

AHEM News

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Advocates for Home Education in Massachusetts

Current State Issues . . .

Legislative Watch

AHEM continues to monitor any legislation that has the potential to affect homeschoolers. The current two year legislative session will end in December 2004. Any bills pending at that time die, and are not carried over into the next legislative session. If the bill sponsor is interested in seeing the bill enacted into law, he/she will have to refile the bill in the next legislative session. Because we are close to the end of this legislative session, it is unlikely we will see many new bills introduced. December 2004-January 2005 will be active months at the State House, as new pieces of legislation are filed for consideration during the next two year session.

AHEM is currently watching the following bills:

- Senate Bill 1321: "An Act Providing For the Denial of Drivers Licenses to Truants." This bill has not moved from the Joint Committee on Public Safety. (See www.ahem.info/TruancyLetter.htm)
- House Bill 1825: "An Act to Improve Truancy Enforcement and Encourage School Attendance." This bill was reported favorably out of committee and has been referred to the Steering, Policy and Scheduling Committee. This committee may schedule debate on the bill. Because the bill has retained the provision that requires police officers to communicate daily with school officials to determine who is truant on a particular day, AHEM does not consider the bill a threat to homeschoolers, and will not oppose its movement. (See www.ahem.info/ArchivesH1825.htm)
- Senate Bill 278: A bill that would require school attendance until age 18. This legislation has not moved from the Committee on Education, Arts and Humanities. (See www.ahem.info/CurrentNewsHD4568SB278.htm)
- Senate Docket 2259: "An Act Relative to Home Education." This bill is still in the docket stage and has not been assigned a bill number. Most likely, this bill will run out of time during this legislative session. (See www.ahem.info/CurrentNewsSD2259.htm)

AHEM will continue to monitor these pending bills, as

well as any late filed legislation. We will keep you updated. You can also check www.ahem.info/CurrentNews.htm for news on current issues.

Holy Mackerel! It's the Sacred Cod!

by Molly Pinto-Madigan

I recently attended an AHEM State House trip. Since my mom arranges these trips, I had no choice. Sounds fun, no? But, don't be deterred. It was actually a good experience. I highly recommend going on this field trip. I'll tell you about it.

First, when everyone arrived, we sat down and talked with a state senator and a representative. They asked us what towns we lived in, and a few other questions. The state senator, Bruce Tarr, arrived by jumping over a railing. That made a good impression with me. He talked with us, then politely took his leave because he had to be somewhere else. The representative was Ted Speliotis. He was very nice, as was Senator Tarr. Representative Speliotis was very amusing and cracked quite a few jokes (a few of which were on the corny side, but he had his share of good jokes, too). He was very friendly and talked for quite a while. Both of these people were interesting to talk with.

Then the tour started. We observed (almost) every nook and cranny of the State House, admiring the artistry, architecture, etc... etc... (I say "almost" because we didn't go up into the gold dome. Our tour guide didn't know that you could go up there, until one of the homeschoolers inquired about going up there.) There was one room that was encircled by ancient flags. It was very cool. There were beautifully ornate marble floors.

We saw the House of Representatives and the Senate chambers, along with the holy mackerel and the sacred cod (to learn more about these you will have to go on a field trip).

The State House is such an interesting place, it is worth it just to go and look around. But we also got to learn a bundle of history. It's really worth your time. I liked it so much, I've been on the tour twice!

What
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AHEM presents

Whole Education Without Schooling:

see page 12!

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Connecting With Your Legislator

1. Your legislators want to hear what you have to say.

Legislators want to meet and speak with their constituents. Most people go into politics because they want to make a difference. Contact your legislator with the belief that he/she sincerely wants to hear what you have to say. Your voice, and your vote, count.

2. Make an appointment to meet with your legislator.

It is very easy to set up a time to meet with your legislator. You can call his/her office and tell the legislative aide what day and time you will be visiting the State House. You can call both your state representative and state senator. Your legislator will either meet you himself/herself, or send a staff member down to meet with you. The more notice you are able to give them about your visit, the better your chances of meeting with your legislator, instead of one of their staff. Generally, legislators are in their State House offices Monday through Thursday. You can also set up an appointment to meet with your legislator at their district office which will be somewhere in the geographic area they represent. Legislators are usually in their district

offices on Friday. (You can find your legislator's name and contact info at www.ahem.info)

3. Keep it simple. You do not have to go armed with facts and figures. Most legislators just want to meet you and your family. (You can download information for legislators at www.AHEM.info) Legislators may have questions about homeschooling, but it has been our experience during group State House visits that their questions have more to do with the day-to-day life of a homeschooler, than any deep philosophical discussion about homeschooling.

4. You are your own best advocate. You and your family may be the first homeschooling constituents your legislator has met with. He/she may have a preconceived idea as to what homeschoolers are like. Legislators need to see that homeschooling families are just like other families. We only differ in that we have decided on an alternative form of education. If legislators see homeschoolers as constituents they feel comfortable with, we may be able to convince them to vote with us, should the need arise.

5. See your visit as an educational experience.

Visiting your legislator is an empowering experience for both you and your children. It is a learning experience for children to see that they have a voice in democratic government. It has been our experience that legislators sincerely enjoy meeting and talking to children. You and your children can prepare for the visit by visiting the Massachusetts General Court website, especially the page on the lawmaking process www.state.ma.us/legis/lawmkng.htm. Relax, and enjoy the time you spend with your legislators.

