

# A Review of Legislative Action Concerning Home-schooled Students and Participation In Public School Athletics

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*"Many of America's early leaders and intellectuals, including George Washington and Mark Twain were schooled at home"*

- Lisa M. Lukasik, North Carolina Law Review

Home-schooling has a long history in the United States, however, recently the number of families choosing to educate their children at home has been on the rise. According to the National Home Education Research Institute (1996), approximately 700,000 to 1.15 million children in grades K-12 were educated at home during the 1996-1997 school year. It is interesting to note that there are more home-schooled students nationwide than public-school students in Wyoming, Vermont, Delaware, North Dakota, Alaska, South Dakota, Rhode Island, Montana, and Hawaii combined (Ray 1997). Moreover, the number of home-schooled students continues to grow at the rate of 15 percent to 40 percent per year (Toch 1991). Bunday (1995) calculated a 21% aggregate national rate of growth in the six year period between 1990 and 1996.

Home-schooling requires a large commitment of time and very often changes in the lifestyle for the entire family. Why are so many families deciding to make these sacrifices? Teach-

ing specific philosophical and religious values are the dominant reasons cited by parents for choosing to educate their children at home (Klicka, 1995). Additional factors include controlling social interactions, developing close families, and high academic standards.

Measuring the success or failure of home-schooling in many of these areas is difficult and subjective. However, some academic standards can be objectively measured. When this is done research indicates that on average, home-schooled students out-perform their public school peers by 30-37 percent across all subjects (Ray 1997).

Who are the families that choose to stay at home and educate their children? The literature reveals the following. Mothers make up 87.7 percent of home-school teachers. Thirty four percent of fathers in these families are professionals (doctors, lawyers, professors, accountants, and engineers) (Ray 1997). Whereas home-schooled children come from professional families, stud-

ies indicate that education level and income have no significant effect on the academic success of these students. However, these same factors appear to effect the success rates of public-school students.

Organizations such as the National Home Education Research Institute, The National Home-school Association, Holt Associates, Inc., and the Home-school Legal Defense Association represent national groups are gaining strength through litigation and increased membership size. In addition, most states have statewide home-school advocacy groups. These groups are very well organized and very vocal regarding the rights they advocate for home-schooled students.

One privilege advocacy groups believe home-schooled students are entitled to is participation in the extracurricular-activity programs offered by public schools. It is their view that home-schooled students should be able to participate in public-school programs without being enrolled as full-time students. One of the most hotly debated issues centers around home-schoolers and participation in public-school extracurricular activities. As many as 81 percent of parents who educate their children at home wish to enroll their students in part-time extracurricular activities. (N.C. Law Review, p. 1954). Regardless of one's opinion of public schools, the growth of home-schooling has sparked many debates and brought new issues to the forefront of education.

Should these children be allowed to participate in public school athletics? What would be the result of allowing home-schooled students to compete in the athletic programs of schools they do not attend? Public-school systems and each state's governing body of athletics have been thrown in the middle of the debate. Legal action and government intervention is the rule rather than the exception in many states and the debate continues to increase in intensity. Parents of home-schooled students and home-education advocacy groups have sought legislative assistance to allow their children to participate in public-school athletic programs. Currently more than 20 states allow participation to some degree. In the last five years, eight state

legislatures have defeated bills that would have allowed home-schooled students to participate in public-school athletic programs (see, *State by State Analysis*).

Tax money and its relevance to the issue are often at the center of the debate. "In a recent surge of litigation and legislation, home-schooled parents have argued that because they pay school taxes, their children should be afforded the same services offered to students who attend in-school classes" (Mott, 1996, p.1). The foundation of this argument is that parents should have the right to choose where and to what degree their children receive their education.

Opponents counter with arguments based on the distribution of tax money. Many states allocate funds to public schools based solely upon attendance figures. Since home-schooled students do not appear on the schools' attendance rolls, the schools do not receive funds for those students. Charles Breithaupt, athletic director of The University Inter-Scholastic League (the governing body of high school athletics in Texas), puts it this way,

"If I want to write a check at the grocery store, I have to have an account at the bank. Home-schoolers who want to participate in public school athletics, want to be able to write a check without having an account with the bank." (Personal Interview, 1997)

The National Federation of State High School Associations does not favor allowing home-schooled students to participate in public school extracurricular activities. Helen Upton, the organizations assistant director, points out that there are many state programs that a particular taxpayer may not use (Mott, 1996).

