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HOME SCHOOLING IN WISCONSIN

Home schooling is a growing educational phenomenon. Nationally, it is estimated as many as 1.7 million children are being taught at home by their parents. It is estimated that the number of home schooled students is growing at a 7-15% rate each year, far outdistancing the growth in the country's school age population. Like charter schools, magnet schools, and private schools, home schooling is seen as an alternative to conventional public schools, often by families who wish to emphasize religious or other values and who believe this approach will better serve their children. Today, all states recognize home schooling as a legal option in terms of their compulsory school attendance laws.

Although home schooling has always existed in Wisconsin, it has gained momentum since 1983, when the state's compulsory school attendance laws were rewritten to formally recognize "instruction in a home-based private educational program" as an alternative to enrollment in a public or private school. Home school programs have grown from 1,126 students in 1984-85 to 21,134 in 1999-2000, reflecting 11,803 family units. In the first five years, enrollments increased an average of 40.2% annually, probably reflecting the number of families that were home schooling but had not registered. In the next five years the average annual increase was 18.1%, and in the last five years the figure has decreased to 9.5%.

BACKGROUND

Prior to the enactment of 1983 Wisconsin Act 512, there was no specific statutory provision recognizing home schooling as an alternative to compulsory attendance at a public or private school. The previous law required that a child "attend school regularly either in public or private school, unless the child received instruction elsewhere than at school." The statutes provided that instruction "elsewhere than at school" had to be approved by the state superintendent of public instruction as substantially equivalent to instruction given to children of like ages in public or private schools.

Court Decision. A 1983 Wisconsin Supreme Court decision (*Wisconsin v. Popanz*, 112 Wis. 2d 166) overturned the state's compulsory school attendance law by holding that the attendance law could not be enforced against parents or guardians who sent their children to an unrecognized private school because the statutory phrase "private school" was so vague that it was impossible to determine whether or not children were attending a private school.

Legislative Enactment. As a consequence of the *Popanz* decision, the legislature enacted Act 512, which defined a private school and, for the first time, specified what constituted a home-based private educational program that could be substituted for attendance at a public or private school under the compulsory attendance law. The act provided that instruction in a home-based program may be substituted for attendance at a public or private school only if the home program meets all the criteria required of a private school.

CURRENT STATUTORY PROVISIONS FOR HOME-BASED PRIVATE EDUCATION

Section 118.15 (4), Wisconsin Statutes, provides that a parent or guardian may select a home-based private educational program for a child in order to comply with the compulsory school attendance law, but the program must meet the private school requirements specified in s.118.165 (1).

Section 118.165 (1) states that a private school program (and by definition any home school program) must:

- have as its primary purpose the provision of private or religious-based education;
- be privately controlled;
- provide at least 875 hours of instruction each school year;
- provide a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science, and health; and
- not be instituted or operated to avoid or circumvent the compulsory school attendance requirement under s.118.15 (1) (a).

The compulsory school attendance requirement in s.118.15 (1) (a) provides:

[A]ny person having under control a child who is between the ages of 6 and 18 years shall cause the child to attend school regularly during the full period and hours, religious holidays excepted, that the public or private school in which the child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes 18 years of age.

Wisconsin has no certification or license requirements for those who provide instruction in home school programs, and it does not prescribe any assessment or testing for students enrolled in such programs. It does, however, require that instruction for home school programs be provided by the child's parent or guardian or by a person designated by the parent or guardian. An instructional program provided to more than one family unit does not qualify as a home-based private educational program [s.115.001 (3g)].

1999 WISCONSIN LEGISLATIVE ACTION

During the 1999 legislative session, 1999 Assembly Bill 129, introduced by Representative John Lehman *et al.*, and cosponsored by Senator Scott Fitzgerald, would have required school boards to permit home schooled children to participate on a space-available basis in any extra-curricular or recreational activity offered at a public school serving their attendance area. It also would have permitted a school board to transport home schooled pupils and their parents or guardians to extracurricular activities and allowed the board to charge the persons transported for the cost of transportation. (The law currently allows such transportation for private school students and their parents or guardians.)

Assembly Bill 129 was given a public hearing on September 8, 1999, before the Assembly Committee on Education Reform. According to committee records, most of those registering and testifying opposed the bill. The committee did not vote on the bill and it was not acted on by the assembly.

Some states have passed laws that provide home schooled students access to public school activities. The 1997 budget act, Wisconsin Act 27, created Wisconsin Statute Section 118.145 (4) requiring a school board to allow home schooled pupils to take up to two courses during each school semester if the pupil resides in the school district in which the public school is located and if sufficient classroom space is available. According to the National Center for Home Education, a division of the private Home School Legal Defense Association, 10 additional states currently require public schools to allow home schooled students part-time access to classes or sports. Nine of these states have passed equal access laws (Arizona, Colorado, Florida, Idaho, Iowa, Maine, North Dakota, Oregon, and Washington), while Utah mandates access to sport teams through regulations imposed by the State Office of Education. An additional 15 states have considered equal access legislation.

FOR MORE INFORMATION

For additional information on home-based private educational programs and copies of form PI 1206, a required registration form that must be filed with the Department of Public Instruction (DPI) by anyone establishing a home-based educational program, contact DPI at (608) 266-5761 or (888) 245-2732, ext. 1. The department does not provide personal consultation or technical assistance regarding home-based private educational programs. Private organizations that offer assistance are listed by DPI on its Web site: www.dpi.state.wi.us/dpi/dfm/sms/homeb.html. Data is also provided on home school enrollment for the 1999-2000 school year by school district.

In 1990, the Legislative Council's Special Committee on Home-Based Private Educational Programs studied Wisconsin's home school programs to determine whether they were "consistent with the state's interest in having an educated citizenry and its responsibility to assure that Wisconsin children have access to adequate and appropriate education." Copies of the committee's minutes and reports are available at the Legislative Reference Bureau library.