6. Follow up your visit with a thank you letter. It is always a good idea to personally thank your legislator for taking the time to meet with you and your family. Sending a thank you letter will go a long way in facilitating good feelings about the visit.

AHEM is very interested in hearing about your legislative visit. Please take the time to drop us an email at info@AHEM.info and tell us who it is you visited, and how your visit went. AHEM will soon have a questionnaire available for this purpose. Thank you in advance for your time.

Communicating with Legislators in Writing: (from the League of Women Voters)

- 1. Be brief** and to the point. Discuss only one or two issues.
- 2. Identify** legislation by number or title.
- 3. Write each legislator** individually. Avoid sending

form letters.

4. **Use your own words.**
5. **Write notes** of appreciation and support. Elected officials mainly hear from people who are against something. This gives them a one-sided picture.
6. **Send a copy** of your letter to your local newspaper to build support for an issue.

The National Scene . . .

New Jersey Backlash

After commenting on the media blitz surrounding the Jackson abuse case in New Jersey ("Clearing Our Throats: Homeschooling and Child Abuse," *AHEM News*, Winter 2004) we wanted to follow up on the backlash against homeschooling in that state, specifically the filing of a bill by Democrat Loretta Weinberg that would tighten regulations on homeschoolers. We hope to learn from New Jersey homeschoolers about how to deal with an adverse situation such as the current New Jersey challenge, which could just as easily happen here in Massachusetts. Timothy Haas of the New Jersey Homeschool Association graciously agreed to be interviewed for this purpose.

What is the New Jersey Homeschool Association and what is your role in the organization?

NJHA is a statewide information and advocacy network founded in 1998. The organization is inclusive and nonpartisan, serving homeschoolers regardless of religion, race, ethnic heritage, disability, method of homeschooling, or other characteristic or distinction. I am one of the co-founders. I answer incoming emails and phone calls, and also write updates and alerts.

When, why, and how did Weinberg introduce the bill? It was formally introduced in the New Jersey Assembly (our lower house) by Loretta Weinberg (D-37; Bergen) and four co-sponsors on January 8th, 2004, just a few days before the end of the legislative session, as A4033. After having been automatically referred to the Assembly Education Committee, it died without action on January 12th when the legislature ended. It was reintroduced in the new legislature as A1918 on January 22nd.

It is generally thought that "the Jackson case," in which a husband and wife were charged with the systematic starvation of their four adopted sons, three of whom were homeschooled, after the oldest one was found rummaging through garbage cans for food in Collingswood, Camden County, in mid-October 2003, was the main impetus for Weinberg's bill. Also, she told a radio program that a newspaper report on

unschooling, which ran in late December 2003 in the Bergen Record, played a role in the introduction of the bill.

What does the bill say? The bill would require homeschoolers to undergo the same assessment testing as public-schooled children (currently grades 4, 8, and 11, though as of 2005 there will be language arts and math tests in grades 3 through 8 to comply with the No Child Left Behind Act).

The bill would also require homeschooling families to present their district with evidence of a medical exam annually for each homeschooled child.

In addition, the bill would require the State Board of Education to draft administrative code to enforce the two previous clauses.

How is this different from the present NJ homeschool law? New Jersey does not have a homeschooling law; rather, homeschooling is permitted under an exception to the compulsory attendance statute that references "equivalent instruction elsewhere than at school." In a 1967 court case, "equivalent instruction" was held to mean equivalent in subject matter only, not methods or outcomes.

In practice, once a family decides to homeschool in New Jersey, the child's education is solely the family's responsibility, and it has no further obligation to the state. School districts are not required or authorized to approve curricula, monitor the education program of the child, engage in testing, etc.

How did NJ homeschoolers react? Swiftly and well. In 2000, when the state was rewriting the homeschooling guidance document it sends to local districts, I served on a state DoE task force with representatives of a number of religious and secular statewide groups and an HSLDA attorney. These task force members began talking informally to re-establish ties a few days after the Jackson case broke in the fall, so we were more or less ready to share information and strategy when news of this bill became public.¹

How did they organize? What actions did they take? What results? When we first received word about the bill on the 6th, group leaders called for an immediate phone and email campaign to put local representatives on notice that the bill was going to be introduced on the 8th. (We shared the text of our announcements with one another to make sure we were all imparting the same message.) This news was then spread by each group's own email list, HSLDA's e-lert service, and a number of statewide and regional Yahoo discussion group lists. Over the next few days, legislators around the state, including senators, even

though there was no companion legislation in their body, were bombarded with contacts.

Group leaders met in person on the 10th to discuss strategy, and because we had information that the sponsor might try to push the bill through with emergency measures, we decided to announce that the leaders would be at the State House on Monday the 12th to hand out information packets to legislators and keep an eye on things, and other homeschoolers were welcome to join us. Over the course of that day, somewhere between 200 and 300 homeschoolers showed up of their own accord to help out.

No further action was taken on the bill that day, and it died with the end of the session. It was introduced in the new session without any co-sponsors and again automatically referred to committee.

Some legislators have credited our mobilization with making sure the bill wasn't pushed through, while others have said there was no chance it would ever have moved anyway and that our appearance was overkill. Certainly the legislature took notice of us.

What is being planned for the future? The dream outcome would be to have the sponsor withdraw the bill. For a number of reasons, including her general political demeanor, we don't find this likely. Next best would be to have the bill die untouched in committee. To that end the group leaders, in association with local constituents, are now trying to meet personally with every member of the Education Committee. So far only one such meeting has taken place, but it went well. Currently, we know that four of the ten committee members do not support the bill.

