

PARENTS' RIGHTS REGARDING HOME EDUCATION

Parents have a basic right to direct their children's education, but that right is subject to reasonable regulation to promote the state's substantial interest in the education of its citizens.

Several United States Supreme Court decisions cited by the court have affirmed substantial state interest in the education of its citizenry, with which parents' basic right to direct children's education must be reconciled. The court agreed with the parents that "the state interest in this regard lies in ensuring that the children residing within the state receive an education, not that the educational process be dictated in its minutest detail." However, the court concluded that the approval process required under General Laws Chapter 76, Section 1 "is necessary to promote effectively the state's substantial interest," and that the School Committee may use that statutory approval process to impose on home education programs "certain reasonable educational requirements similar to those required for public and private schools."

Guidelines for approval of home education plans

Having concluded that the approval process under General Laws Chapter 76, Section 1 is constitutionally permissible the court set forth guidelines for "parents and school officials to follow in considering home education plans. They may be summarized as follows:

1. Parents must obtain approval prior to removing the children from the public school and beginning the home education program.
2. The Superintendent or School Committee must provide the parents with an opportunity to explain their proposed plan and present witnesses on their behalf. A hearing during a School Committee meeting is sufficient to meet this requirement.
3. In obtaining approval from the Superintendent or School Committee, the parents must demonstrate that the home education proposal meets the requirements of General Laws Chapter 76, Section 1, in that the instruction will equal "in thoroughness and efficiency, and in the progress made therein, that in the public schools in the same town."
4. If the home education plan is rejected, the Superintendent or School Committee must detail the reasons for the decision, and allow the parents to revise their proposal to remedy inadequacies.

If they begin the home education program without the necessary approval, the School Committee may initiate a truancy proceeding or a care and protection petition, in which it would have to show that the instruction in the home does not meet the statutory standard for thoroughness, efficiency and educational progress.

Dispute Resolution

Parent(s) are entitled to all due process rights in regard to this policy. Parent(s) also have a right to a hearing before the School Committee in regard to any aspect of this policy or in regard to a decision made by the Superintendent or his/her designee. A request for such a hearing must be made through the Superintendent's office at least five business days prior to the previously scheduled School Committee meeting at which the applicant wishes to have such a hearing. Notice of such hearing, along with all relevant materials, will be provided to all School Committee members by the Superintendent's office at least two days prior to the hearing. At the hearing parent(s) may be represented by counsel or an advocate, call witnesses, and present evidence.

Failure of any applicant to abide by the procedures outlined above may result in the school committee taking action under Massachusetts General Law Chapter 76, sections 2 and/or 4, upon the recommendation of the Superintendent.

LEGAL REFS: M.G.L. Chapter 76, Sections 1, 2, and 4
 Care and Protections of Charles - MASS. Supreme Judicial Court 399 Mass. 324
 (1987)