Monitoring academic eligibility is an area of concern cited by those opposed to participation by home-schooled students. Home-school advocacy groups strongly believe that the education children receive is a private matter and they are opposed to intervention by public-school entities. This being the case, obtaining grades and attendance records for home-schooled students could be very difficult. If grades cannot be validated and accurate atten-

dance records maintained, eligibility with the states governing bodies of high school athletics comes into question. Opponents fear that rules governing both attendance and individuals attempting to bring "ringers" into athletic programs could circumvent the academic requirements. The concern is whether parents of an outstanding athlete would be willing to report their child's ineligibility, due to his/her poor academic performance. The temptation may be greater if a college athletic program was recruiting the child.

Dave Price, athletic director at Rockford High School (Mich.) notes, "It's [participation by home-schooled students] going to create an eligibility problem. In our school, kids have to be enrolled in at least 20 credit hours to participate in sports and we have a higher [academic] standard for sports than the state requires. It's hard enough for me to get grade checks out of teachers right here in the building in a timely fashion. To get them from a home-schooler's teacher could present logistical problems. And the grading systems might be different from those here in the high school", (Ashley, 1996, p. 46).

Monitoring attendance records of home-schooled students poses another problem when attempting to determine the eligibility. School districts with minimum attendance requirements for a student to be eligible to participate in athletics would be hard pressed to accurately maintain attendance records for home-schooled students.

State legislatures, school districts, and school boards are under increasing pressure from groups on both sides of the argument. As of yet, no solution has been reached that satisfies both sides of the debate. With the number of home-schoolers increasing every year, it is imperative that school administrators and especially athletic directors, be up-to-date on current legislation and litigation in their school district, state, and across the nation. Below is a state-by-state analysis of how each state regulates home-educated student's who desire to participate in public-school athletics.

## **STATE-BY-STATE** **ANALYSIS**

### **ALABAMA**

Rules and regulations of the Alabama High School Athletic Association state that in order for a student to participate in high school athletics, he/she must be enrolled full time in a member school. The Association includes 400 high schools and it is responsible for enforcing these rules.

### **ALASKA**

The Alaska School Activities Association activities guide was revised in August of 1997 to reflect the legislature's 1996 passage of a statute mandating the acceptance of part-time students by all Alaska School Districts. "A student enrolled in a home-school, private school or in non-district correspondence coursework, may enroll part time in a member school, and be eligible to participate in activities at the member school, providing the student is enrolled in a minimum total of four classes (semester units), or the equivalent, as entered upon the official transcript at the school of eligibility, that lead to the granting of credit toward graduation from that school".

Note: If a member school enrolls a home-school student on a part time basis, and wants them to be eligible for activities.. the member school must enter a minimum of four (4) credits total per semester on its school transcript and count the credits toward graduation.

### **ARIZONA**

Home-schooled students are allowed to participate in public school interscholastic activities. (Arizona Revised Statutes 15-802,01)

### **ARKANSAS**

The Arkansas Activities Association mandates that interscholastic competition take place only between member schools. Home-schoolers are considered by the Association as being "students of a non-member school." In order for a student to participate on either a team, or as an individual representing a member school, he/

she must be enrolled in at least four classes and attending regularly.

### **CALIFORNIA**

The California Interscholastic Federation does not allow home-schooled students to participate in its activities. Home-schools are not recognized by the state of California and students educated at home are considered truant.

### **COLORADO**

Children participating in a non public-based education program are allowed equal access to the public school's extracurricular and interscholastic activities. (Colorado Revised Statutes 22-33-104.5(6))

### **CONNECTICUT**

The Connecticut Interscholastic Athletic Conference guidelines do not allow home-schooled students to participate in public-school extracurricular activities. A challenge to these guidelines, on behalf of the family of Donald Robertson, was denied in 1997. Negotiations continue between the family and the local school board.

### **DELAWARE**

The Delaware Secondary School Athletic Association does not allow home-schooled students to participate in its activities. Private schools are included in the Association. However, in order to participate, a student must be legally enrolled and in regular attendance at a member school.

### **FLORIDA**

Home-schooled students are eligible to participate in the public schools' interscholastic, curricular, and extracurricular activities. (Florida Statutes 232.425)

### **GEORGIA**

The State of Georgia Department of Education makes a distinction between extracurricular activities and interscholastic competitive activity. Extracurricular activity participation rules are determined by local school boards. Interscholastic competitive activities, such as athletics, are governed by the State Department of Education. Under current guidelines, a student must

be enrolled full-time in the school in order to participate. A 1996 request for a waiver of the rule was denied by the state board.