If the committee does decide to consider the bill, we will organize a large demonstration and line up speakers for the committee hearing, with the goal of inducing the committee to table the bill or at least report on it unfavorably. We are keeping in contact with committee aides and watching the legislative calendar closely so that we have the maximum warning of impending committee action.

Many homeschoolers have used this opportunity to forge a closer relationship with their local representatives and are updating the group leaders as they gain new information.

Hindsight is 20/20. If you had known that you were going to face a challenge such as this, are there things you would have done to prepare for it? If so, what? Homeschoolers in New Jersey haven't faced this kind of legislative threat in a decade. Before this bill, there was a general feeling of "it can't happen here," and I encouraged that impression as much as anyone when

talking to nervous new homeschoolers. Frankly, I think, as a population, New Jersey homeschoolers have been just a bit too removed from the political process. I'm not suggesting constant activism, but getting to know your representatives personally, and their getting to know you as constituents who are homeschooling, can go a long way to forestall panicky, ill-informed bills like the one we're facing.

I also think a bit more ongoing communication between the various kinds of homeschoolers would be a great help in situations like this. I think the factions have pulled together admirably in the face of this threat, but it's no secret that there's a lot of mutual mistrust out there.

Do you have any suggestions for homeschoolers in other states given this experience? I would encourage state group leaders to try to work through some of their differences (if there are any) and build at least a modicum of trust, so that if their state is faced with a legislative threat, they can share strategies and stand together when necessary. The informal motto of the Jersey task force is "one message, many voices." As much as possible, we build consensus on major strategic points, but we continue to talk to our individual memberships as we always have, and we work out problems in many different ways with all of the disparate resources we have.

For individual families, I would say to adopt one of your legislators. Write letters, volunteer at the local office, attend events, donate time and/or money to campaigns, take an interest in different issues that your rep is championing—anything that will give him or her a more rounded picture of the wonderful diversity and success of homeschooling.

Overall, did you find it helpful, with your current situation, to have several groups, maybe with slightly different approaches and ideas, working to oppose the bill? If so, what were the benefits?

Challenges? Absolutely. Having different groups working together enabled us to reach a much wider swath of the homeschooling population when word of this bill broke, and it has allowed us to share and aggregate local legislator responses in a much more accurate and timely fashion. When mass action is called for, it allows a greater number of individual homeschoolers to stay "on message."

The political advantages are also obvious. We have a bill introduced by a hard left legislator who seems to think all homeschoolers are conservative Christians; the only support shown so far by other legislators has been from Democrats. The diversity of our effort gives us the opportunity to show legislators that their impressions of

homeschooling are outdated (not that such a reductive view was ever accurate in the first place), and to put them on notice that their own constituents who otherwise support them could be harmed by this legislation. In short, by pulling from such a diverse pool of homeschoolers, we can find some common ground with just about any legislator or regulator.

The greatest challenge is building trust. As I said before, most of the leaders in the current task force worked together during the 2000 guidelines effort, so some bridges already existed. Once these leaders agreed to a “no compromise” position on this bill—not hard, really, given how well the current (lack of a) law works—it was a simple matter of figuring out who would lead specific parts of our multi-pronged strategy.

However, building trust among individual homeschoolers is a more difficult business. Homeschoolers are, of course, a famously independent bunch with strong opinions, and, sad to say, there's a lot of prejudice and misinformation among all camps: secular/religious, unschooling/school-at-home, etc. (I'm indulging in false dichotomy for example's sake only.) All I can say is that we all continue to work on it as best we can in private conversations, messages, public updates, loop discussions, and so on.

One other challenge we've faced is freelance lobbyists at the State House looking to piggyback on our cause. There have been two so far who, we've discovered, have been introducing themselves as our representatives in conversations with individual legislators. The danger here, of course, is that someone like this could make a deal on the legislation for his own reasons and sell the rest of us out. Members of the task force have spoken to each one personally to discourage their attempts, and we've also let it be known through our already existing legislative contacts that no one person speaks for the task force itself or all homeschoolers in New Jersey.

Has this experience given you any insight about the present day homeschooling climate in general?

It's really made me aware that the opponents of homeschooling have essentially conceded defeat on academics and have turned to the specter of child abuse as their latest tactic.

Overall, until very recently, the legislative trend has been toward less regulation, but coming along with what I perceive as a homeschooling backlash in the press in the last, say, two years has been a renewed interest in tightening things down again. I thought we'd pretty much won the public battle, but, alas, I was quite wrong.

¹Members of the New Jersey State Homeschool Task Force included Mark August, President of the Tricounty Home Educators Association, Tim Haas of the New Jersey Homeschool Association (NJHA), Ray

Stoeever, President of the Education Network of Christian Homeschoolers of NJ (ENOCH of NJ), Nancy Plent of the Unschoolers Network, Diane L. Toler of the Catholic Homeschoolers of New Jersey, Carolee Adams, President of Eagle Forum of New Jersey, and Scott Woodruff, Staff Attorney, HSLDA.

Military Recruiters

Recently we had an inquiry from a Friend of AHEM concerning military recruitment of high school students. She had been alerted by an article in *Mother Jones* (“No Child Unrecruited” by David Goodman, November/December 2002) explaining that Congress passed two pieces of legislation requiring local schools that receive federal funding to provide military recruiters with students’ names, addresses and phone numbers, (aka “directory information”), or risk losing funding.

