

COURT RULES PRIVATE HOMESCHOOLING ILLEGAL

Private and Home Educators of California

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There has been a flurry of activity about the legality of private homeschooling in California since the California Court of Appeal in Los Angeles County published their Opinion this past February 28th. The question the Appellate Court addressed was "... whether parents can legally 'home school' their children" without a teaching credential under the private school exemption.

What Happened?!

How did homeschooling in California become such an enormous issue so suddenly? Everything was pretty much humming along, and then - BOOM!

This all started in a Los Angeles County juvenile court, and homeschooling does not appear to have been an issue initially. The family involved was a homeschooling family. They were enrolled in a private independent study program (ISP). They were not members of HSLDA. The initial issue before the juvenile court was in regard to an allegation of child abuse, which had nothing to do with homeschooling.

At some time during the juvenile court's proceedings, the court-appointed attorneys for two of the children asked the juvenile court to order the children to be enrolled in a public or private campus school - meaning not any kind of a home school. The juvenile court refused to make such an order, ruling that the parents have a constitutional right to homeschool their children.

In response to this decision by the juvenile court, the attorneys for the two children appealed to the Appellate Court, asking the Appellate Court to "...direct the juvenile court to order that the children be enrolled in a public or private school...."

At this point, nobody except the family involved, and the private ISP in which the children were enrolled, knew or had any way of knowing that homeschooling had become an issue. The proceedings of juvenile courts are, by law, sealed and closed to the public. The issue of homeschooling was brought before the Appellate Court but nobody except the immediate parties involved knew anything of this until after the Appellate Court's infamous decision was published on February 28th.

What is known for sure about the case itself is only what the Appellate Court has written.

The Appellate Court ruled that this homeschooling family did not have a right to "homeschool" under the California Constitution unless the parent is a credentialed tutor.

But the court reached beyond this single family and encompassed all parents by erroneously concluding, "...under the provisions of the Education Code, parents do not have a constitutional right to home school their children." According to this Appellate Court's outrageous opinion: both (1) private school independent study programs, and (2) single family home-based private schools are illegal. The court also erroneously claimed that only state certified teachers, functioning as tutors, can teach their own children.

Where are we today?

Nothing has changed in California regarding your home school or the laws under which you have been homeschooling. HSLDA maintains that the advice they have given home school families for some twenty-five years is still accurate.

California is still one of twelve states where homeschoolers can operate legally under the private school provision. As summarized in our Legal Fact Sheet, (1) parents can establish a private school based in their own home, file the annual private school affidavit, and enroll their children in their private school; or (2) parents can choose to enroll their children in a private school independent study program (I.S.P). Both continue to be valid options for parents who choose to homeschool their children privately under the law in California. California law does not require any teacher in any private school to have a teaching -credential. See our Legal Fact Sheet at www.pheofca.org.

The Court does not have the power to change the law but only to interpret it, and this court has made critical errors in their interpretation of private school laws as they apply to private home education.

In summary, homeschoolers should not panic but continue to home school as in the past. The leadership

of all of California's statewide private homeschool groups (FPM, CHEA, CHN, HSC) and HSLDA are coordinating with each other on this issue on a regular basis. Pray for a positive outcome. The attorneys at HSLDA and other attorneys are working very hard pursuing different legal actions to undo this court's decision.

Public response generally has been very supportive of private homeschooling. As soon as news spread about the court's opinion, several other organizations not necessarily involved in homeschooling, but involved in education and other public policy issues, contacted us to express their support and desire to coordinate with us.

It only took one week for Governor Schwarzenegger to respond, calling the court's ruling "outrageous." On Friday, March 7, 2008 Governor Schwarzenegger issued the following statement:

"Every California child deserves a quality education and parents should have the right to decide what's best for their children. Parents should not be penalized for acting in the best interests of their children's education. This outrageous ruling must be overturned by the courts and if the courts don't protect parents' rights then, as elected officials, we will."

Then, on Tuesday, March 11th, the head of the California public school system, Superintendent of Public Instruction, Jack O'Connell, assured the parents of California that they "... still have the right to home school in our state."

A Resolution (ACR 115 - Anderson) in support of private home education, which does not change the law, has been introduced in the state Legislature. Read about this resolution, which we strongly support, on our website www.pheofca.org.

One of our greatest concerns is that some legislator, even a well-meaning "friend," would introduce a bill to create a law dealing with homeschooling. We have been working very hard, in coordination with HSLDA and the leaders of all the statewide private home school groups in California (sectarian and non-sectarian) to discourage the legislators in Sacramento from moving to pass any laws that would regulate private homeschooling or change the way current law allows for private home education. Thus far, we have been successful.

What now?

There is no doubt that this ruling is a very serious matter - but it is not a cause for panic. This is the time to let HSLDA, and other attorneys involved in the various aspects of this case, work on legal options still available through the Courts. This Appellate Court

ruling is not the final say.

We have not heard of any significant increase in public school officials, such as truant officers, tracking down home schoolers. However, we have become aware of a small number of instances where antagonistic neighbors have reported homeschooling families as a direct result of hearing about this court decision. If a public official comes to your door and tells you that homeschooling is illegal and that you must put your kids in a public school or a private campus school, do not let them into your house. Call HSLDA if you are a member, and let the HSLDA attorney talk to the person at the door. HSLDA attorneys are available to their members 24 hours a day, seven days a week.

If you are not a member of HSLDA, you should join now! Membership in HSLDA accomplishes two things: (1) Membership in HSLDA will help provide the financial resources needed to carry on this complex and lengthy court process for judicial relief from this current ruling. This will benefit all homeschoolers. (2) HSLDA membership will protect your family should you be contacted as a result of this Appellate Court ruling. This will also give you the peace of mind that, whenever you might need it, you have immediate support from the only experienced highly successful team of attorneys specializing full-time in defending private home schoolers in California and our Nation.

We want to thank all of you who have been praying for us. Please continue to pray about this situation and for everyone who is working to resolve it. Many people are working long hours, including the three of us here at FPM. We have been working late into the evening ever since the decision was published. This has been a difficult challenge not only for us but for our families as well.

To keep up-to-date on actions being pursued in the courts visit HSLDA's website www.hslda.org.

As mentioned above, this court's ruling could provoke someone to seek a legislative remedy. Legislation at this time would be detrimental to our current freedom to home school privately in California. Please read our insert *Use Courts First - Legislation A Last Resort* which is also posted at www.pheofca.org. If you become aware through first-hand knowledge of any such attempt to have a legislator introduce legislation (other than ACR 115) dealing with homeschooling, please contact us at contact@pheofca.org or 916-786-3523 immediately!