### **HAWAII**

The State Department of Education has taken a position that under existing administrative rules, home-schooled students are not allowed to participate in extracurricular activities.

### **IDAHO**

Nonpublic school students are allowed to dual enroll in public schools to participate in nonacademic public-school activities. (Idaho Code 33-203) In March of 1995, Governor Phil Batt signed into law a dual enrollment policy requiring public schools to allow home-schooled students to attend school for a portion of the day.

### **ILLINOIS**

Nonpublic-school students may request to enroll part-time in public schools. (Illinois Compiled Statutes Annotated 5/10-20.24)

### **INDIANA**

In order to participate in high school athletics, a student must be enrolled in the school on a full-time basis. This rule was written and is enforced by the Indiana High School Athletic Association.

### **IOWA**

Students receiving "competent private instruction" may dual enroll with the public school to participate in any academic, instructional, or extracurricular activities offered by the school district. (Iowa Annotated Code 281-3105(299A))

### **KANSAS**

The Kansas State High School Activities Association requires that participants in athletics be enrolled full time in the school they represent. Home-school teams are considered "club" teams and do compete with public school teams in some sports, on a "non-conference" basis. The State of Kansas defines home-schools as "private schools." This allows home-schooled students to participate on private school teams. This lack of distinction between home-schools and private schools creates a situation in which

home-schools have virtually no guidelines. Students are not required to take standardized tests, there are no curriculum requirements, nor are there any teacher requirements.

### **KENTUCKY**

The Kentucky High School Athletic Association mandates that students must be enrolled full-time in the public school in order to participate on the athletic teams at the school.

### **LOUISIANA**

In 1997, House Bill 132 failed to pass. This bill would have allowed home study programs eligibility in public school extracurricular activities. A federal district court ruled against the participation of students enrolled in a private school. (*Walsh v. Louisiana High School Athletic Association*, 616 F. 2d. 152. (5th Cir. 1980))

### **MAINE**

Students receiving home instruction may enroll in any specific classes at the appropriate public school. This includes all academic, co-curricular and extracurricular activities, as well as special education services. (Maine Revised Statutes Annotated 20-A 5021)

### **MARYLAND**

An intermediate appellate court ruled against private school students who sought to participate in a public-school extracurricular activity. (*Thomas v. Allegheny County Board of Education*, 443 A. 2d 622 (1982))

### **MASSACHUSETTS**

Several court decisions have ruled that home-schoolers must be allowed to participate, based on the fact that superintendents are allowed to approve home-school programs. These cases apply only to the districts in question, not the entire state.

### **MICHIGAN**

The Supreme Court of Michigan ruled that nonessential elective courses offered to the public-school students must also be offered to resident nonpublic school students on a shared-time basis. (*Snyder v. Charlotte Public School District*, 365 N.M. 2d 515 (1984))

### **MINNESOTA**

The Minnesota State High School League amended its eligibility rules as a result of recommendations from a meeting of the Eligibility Ad Hoc Committee on August 20, 1997. The new rules state that home-schoolers may participate on high school teams provided the home-school has a cooperative sponsorship agreement in place for each activity in which the home-school student will participate.

### **MISSISSIPPI**

Mississippi High School Activities Association regulations mandate that home-schooled students are not allowed to participate in public school extracurricular activities.

### **MISSOURI**

The Missouri State High School Activities Association allows dual enrollment.

### **MONTANA**

Montana High School Association by-laws require that a student attend classes regularly in order to participate in athletics.

### **NEBRASKA**

Nebraska School Activities Association (Jim Reily, Executive Director) ruled that in order to participate in Nebraska High School Athletics, students must be enrolled in 20 hours (four subjects); this is considered full-time enrollment. No lawsuits have been filed in opposition to this rule.

### **NEVADA**

The Nevada Interscholastic Activities Association requires that participants be enrolled in a member school. (I. Hughes, Exe. Dir.)

### **NEW HAMPSHIRE**

Resident school districts "work with parents upon request" to meet legal subject requirements. (New Hampshire Revised Statutes Annotated 193-A:2 (II)) School districts can receive funds from the state for home-schoolers, to whom they provide services. (NHRSA 195:7, 195:8)

### **NEW JERSEY**

The New Jersey State Interscholastic Association states that home-schooled students are not enrolled in public schools. Therefore, the districts have no obligation towards these stu-

dents, and they do not currently participate.

