

## Home Schooling and the Appellate Court

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In March and April, private home schooling in California was the subject of a lot of discussion and media coverage. There was a flurry of public interest and a great deal of justified concern by home schoolers throughout California and the nation about the future of private home education in California.

On the surface, things seem to have quieted down a bit – but only on the surface! Just where are we now, and what can we expect in the future?

### What has happened so far?

This past February 28th, the Second Appellate Court in Los Angeles issued an unnecessary and error-filled ruling, which stated that parents cannot teach their children at home unless they are state-credentialed teachers. Subsequently, on March 14th, the attorneys for the father involved in this case petitioned the Appellate Court to ask them to withdraw their ruling and rehear the case.

Then, on March 25th, just a couple of days before the Appellate Court's February 28th ruling was to become final and go into effect, that same court vacated their ruling and said that they would rehear the case. The court indicated they intend to address three basic but critical questions when they reconsider this case:

(1) Do California laws allow for homeschooling when the children are enrolled in a private independent study program?

(2) Do California's laws allow parents to create their own home-based private schools in order to teach their children at home?

(3) Do California's laws violate the U.S. Constitution with respect to the free exercise of religion and the rights of parents who want to control the education of their children by homeschooling?

By May 19th, all filings of the legal briefs for the rehearing of this Appellate Court case were completed.

In response to the Appellate Court's March 25th ruling to grant a rehearing, the parties to the case (i.e. the parents and their attorneys, the children and their attorneys, and Child Protective Services) have been providing more information to the court. The attorney for the father is Gary Kreep (US Justice Foundation) who is working in teamwork with attorneys from the Alliance Defense Fund. At the request of the father of the family at the center of this case, HSLDA has been providing detailed assistance to

his attorney, including writing the brief being provided to the court for the rehearing in June.

HSLDA has submitted a separate detailed brief to the court in behalf of HSLDA member families, Focus on the Family, and Private and Home Educators of California (a program of Family Protection Ministries). This brief clearly explains how private homeschooling has continued to work successfully for many years under California's existing laws.

Also, attorneys working with CHEA, CHN, and HSC; and attorneys representing other organizations have submitted amicus briefs in response to the court's request for briefs that "...might assist the court in deciding the matter." The private school ISP, in which the children were enrolled, has submitted an amicus brief prepared by PJI.

The briefs defending private homeschooling are arguing that current laws allow parents to home school either by enrolling in a multiple family private school [frequently referred to as an independent study program (ISP)] or by establishing their own home-based private school.

A supportive brief was also filed by Liberty Counsel on behalf of 19 members of the United States Congress, including 8 congressmen from California. In addition, seven public school related entities were invited by the Court to submit amicus briefs.

We were very pleased to see that Governor Schwarzenegger and our Attorney General jointly submitted a brief, which is very favorable in its support of private home education. To read the Governor's May 19th press release and amicus brief go to <http://gov.ca.gov/press-release/9661>.

### What happens next?

On June 23rd, the Appellate Court is expected to hear oral arguments from the parties to the case. The court will probably not issue their new opinion until late summer or fall. As soon as the new decision is published, we will let you know. If the new decision is adverse to private homeschooling, you can expect it to be appealed to the California Supreme Court.

Please be praying for a proper outcome – one that will not result in any change in the laws under which parents in California currently teach their children at home.