Under the Family Educational Rights and Privacy Act (FERPA), a school must provide notice to parents of the kind of information they give out freely, along with notice that parents may opt out of this information being given out. It seems unclear whether homeschoolers’ information would be given out as a general rule or not. If one never receives notice from the school that such information is given out, one can't be sure whether that is because they are not providing your information to the military, or because they just didn't send you the letter to tell you that you can opt out.

One thing you can do is call your superintendent's office, and ask them what they do in your town. Concerned parents of Massachusetts homeschoolers in secondary school who want to be sure to cover all bases might decide to submit in writing to their superintendent that they opt out of having any information disclosed to the military. The following wording suggestion comes from the FERPA Model Notice for Directory Information:

“I do not want [School District] to disclose directory information from my child's education records to any outside organizations, including but not limited to military recruiters, without my prior written consent. This includes any of the following information that [School District] may have designated as directory information: Student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors, and awards received, the most recent educational agency or institution attended.”

Meet Massachusetts Homeschoolers . . .

Homeschoolers Stand Their Ground

In Fall of 2003, longtime Massachusetts homeschooling parents Julia B. and Jeff C. experienced a pothole in their previously smooth dealings with local school officials. Since homeschooling regulation in our state is governed by case law which is flexible, open to interpretation, and administered by local school districts, across the board guidelines do not exist. A disadvantage of this setup is that new or existing school personnel can change local policy at the drop of a hat. But policies are not law, only tools to aid the schools in their oversight function. Homeschoolers do not have to comply with policies that exceed the case law. The flexibility *Charles* (1987) offers, and its encouragement to parents and schools to negotiate and find agreements that work for the family while ensuring the state's interest, puts homeschoolers in a good position to resolve disputes with their school districts amicably.

When Julia and Jeff received the letter demanding more evaluative materials than they had ever submitted before, it understandably created worry, anxiety, and concern. But what might appear to be a Massachusetts homeschooler's worst nightmare turned out to be little more than a brief, mildly unpleasant dream with a happy ending. The couple handled the situation without hiring a legal professional. They consulted with AHEM representatives, as well as homeschoolers in their area, to address the crackdown. Ultimately, though, they decided for themselves how to interact with their superintendent. They were able to stand their ground, receive approval, and continue their child-led homeschooling in the way they always had.

Following is a brief conversation with Julia offering insight into her experience working with her local superintendent.

What elements of your school district's requests did you take issue with? After submitting our usual letter of intent with progress report, which for the first time excluded a long bibliography of library books, they asked for work samples and a more detailed "curriculum."

Why did you object to this? We objected on the basis that the progress report was all that was required, and that we were not required to supply a detailed curriculum if our method of homeschooling didn't allow for one.

What was your response? At first, Jeff called back just to find out in person what the superintendent actually wanted without committing us to anything. I was too nervous to call – afraid I'd put my foot in it or overreact in anger unnecessarily. Then we wrote to her, citing *Charles* as evidence we didn't need to submit more materials. We reminded her that the kids' progress was our responsibility, but that she could see evidence of it through the progress report. We cited a few examples to support this. We reiterated our "teaching" or learning methodology (child led and integrated), referred her to the document about our educational philosophy, cited materials we would use, and reassured her about the topics that would be covered, generally speaking, and the overall number of learning hours the kids would meet or exceed. We also asked for future communications to be in writing.

What was the outcome? She wrote a formal letter back essentially saying, "Thank you for your letter with regards to homeschooling regulations. Enclosed please find the School Committee policy and highlighted plan requirements. I am following through on these guidelines. As for the plan, the onus is yours to provide a plan with curricula guidelines, books, and resources you will be using, hours spent, who will be doing the teaching, and what methods of assessment will be employed. Consistent with our policy, please provide me with what our policy outlines." There were also a couple of thank you's, etc., in there. She enclosed the town's School Committee Policy on Home Instruction, which included some "illegal" requests.

I was pretty nervous. And I was angry. So I re-read *Charles* and *Brunelle*, and a couple of the summaries. I don't understand a lot of legalese, so the summaries were helpful. I consulted several people about our legal standing, because I was starting to feel targeted. I talked with AHEM representatives about what could and could not be required, trying to iron out those gray areas. And I started writing a lengthy response, with input from several friends.

Then one friend from my town called and said she thought the superintendent wasn't as much hostile as a little dense. She pointed out that the woman was handed down the policy, and was not instrumental in creating it. While the woman was a big testing advocate and didn't "get" homeschooling, my friend thought a less adversarial approach would probably help move the approval process along. So we took that into consideration and wrote a different answer back that carefully spelled out, in itemized form, how the information we'd given answered her questions and requirements. It occurred to us that she just couldn't

glean the information from the prose form we'd originally used and literally needed bulleted information to get it. Also, to allay any of her fears that we might be trying to get away with something, we attached the full "Library Books Read" list that we'd always included in prior years. They are lists we keep anyway—I'd left them out to try and establish a precedent for giving as little as possible, but my friend thought their absence this year might have set up a red flag of concern to the superintendent. One other factor was that this last letter got to the superintendent just before the school year started. My friend felt that she wouldn't have time to do anything but approve it anyway, and she was right! Within a couple of weeks the whole town had their approval letters.

What advice do you have for Massachusetts homeschoolers facing unreasonable requests from their school districts? Talk with others in your town, whenever possible, or in your support group. People have lots of good ideas. Don't always listen to those who suggest you give in, however, because there are often diplomatic ways around the problem.

Clearing our throats . . .

