Be and Become: Black Home-educators as Child Privacy Protectors" in the *Michigan Journal of Race and Law*.

Peters' research details the growing number of Black parents protecting their children's privacy by home-schooling their children to shield them from racial preconceptions and provide their children the opportunity to achieve self-actualization.

Peters became aware of the increasing numbers of Black parents home-educating and their reasons for doing so starting in 2018.

"I recognized the connection between privacy law foundations and home educating by hearing these parents talk about why they had to home-educate their children, their motivations and reading social science research about home education, especially Black home education. As I was reading the research, I began to see direct comparisons between what I read and heard from Black parents who are home-educating their children and privacy theory and law. Black parents see home education as a means of protecting and preserving their children's childhood," Peters said. "And those motivations are aligned with the purpose of

privacy and privacy theory as initially shaped by Warren and Brandeis in their article, "The Right to Privacy," as well as many privacy studies that followed."

Peters interviewed families in New Jersey and Georgia, states with some of the most conducive laws to home schooling, about their motivations and experiences. The main motivation the families shared was "racial protection," or shielding their children from negative distortion/mischaracterization that leads to excessive discipline, unequal punishment and denial of educational opportunities.

"Their motivations matched what the right to privacy, as a social good, is supposed to protect, self-actualization—and in childhood that means finding and becoming yourself at the most vulnerable stage in human development," Peters said.

Research cited in Peters' article shows that Black students are criminalized in schools with more police officers present, fewer guidance counselors, enhanced security and other measures. Data has also shown that when Black students attend predominantly white schools, they are subject to more exclusionary discipline and are excluded from gifted and talented educational opportunities. Despite lower representation in the overall student population, Black students receive harsher punishment for the same offenses as white children. Some parents have experienced those disparities in their own educations and chose to withdraw their children from formal education or never enter them as a means of protecting their educational experience.

"When we think about what the research shows happens to many Black students in traditional schooling, regardless of their family's socioeconomic status, parents' educational attainment, whether it's a public, parochial or private school, Black students are consistently overrepresented in negative categories but are underrepresented in the

positive categories," Peters said.

Other research cited by Peters shows that while white students are more often disciplined for objective behaviors such as smoking, writing on walls, skipping class or other observable behaviors, Black students are more often disciplined for subjective reasons such as "being disrespectful," "loud," "aggressive" or "insubordinate."

"The same behaviors in white children are often labeled as a sign of precociousness or a need for the student to be more challenged academically. Those labels are then placed in a student's educational file and follow them throughout their educational career, in essence prohibiting them from being let alone to achieve," Peters said.

Home-educators interviewed for the article said that when children are interfered with in such ways at a young age, they learn early on how they are treated differently because of race. That not only affects their academic performance, confidence, self-esteem and achievement mindset, it can deny them of the benefits of childhood.

"Black home-educators are saying, "I don't want my child to be shaped by this, and I don't want my child to know themselves based on the racialized/anti-Black projections of someone else,'" Peters said. "They're saying, "I want my child to have the benefit of childhood to be and become without that burden," and the data shows that they should be concerned."

Throughout the article, Peters cites educational research not only in unequal discipline, but in theory supporting privacy theory and law as a support for educational achievement. In future research, she hopes to continue examining privacy law and education through a wider socioeconomic lens and exploring how FERPA, the Family Educational Rights and Privacy Act, should be enhanced to recognize negative

distortions in educational records that are often placed permanently at the discretion of teachers.

"The vast majority of K-12 teachers are not trained in or assessed for racial literacy and bias. Nor are they required to have and maintain a level of competency in these areas prior to and throughout their teaching careers. Yet, they exercise broad discretion to characterize student behavior, ability and achievement, and then codify their observations in student education records," Peters said. "The data that shows disproportionate negative impact on Black students suggests that there are unidentified deficiencies not so much in the students who are assessed, although in problematic ways, but in teachers and other school actors. In my forthcoming article, "The Golem in The Machine: FERPA, Dirty Data, and Digital Distortion In The Education Record," I explore some of these issues.

"We know from the data that Black children are more likely to be negatively distorted. The only way we can believe those observations are accurate representations of what is truly happening is to believe that Black children are more badly behaved and less intelligent when compared to white children. The data does not bear that out," Peters said. "That's why we see so much rational distrust and skepticism from Black parents who home-educate about the K-12 educational system."

More information: Najarian Peters. The Right to Be and Become: Black Home-Educators as Child Privacy Protectors, *Michigan Journal of Race & Law* (2020). DOI: 10.36643/mjrl.25.1.right

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