### **NEW MEXICO**

Home-schooled students are allowed to participate in all extracurricular activities, excluding athletics. Participation in athletics is limited to those students enrolled full-time in the member school.

### **NEW YORK**

A local court ruled against home-schoolers who sought access to public school interscholastic sports. (*Bradstreet v. Sobol*, 630 N.Y. S. 2d 486 (1995) According to the New York State Public High School Athletic Association, in order to participate, students must be enrolled as a bona fide student, taking at least three classes, one of which must be physical education.

### **NORTH CAROLINA**

According to the North Carolina High School Athletic Association rules, "A student must, at the time of any game in which he or she participates, be a regularly enrolled member of the school's student body, according to the local policy. If there is no local policy, 'regularly enrolled' is defined as enrolled for at least half of the 'minimum load.'"

### **NORTH DAKOTA**

Home-schools are to provide a list of extracurricular activities in which the children intend to participate when they submit their notice of intent. (North Dakota Century Code 15-34. 1-06). This is honored in most cases, since home-schooled students are still considered part of the public schools.

### **OHIO**

In 1996, House Bill 512 failed to pass. This bill would have allowed home-schooled students access to public school extracurricular activities.

### **OKLAHOMA**

In 1997, House Bill 1447 failed to pass. This bill would have allowed home-schooled students access to public-school activities. The federal district court ruled against a home-schooled student seeking to compel the school to allow part-time enrollment. This case is currently in appeal. (*Swanson v. Guthrie Independent School Dis-*

*trict No. 1-1*, 942 F. Supp 511 (W. D. Ok. 1996))

### **OREGON**

School districts must allow home-schoolers access to public school interscholastic activities. (Oregon Revised Statutes 339.460)

### **PENNSYLVANIA**

The Pennsylvania Board of Education and the Pennsylvania Interscholastic Athletic Association allow individual school boards to determine whether or not home-schoolers should be permitted to participate in their respective school districts.

### **RHODE ISLAND**

The Rhode Island Interscholastic League requires that in order for students to be eligible for league activities, the following criteria must be met:

1. The student must be listed on the rolls of the school and certified to the Rhode Island Department of Education as a student.
2. The home-school must furnish to the school, and certify the academic grades, as well as record them on the official school records.
3. The school must approve the request by the home-school student to compete on its teams.
4. All other requirements of the rules must be followed, with the public school certifying the eligibility of the home-school student.

### **SOUTH CAROLINA**

In 1993, House Bill 3983 failed to pass. This bill would have allowed home-schooled students access to public school interscholastic activities.

### **SOUTH DAKOTA**

Home-schooled students are not currently allowed to participate in the activities of the South Dakota High School Activities Association. However, Senate Bill 204, which would allow home-schooled students to participate, is currently being debated in the state senate.

### **TENNESSEE**

The Tennessee Secondary School Athletics Association states in its by-laws that "A student must be enrolled before the 20th day of the semester, in regular attendance, and carrying at

least five full courses during the present semester."

### **TEXAS**

In 1997, House Bill 68 failed to pass. This bill would have allowed home schooled students access to public school interscholastic activities.

### **UTAH**

Home-schooled students are eligible to participate in public-school extracurricular activities. (State Board of Education Regulation R277 - 438-4)

### **VERMONT**

Home-schooled students are allowed to participate in individual sports. (tennis, golf, track, etc.) They are not allowed to participate in team sports (football, volleyball, basketball, etc.) The Vermont State Legislature is currently debating a bill that would allow home-schooled students to participate in all extracurricular activities. The Vermont Principals Association is opposed to the participation of home-schooled students.

### **VIRGINIA**

Public schools can receive funding for home-schooled students enrolled part-time for core subjects. (Code of Virginia 22.1-253-13:1 (H))

### **WASHINGTON**

School districts must permit enrollment of and provide ancillary services for, part-time students enrolled in home-based education programs. (Washington Common Schools Provisions 28A.150.350)

### **WEST VIRGINIA**

In 1997, House Bill 2843 failed to pass. It would have allowed home-schooled students access to public-school extracurricular and interscholastic activities.

### **WISCONSIN**

Students must be carried on the school attendance rolls for the purpose of state aid, and meet the minimum academic requirement in credits accepted by the school in order to participate in interscholastic competition.

## **WYOMING**

The Wyoming High School Activities Association allows home schooled students to play on participating schools' sports teams. (WHSSA Rules 3.1.3, 6.2.0, 6.4)

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