DOE Draft Advisory Gives Us Chills

Did you know that the Massachusetts Department of Education has no authority to approve or disapprove homeschooling plans, and in fact plays no role whatsoever in the implementation of homeschooling regulation in our state? This is a pretty important concept for homeschoolers to understand, especially since the DOE is currently circulating less than optimal information about homeschooling in their *Draft Home Education Advisory*.

For years, the DOE circulated an advisory on homeschooling, created in response to *Care and Protection of Charles* (1987). This 1987 DOE document was revised in 2000. Despite the fact that it is titled a "draft" advisory, and in fact is still officially in the "draft" stage, it is being circulated to superintendents who request information on homeschooling from the DOE. Given that your superintendent may well have read it, we recommend that you acquaint yourself with the text.

Our strongest grievance with the DOE draft advisory is the potentially antagonistic relationship it sets up between school officials and homeschoolers. Understanding Massachusetts homeschooling law is not a straightforward undertaking. Yet it is an important one. *Charles* does not spell out homeschool regulation in definitive, black and white terms. While the DOE

chooses to interpret the court's decision in ways that give schools greater power, the informed homeschooler can see how those interpretations are not reflective of the way homeschooling actually works in Massachusetts. Nor do they square with the history of homeschooling court cases here since the late 20th-century. The literal, hard line approach the DOE takes in its advisory can only create unnecessary friction between school officials and homeschoolers, and may result in needless conflict and suffering for all involved. Since the DOE has presented a document which is needlessly intimidating, it is important for homeschoolers to be fully informed, and assume the responsibility of educating their superintendents and school committees if it becomes necessary. Once you understand your rights, you can stand up for them. The following is our own interpretation, and does not constitute legal advice; it is for informational purposes only.

"Express" and "Prior" approval

The DOE states that "Delay or lack of response by a school district does not constitute implied consent to a home education program; home educating families must obtain express approval before they commence homeschooling." Further, it tells school officials, "If a parent fails to enroll the child in school or withdraws the child from school to begin home education without first obtaining the necessary approval, it is the school district's responsibility to act promptly to enforce the compulsory school attendance law." First of all, we can find no reference in any law to the phrase "express approval"—if you find one, please let us know! While the statutory law does require prior approval, *Charles's* interpretation of this is vague.

The court in *Charles* found against the family by determining that homeschool regulation is not unconstitutional in Massachusetts. The basis for this determination comes from the Massachusetts Constitution's statement that the state should "cherish" the education of its citizenry. In the court's estimation, this means that the state has an interest in the education of its citizenry that must be upheld. At the same time, the court acknowledged the constitutionally protected parental right to homeschool. The *Charles* decision was written in an attempt to balance these two interests: the state's interest in the education of its citizenry and the parental right to homeschool.

Prior approval of an educational plan and evaluation methods is the device by which *Charles* assures the state's interest. However, the court recognized that too much authority given to the school could infringe on parental rights. It says this directly: "...we caution the

superintendent or the school committee that the approval of a homeschool proposal must not be conditioned on requirements that are not essential to the State interest..." No superintendent or school committee has the authority to give or deny a family permission to homeschool. The only authority they retain is that of approving or disapproving the plan, and the only agenda inherent in that authority is to ensure the child is being educated.

If a superintendent and/or school committee disapproves the plan, the school has a few options. If a family has withdrawn their child from school and submitted an educational plan, the best way for the school to enforce the compulsory attendance law is by expediting approval. Unfortunately, the DOE Advisory does not convey this as the preferable option. It doesn't favor one option over another, but because of the more extensive explanation it offers for bringing charges against the family, that option receives more weight in the advisory. The fact is, the school does retain the right to initiate court proceedings against a family homeschooling without approval for their plan, but in doing so it must assume the burden of proving that the plan does not equal their curriculum in thoroughness and efficiency. No school has done this since *Charles*, and only a handful of families complying with *Charles* have ever reached the courtroom level in a dispute with the schools. In each of these few cases, the family has won. In practice, expediting approval has been the norm in Massachusetts. In the vast majority of cases, when a school takes issue with an aspect of the educational plan, they will contact the family and offer the family the opportunity to explain or remedy the plan, the avenue of response outlined in *Charles*. In most such cases, legal intervention is never necessary. Homeschoolers finding themselves in a situation like this can stand their ground and still work successfully with the school system without the aid of a lawyer (see "Homeschoolers Stand their Ground" on page 6 of this newsletter).

While it is true that the compulsory attendance statute (Mass G.L. section 76, chapter 1) requires that approval be granted in advance of homeschooling, it is important to remember that once the family has submitted a plan that satisfies the guidelines outlined in *Charles*, that family is making a good faith effort to comply with the law, and that counts. In every Massachusetts homeschooling dispute that we know of dating from the late 1970s (*Perchemlides*, *Charles*, *Searles*, *Brunelle*) the child/ren have never been ordered to attend school during the approval process, despite the DOE's insistence that this be the case. In practice, it has simply

not worked that way. Still, we are left with the somewhat contradictory message of the statute's absolute requirement of prior approval, and the statement in *Charles* that "...if the parents commence the education of their children at home in the face of the school committee's refusal to approve the parents' homeschool proposal (our emphasis), the burden of proof...shifts to the school committee to show that the instruction outlined in the homeschool proposal fails..." This is the most direct reference in *Charles* to what should happen if a family commences homeschooling without approval, and it directly states that in such a case, the burden of proof shifts to the school. It has been argued that the burden shifting protects the parents' interest by creating "a presumption of adequacy of parental proposals for homeschooling." (Ira C. Lupu, *Boston University Law Review*, Vol. 67: 971).

