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July 24, 2018

Ms. Dolores L. Archuleta
Administrative Assistant
Option for Parents & Families
New Mexico Public Education Department
300 Don Gaspar Avenue
Santa Fe, NM 87501

Re: Mr. and Mrs.
Name(s) of child(ren)

Dear Ms. Archuleta:

As you may know, the Home School Legal Defense Association is a nationwide membership organization of over 82,000 homeschooling families. Our association is dedicated to preserving the fundamental rights of parents to direct the education of their own children. We have approximately 600 member families in New Mexico.

On June 28, 2018, you wrote a letter to Mr. and Mrs., a member of our association, stating that the New Mexico Public Education Department (PED) is “unable to register your child(ren)” for home school. The reason given in your letter is that the “official form must be completed in its entirety.” Due to the legal issue raised by your letter to Mr. and Mrs., we are corresponding with you on their behalf.

As you know, the home school requirements are listed in New Mexico Statutes Annotated § 22-1-2.1. This statute reads as follows:

Any person operating or intending to operate a home school shall:

- A. submit a home school registration form made available by the department and posted on the department’s web site to notify the department within thirty days of the establishment of the home school and to notify the department on or before August 1 of each subsequent year of operation of the home school;
- B. maintain records of student disease immunization or a waiver of that requirement; and
- C. provide instruction by a person possessing at least a high school diploma or its equivalent.

According to your letter you stated that “[a]ll fields are required to be completed on the official form for the child(ren) to be considered enrolled in home schooling.” Mr. and Mrs. did complete the official *Notification and Establishment of a Home School* form that can be found on the PED website. On this form Mrs. clearly provided the name of the school district where they reside with their children, her legal name, the minimum

H O M E S C H O O L L E G A L D E F E N S E A S S O C I A T I O N

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education level she has, their address and the names and dates of birth of [child(ren)]. We have enclosed a copy of what Mr. and Mrs. originally submitted.

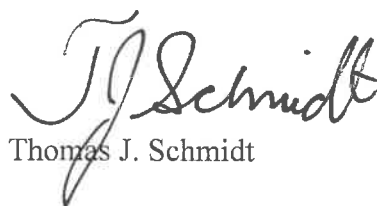
The PED has apparently decided to reject Mr. and Mrs. notice that they are homeschooling their children because they did not fill out the additional *Statements of Understanding of Home School Parent/Family* that has been added as an addendum to the notification form. There is no requirement under any provision of New Mexico law for a home school parent to fill out the *Statements of Understanding of Home School Parent/Family*. It is simply an unauthorized form that the PED has added to the notification form.

Additionally, the attempt by the PED to reject the notification form is also without legal authority. As stated above, New Mexico Statutes Annotated § 22-1-2.1(A) requires a parent “to notify the department within thirty days of the establishment of the home school and to notify the department on or before August 1 of each subsequent year of operation of the home school.” In New Mexico, a parent who operates “a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science” simply notifies the PED within 30 days from when they establish their home school program. The PED has no authority to determine whether a parent **can** operate a home school program. Their responsibility under New Mexico law is to accept registrations from parents who are **already operating a home school program**. The PED does not get to decide who can or cannot home school their children. As long as the parent is operating a home school program they are legally entitled to do so.

The Home School Legal Defense Association is committed to defending the constitutional rights of parents who have elected to educate their children at home. In most cases we are successful in resolving differences between our members and public school officials without the necessity of litigation. However, when necessary we assert the civil rights of our members in federal court actions against public education officials and other representatives of the state under 42 USC §1983 seeking both damages and reimbursement for legal expenses.

We respectfully request that the PED immediately remove the *Statements of Understanding of Home School Parent/Family* addendum from the *Notification and Establishment of a Home School*. In addition, please notify Mr. and Mrs. that you have processed the notice of their home school program for [child(ren)] that the PED received on July , 2018. Please notify us by August , 2018, that you have done so. Should you have any questions or require any additional information, please do not hesitate to contact me.

Sincerely,



Thomas J. Schmidt

Enclosure

Cc: Mr. and Mrs.
Katie Poulos, Director, Options for Parents & Families
Christian Association of Parent Educators- New Mexico