

June 26, 2014

Siobhan Devlin
Western Education and Library Board
1 Hospital Road
Omagh
Co-Tyrone
BT79 0AW

Re: *Elective Home Education Policy*

Dear Sirs,

By way of introduction, the Home School Legal Defense Association is an international organization located in the United States. With more than 80,000 member families in all 55 United States and its territories and in 36 countries around the world, including Northern Ireland, our mission is to protect the rights of parents to teach their children at home.

I write to you to express our grave concern that the Elective Home Education Policy that is currently under consideration violates the fundamental human rights of both parents and children. International human rights norms explicitly affirm the right to education and a parent's right to direct the education of their child as fundamental human rights, including:

The *Universal Declaration of Human Rights* (1948):

Parents have a prior right to choose the kind of education that shall be given to their children (Article 26.3).

The *European Convention on Human Rights* (1952):

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions (Protocol 1, Article 2).

The *International Covenant on Economic, Social and Cultural Rights* (1976) and *International Covenant on Civil and Political Rights* (1976):

The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions (Article 10.1 and 13.3).

The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions (Article 18.4).

Charter of Fundamental Rights of the European Union (2000):

The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected, in accordance with the national laws governing the exercise of such freedom and right (Article 14.3).

The proposed policy is purported to be motivated by the UNCRC. If implemented, it would violate international law and the fundamental human rights of the parents and their children. The proposed policy grants unreasonable access into the home, violating the right of privacy guaranteed in the Convention and other European treaties. The policy interferes with families by permitting unnecessary and invasive questioning of children by government agents. The policy would implement a lengthy and bureaucratic process of approval and curriculum review. The policy would implement a tracking system database program that would also violate the fundamental right to privacy of families and children. The proposed annual monitoring is unnecessarily invasive. The policy further interferes with the privacy of the family by requiring that government assessors seek the “opinion of the child” to determine whether or not parents are providing a suitable education. Finally, the policy prevents children being withdrawn from school until a lengthy evaluation process is undertaken. This constitutes an extreme burden on families as well as presents a significant risk to children who are in danger in school. In sum, these proposed policies constitute a clear and unreasonable violation of human rights against parents who choose to educate their children at home as explicitly provided for by law and protected by international human rights norms.

The proposed policy also reflects a dramatic departure from the policy in the rest of the United Kingdom where parents enjoy the appropriate freedom to decide whether or not their children will be homeschooled. Northern Ireland law, as is true in the rest of the United Kingdom, currently requires parents to provide an education for their children either through a local school “or otherwise.” Furthermore, Article 44 of the Education (Northern Ireland) Order 1986 specifically provides that the education of children of compulsory attendance age are to be educated in accordance with the wishes of their parents. This law appropriately presumes that parents have the responsibility and the right to educate their children. Article 26(3) of the United Nations Universal Declaration on Human Rights explicitly recognizes that parents have the “prior right to decide the kind of education that shall be given to their children.” This declaration is considered to be the foundation of international human rights, and as noted, other UN human rights treaties recognize that parents have a right to ensure that their children’s education is in conformance with their “religious and philosophical” convictions. The proposed Northern Ireland policy does not take into account these important qualifications.

Most nations around the world have already experienced the success and benefits of homeschooling. The United States alone has more than two million students who are currently homeschooled. Countries such as Australia, Canada, France, South Africa, Russia and the United Kingdom also boast significant numbers of homeschooled students, ranging from tens to hundreds of thousands. These numbers indicate not only that homeschooling is well-supported, but that it has become a large movement, ready to be defended by its supporters. National homeschool organizations similar to ours exist in many other countries, including: HSLDA of Canada, Les Enfants d'Abord in France, Pestalozzi Trust Legal Defence in South Africa, and the Home Service in the United Kingdom.