Families who choose to homeschool, whether it involves not enrolling a child in school in the first place, or withdrawing a child from one, need to decide for themselves whether to commence homeschooling once the plan is submitted, taking into consideration what is best for their child. Important factors to remember are that while the school has no authority to deny the right to homeschool, they do have authority to take legal action. However, no child has ever been ordered back to school during the approval process, and no school has ever assumed the burden of proof presented in *Charles* and won. In fact, the number of times it has been attempted is miniscule. In reality, expediting approval has been the norm. Another important point is the fact that based on longtime feedback from Massachusetts homeschoolers, and judging from AHEM's preliminary research, the vast majority of homeschoolers never have a dispute with the school.

Written approval

AHEM has been unable to find any basis in law for the DOE's statement, "If no response is received from the school district within a reasonable time after home education approval is requested, parents should contact the superintendent and request a written decision on their approval request." While some parents may feel more comfortable with an approval letter and choose to contact the school to request one, there is no indication in our law that it is something parents should do. Once the parents have submitted what *Charles* requires, they have fulfilled their responsibility under the law. If the school disapproves the plan, they must contact the family, not the other way around. It is also true that in practice, many school districts choose not to supply approval letters. We suggest that parents request a

receipt upon delivery of their home education plans, whether through the mail or in person.

Rescinding approval

The DOE also claims that "...school officials may refuse to grant or rescind home school approval if parents do not comply with the school district's periodic reporting requirements." We can find no reference in any law to the school's authority to "rescind" homeschool approval. If a family fails to submit the evaluative materials agreed upon during the approval process, the school still bears the burden of filing legal action against the family. The DOE also states that "*Charles* requires parents to receive homeschool approval before they remove their child(ren) from a public or approved private school. Therefore, parents whose homeschool approval is rescinded may reapply for approval only after their child(ren) are enrolled in a public or approved private school." Given that the intent of *Charles* is not to deny parents the right to homeschool, but recognize that right while ensuring the state's interest, it seems absurd to interpret it as saying that children must be re-enrolled in school if a dispute over evaluation arises. Enrolling and withdrawing a child from school repeatedly would clearly not be beneficial to the child. Evaluation methods are agreed upon during approval, and are part of the approval process. If the family submits the agreed-upon form of evaluation, and the school deems that the child is not receiving an education that is equal to the one they would provide, the school may consider that disapproval of the plan, in which case the school may choose to work with the family to remedy the situation (the preferred option). If the family believes they have satisfied the requirement that the education they are providing is equal to the school's, it is the school's burden to prove that it does not.

In any case, the DOE's choice to use the word "rescind" implies that it has some basis in law, which we have been unable to find. And, as we have pointed out, even if the school calls the approval of the plan into question, there is no reason for the child to be immediately re-enrolled. As with prior approval, the school must give the parents the chance to defend their position or amend their plan. In the case of an irreconcilable dispute, the school has the right to initiate legal proceedings. But as with prior approval, the school will assume the burden of proof. We know of absolutely no case in Massachusetts where the school took a family to court after approving the plan. In practice, this just hasn't happened.

Mid-year changes

We all know that one of the great benefits of homeschooling is flexibility. The DOE acknowledges that parents may modify their home education program to meet their child's needs. However, it goes on to say, "If the modification involves a significant change in the content or method of the child's educational program, such a change in plans is, in our opinion, subject to prior approval by the school district." The big phrase here is "in our opinion." At least the DOE admits that this statement is subjective. It is ludicrous to imagine that a family deciding to scrap a purchased curriculum, say, that is not working for their child, and assume a parent-created program, would have to re-enroll the child in school while seeking approval for their new approach. This seems to be what the DOE would like us to think, however. Many homeschoolers submit plans that incorporate flexibility, and those plans are approved. In those cases, the school has pre-approved the option to be flexible with content, and no such change in plans would be subject to prior approval.

Evaluation

In the advisory's section on evaluation, the DOE weighs heavily on testing, a question which is left open by the *Charles* decision. While the *Charles* decision does state that "...the superintendent or school committee may properly require periodic standardized testing..." it goes on to say that "Other means of evaluating the progress of the children may be substituted for the formal testing process..." The DOE states, "If no agreement is reached between school officials and parents on an alternative method of evaluation, school districts may require standardized testing as a condition of approval..." What are the problems with this advice? The court's main point was that evaluation itself is not unconstitutional and may be required as part of the approval process. It referenced testing specifically (that was the method the family in *Charles* was using), but it made a point of allowing other forms of evaluation, stressing that the method should be agreed upon by the school and the family. The court did not make the kind of unequivocal statement the DOE would like to think it did. If a dispute about testing arose between a family and school system, and compromise could not be reached, the school would have to take the family to court and prove that testing was essential to ensuring the state's interest. It is our view that until such a case goes to court (if it ever does), the question of whether testing can be required as a condition of approval cannot be answered definitively.

Clearly, the state cannot dictate the manner in which we homeschool. When various methods of education are at work, it follows that one method of evaluation for all may not be the best approach. Under *Charles*, parents may work with the schools to determine the method of evaluation that best fits the manner of their homeschooling. And in practice, it does work this way in Massachusetts. Most districts do not require testing, and readily accept alternative means of evaluation.

The Future

While AHEM will continue to work with other state groups to keep an eye on the advisory, and offer feedback to the DOE about its contents, ultimately the most significant and lasting protection for homeschooling rights will come from an informed, educated homeschooling population. Therefore, we urge you to read the actual advisory, (www.ahem.info/DOEDraftAdvisory.htm) as well as the court decisions pertinent to homeschooling in Massachusetts. In the process, remember that the collective experience of Massachusetts homeschoolers, as well as AHEM's preliminary research, show that the vast majority do not have problems homeschooling in our state.

Law Made Easy . . .

Brunelle in Brief

The Brunelle case was heard and decided by the Massachusetts Supreme Judicial Court in 1998, following a decision of a lower court, the Massachusetts Superior Court, that held home visits were a valid requirement for approval of home education plans. The Brunelle and Pustell families appealed the lower court decision.

The facts of the case are as follows. Both the Brunelle and Pustell families gave notice to Lynn school officials of their intention to homeschool their children. The school committee and other school officials examined their plans, and were satisfied with the qualifications of the parents as teachers, the contents of the curricula and instructional materials to be used, the amount of time that would be spent on instruction, and the methods of evaluation that would be used. In addition, the Lynn School Committee also required periodic home visits before granting approval for home education plans. Both families refused to consent to home visits, arguing that such visits violated Mass G.L. sec. 76, chapter 1, and certain provisions of the Massachusetts Constitution. The Brunelles argued that Mass G.L. section 76, chapter 1 (the compulsory attendance statute) provided a

statutory exemption for homeschoolers, "such attendance shall not be required... of a child who is being otherwise instructed in a manner approved in advance by the superintendent or the school committee." The court agreed that this exemption authorizes approved home education for children and "in doing so, protects the basic right of parents to direct the education of their children."

While this right is subject to the State's interest in seeing that children receive an education, the *Brunelle* court reiterated the holding in *Charles* : "the approval of a home education plan must not be conditioned on requirements that are not essential to the State's interest," and that school officials could enforce, through the approval process, certain reasonable requirements. The court agreed with the Brunelles' claim that a home visit is not presumptively essential to the protection of the State's interest.

The Lynn School Department articulated several reasons for their perceived need for home visits. The *Brunelle* court countered that "these reasons have to be measured against the nature of home education, which in certain important ways can never be the equivalent of in-school education. For example, at home, there are no other students, no classrooms, and no rigid schedules." The court said "while the State can insist that the child's education be moved along in a way that can be objectively measured, it cannot apply institutional standards to this non-institutional setting."

The school officials argued that home visits were necessary to ensure that there was a schedule that was being followed. The court said that while a schedule is needed in a school setting, "the perception and use of time in a home school is different." The court noted that parents "can observe and accommodate variations in the learning process, and teach through a process that paces each student." The school department argued that home visits were needed to ensure adequate instructional space. The court rejected this argument, saying "we doubt that parents, who are so committed to home education that they are willing to forgo the public schools, and devote substantial time and energy to teaching their children, will let the children's progress suffer for lack of adequate instructional space."

The court also rejected the school committee's claim that home visits were needed to verify that there were teaching materials present. The court said that while homeschooling parents can be asked to identify teaching materials that will be used, "some of the most effective curricular materials may not be tangible. For example travel, community service, visits to educationally

enriching facilities and places, and meeting with various resource people can provide important learning experiences apart from the four corners of a text or workbook."

Finally, the court noted that both the Supreme Court and the Massachusetts SJC have emphasized the protected right of parents to raise their children without unnecessary government intrusion on familial privacy. Based on this, "home education proposals can be made subject only to essential and reasonable requirements." Since the court found that the requirement of home visits is not essential, the court held that the Lynn school officials, or any other school officials, cannot, in the absence of consent, require home visits as a condition to the approval of a home education plan.

The *Brunelle* court never considered the constitutional arguments made by the Brunelle family since they were able to reach a decision without delving into the constitutional claims asserted. Most courts will try to decide a case without delving into constitutional issues if they are able. Once they decide a case on constitutional grounds, the decision will usually have ramifications in other areas as well. Therefore, they try to keep their decision as narrow as possible, so that their decision will only apply to the question before them.

Around AHEM . . .

Faces at AHEM

Amy Davies lives in Medford with her husband, Joe and their 12-year-old son, Ian. The Davies family moved from California seven years ago to the much more family oriented lifestyle of New England. After completing her degree in Art Education in 1975 Amy worked many jobs from selling encyclopedias, being the 'plant lady' in a greenhouse, to production work in the graphics trade. She ran her own business in the graphic arts for 10 years before retiring to raise her son in 1992. Homeschooling Ian since the beginning has been a very satisfying way of life for the whole family. Amy (being a 7 ☺) has always enjoyed planning outings and field trips and looks forward to many events helping Massachusetts homeschoolers keep in touch with each other and promoting the work of AHEM.

Anna Watson lives in Arlington with her two sons (4 and 7). She tutors ESL, writes, edits (including the AHEM newsletter), and sings in the Family Folk Chorale. Her older son is unschooling, while her younger attends a bilingual French/English preschool; next year, they will both unschool. Anna was an instant

convert to unschooling, skeptical at first, as soon as she read a little Holt, a little Gatto, she was there!

State House Visit

Advocates for Home Education will sponsor a State House visit on Tuesday, April 20th, at 11:00 AM. Children are welcome. Our tour will begin promptly at 11:00 AM, so please plan to meet in Doric Hall (2nd floor) at 10:45 AM. If there is a legislative session going on that day, we will be able to sit in for part of the session.