As homeschooling has increased in popularity, it has been the subject of increasing social research.¹ Numerous studies demonstrate that homeschooled students become responsible citizens who are productive members of society. In our experience, homeschoolers are more involved in their community, civics, and higher education than students from public or private school settings.²

Studies have also concluded that students schooled at home develop into well-rounded and socially integrated adults. Indeed, experience shows that homeschooled children are more mature and better socialized than their public school counterparts.³ Homeschooled children often interact with a range of age groups. In addition, the flexible schedule that homeschooling allows for provides more time for children to become involved in a variety of extracurricular activities.⁴ These factors, among others, cause researchers to observe that “homeschooled children’s social skills are exceptional.”⁵

Homeschooling also produces academically successful students. Educational achievement tests document that homeschooled students attain higher scores than public school students. Homeschoolers achieve, on average, between 15 and 30 percentile points above public school averages. A number of studies reveal that this is true for all grade levels and subjects.⁶

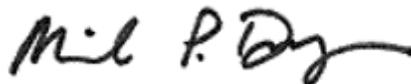
Empirical research demonstrates that homeschooling is not merely a viable educational option for students but that it promises the potential for success beyond what is offered in a traditional school setting. As well-adjusted, academically successful students who become responsible and engaged citizens, homeschoolers are an asset to any community. Research also shows that there is little to no correlation between government oversight of homeschooling and results. As demonstrated above, international and national legal norms place the primary responsibility and right on the family and in parents to determine how children are educated.

The proposed policy is contrary to these norms and presumes that children are mere creatures of the state. Absent evidence to the contrary, no government should intervene in the private affairs of the family in any area, whether educational or otherwise. There is no contention that in cases of abuse and neglect the government may act, however the proposed policy presumes parents are guilty until proven innocent, a notion fundamentally at odds with the traditions of the United Kingdom's (and many other free nations') judicial systems.

History is replete with examples of nations that have used education policy to control the population with often tragic and even horrific results. The UDHR itself was a response to the atrocities of Hitler's Germany where education was nationalized. In response, Article 26(3) of the UDHR recognized the prior interests of parents in the education of children. The ELB policy is not only a tremendous step away from freedom; it is a step toward excessive state control of education which is a necessary pre-condition for totalitarian governance. For all these reasons, we urge you to reconsider the adoption of the proposed policy.

If you have any questions please do not hesitate to call me at +1 (540) 338-5600

Very truly yours,



Michael P. Donnelly

¹ Tanya K. Dumas, Sean Gates, & Deborah Schwarzer, "Evidence for Homeschooling: Constitutional Analysis in Light of Social Science Research," *Widener Law Review* (forthcoming), draft available at <http://ssrn.com/abstract=1317439>.

² Brian D. Ray *Home educated and now adults: Their community and civic involvement, views about homeschooling, and other traits* (Salem, OR: National Home Education Research Institute, 2004).

³ Thomas C. Smedley, *Socialization of Home School Children*, *Home School Researcher* 8(3), 9-16, (1992).

⁴ Richard G. Medlin, *The Question of Socialization*, *Peabody Journal of Education* 75(1 & 2), 107-123, 117, (2000).

⁵ Richard G. Medlin, *Homeschooled Children's Social Skills*, *Home School Researcher* 17(1), 1-8, (2006).

⁶ Tennessee Department of Education. *Tennessee statewide averages, home school student test results, Stanford Achievement Test, grades 2, 5, 7 and 9* (Nashville, TN, 1988).

Oregon Department of Education, Office of Student Services, *Annual report of home school statistics 1998-99* (Salem, OR. May 20, 1999).

Brian D. Ray, *Academic Achievement and Demographic Traits of Homeschool Students: A Nationwide Study*, *Academic Leadership Live: The Online Journal*, 8 no. 1 (February 2010), available at http://www.academicleadership.org/emprical_research/Academic_Achievement_and_Demographic_Traits_of_Homeschool_Students_A_Nationwide_Study.shtml.

Brian D. Ray, *A nationwide study of home education: Family characteristics, legal matters, and student achievement* (Salem, OR: National Home Education Research Institute, 1990).
Research Project. *Home School Researcher*, 6(4), 1-7; (1990).

Deani Van Pelt. *The choices families make: Home schooling in Canada comes of age*, *Frasier Forum*, March 2004, available at http://www.fraserinstitute.org/Commerce.Web/product_files/The%20Choices%20Families%20Make~~%20Home%20Schooling%20in%20Canada%20Comes%20of%20Age-Mar04ffpelt.pdf.

Lawrence M. Rudner, *Scholastic achievement and demographic characteristics of home school students in 1998*, *Educational Policy Analysis Archives*, 7(8) (1999) available at <http://epaa.asu.edu/epaa/v7n8/>.