In addition to a guided tour, part of our visit always includes meeting with legislators or their aides face to face. To make this part of our visit more meaningful for all, we are going to try something different this trip: During previous State House visits, it was apparent that legislators want to meet with their *own* constituents. Because there are people coming from many different legislative districts, we would like participants to contact their own representative and/or senator and let them know that you will be visiting the State House on that day. Your representative or senator will then arrange to come down and meet with your family. Please be aware that once you set this up, your legislator will expect to meet with you and your family. Although there will be other people in the group, your legislator will be looking for *you*.

Visit www.ahem.info/ContactInfoforFedStateLocalReps.htm for contact info for your representative.

Space is limited so please RSVP to info@AHem.info or call Cheryl Pinto @ 978-532-5778 to sign up.

Friends of AHEM with email are informed of these visits first, before the rest of the homeschooling population. Space permitting, we then open the trips to Massachusetts support groups.

Field Trip to the Omni Theatre at the Boston Museum of Science

Advocates for Home Education in Massachusetts presents the Omni movie "Forces of Nature" on Monday, June 7th, 2004 at the Museum of Science in Boston. We will meet in the main lobby at 11:30 AM for the show at noon.

With fellow homeschoolers, witness the awesome spectacle of earthquakes, volcanoes, and storms as scientists learn how natural disasters are triggered--and what we can do to prepare for them.

Suggested age is K-12 and duration is 45 minutes. Teachers (one per family) are \$3.50 and students and everyone else are \$6.75. Children under two sitting on a

lap are free. (This multiple visit rate assumes you have visited the museum on your own or with a field trip at least once since September 1st, 2003. If you haven't visited this school year your price is \$3.50 per first adult in a family and \$10 for all others, students included.) This price includes admission for the Omni movie and Exhibit halls for the day. Parking is \$3 per car payable to the museum on the day of your visit.

If you want to go, please send a check with your name, **email address** (or phone number if email not available) and **number of children and adults**, made out to Amy Davies to 41 Trincroft, Medford, MA 02155 postmarked by May 25th. There is no need to call if you get your check in the mail by May 25th. All refunds must be requested before June 1st. After June 1st there are no refunds.

For more information check out www.mos.org or email Amy at FieldTrips@AHem.info or call 781-393-8285.

Field trip participants will be added to the Friends of AHem list unless they specifically opt out.

AHEM Conference

The Advocates for Home Education in Massachusetts conference, *Whole Education Without Schooling*, will take place on Saturday, May 15, 2004 in Medford, MA. We hope you will join us for a dynamic and provocative afternoon of ideas, film, and discussion. So far we have registrants from all over Massachusetts, as well as people coming from the neighboring states of Connecticut, New Hampshire and New York!

In her keynote address, Andy Migner will talk about allowing our children to follow their hearts, as well as other physical and emotional requirements for optimal growth and development. Using recent brain, heart and nervous system research, she will demonstrate that real learning can only take place in the absence of fear, the presence of meaning, and with the freedom to explore. Come and hear about "The Body and Soul of Homeschooling."

Andy's talk will be followed by the Massachusetts premiere screening and discussion of the documentary *Grown Without Schooling*, which chronicles the lives of 10 grown homeschoolers from around the country, ranging in age from 19 to 31, as they explore and candidly discuss the lasting influence home education has had on their lives. Produced and edited for the homeschooling community by a lifelong homeschooler, this documentary is a frank and often illuminating portrait of the triumphs and struggles homeschoolers face as children, teens and adults.

"What is it like to grow up in the United States of America without going to school? Peter Kowalke's documentary offers ten answers to this question, challenging assumptions about both school and homeschooling in the process. This is not a sales pitch for homeschooling, but rather a thoughtful, realistic, personal look at the experience of living a bold, exuberant, and sometimes frightening educational experiment. These vivid portraits and reflective conversations have much to offer the committed homeschooling family, the skeptical friend or relative, the worried newcomer—and anyone who has ever wondered how it feels when every day is a 'no school' day."

-Susannah Sheffer, author of A Sense of Self: Listening to Homeschooled Adolescent Girls and former editor of Growing Without Schooling magazine

Following the movie, Linda Ugelow will facilitate a discussion in which conference goers will have the opportunity to share responses to the film's craft and content, and address issues or concerns it may bring up.

Space is limited; preregistration is recommended. The last day to preregister is May 1, 2004—less than one month away!) For full conference and registration information, see <http://www.ahem.info/Conference.htm>

All proceeds from the conference benefit the work of Advocates for Home Education in Massachusetts.

Become a Friend of AHem

Advocates for Home Education in Massachusetts (AHem) is an independent, grassroots, volunteer-run organization working to foster informed and active homeschoolers empowered to be their own best advocates in defending the right to independently homeschool. We welcome and value the participation of all Massachusetts homeschoolers.

Friends of AHem keep abreast of legislative and other issues that affect Massachusetts homeschoolers via an announcement only email list or this newsletter. Friends of AHem with email get first notice of AHem events, field trips, and get-togethers.

Be proactive: become a Friend of AHem. Even if your involvement is simply to stay informed, that strengthens all of us.

To become a Friend of AHem and receive email updates, send your name, address, and email address to info@AHem.info. To become a Friend of AHem and receive *AHEM News* by US mail instead of email updates, send your name and address to AHem, PO Box 1307, Arlington, MA 02474. SASEs are appreciated.