



Roger D. Breed, Ed.D., Commissioner  
Scott Swisher, Ed.D., Deputy Commissioner

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TO: State Board of Education

FROM: Scott Summers, Legal Counsel III, Commissioner's Appointed Staff Person to Conduct Consecutive Rule Hearings on revisions to Title 92, Nebraska Administrative Code, Chapter 12, *Regulations and Procedures for Exempting Schools for Which parents Elect Not to Meet Legal Requirements for School Approval and Accreditation for Other than Religious Reasons*

AND

Title 92, Nebraska Administrative Code, Chapter 13, *Regulations and Procedures for Exempting Schools for Which parents Elect Not to Meet Legal Requirements for School Approval and Accreditation for Religious Reasons*

DATE: October 16, 2013

RE: Summary of consecutive rule-making hearings on proposed Revisions to 92 NAC 12 and 92 NAC 13

*On September 6, 2013, the State Board of Education approved a hearing draft and authorized the Deputy Commissioner to set a hearing date and location as well as designate a staff person to conduct consecutive rulemaking hearings on the adoption of proposed revisions to Title 92, Nebraska Administrative Code, Chapter 12 AND Title 92, Nebraska Administrative Code, Chapter 13, *Regulations and Procedures for Exempting Schools for Which parents Elect Not to Meet Legal Requirements for School Approval and Accreditation for Religious Reasons*.*

*By a memorandum dated September 12, 2013, the Deputy Commissioner appointed me to conduct these hearings on October 15, 2013, commencing at 10:00 a.m.(CT). After the proper legal notice was published, this hearing was held at three videoconference sites: Scottsbluff Vocational Rehabilitation Office, 505A Broadway, Suite 500, Scottsbluff, NE; Grand Island Public Library, 211 North Washington, Grand Island, NE; and, Lincoln Executive Building, 512 S. 14<sup>th</sup> Street, Suite 103, Lincoln, NE.*

*Pursuant to State Board of Education Policy B9, what follows is a written summary of the hearing testimony. An audio/video recording of the hearing is available if any members of the Board wish to hear/view the tape.*

**SUMMARY OF TESTIMONY ON THE PROPOSED REVISIONS TO  
92 NAC 12  
Regulations and Procedures for Exempting Schools for Which parents Elect Not  
to Meet Legal Requirements for School Approval and Accreditation  
for Other than Religious Reasons**

**AND**

**92 NAC 13  
Regulations and Procedures for Exempting Schools for Which parents Elect Not  
to Meet Legal Requirements for School Approval and Accreditation for Religious  
Reasons**

Scott Summers, staff attorney and the hearing official, called the hearing to order, read into the record the name of the newspaper in which a legal notice of the hearing was published and the date the notice appeared, and outlined the procedures for the hearing. After clarification that all video sites were online and could hear and see Lincoln's hearing site, Mr. Summers opened the hearing for testimony.

Mr. Summers introduced NDE staff member, **Russ Inbody, Senior Administrator, School Finance & Organizational Services, Nebraska Department of Education.**

**Mr. Inbody** introduced and explained the proposed revisions to Title 92, Nebraska Administrative Code, Chapters 12 and 13. Mr. Inbody testified the proposed revisions are primarily addressing changes regarding only first year Rule 12 or 13 filers, as a result of the Thacker Nebraska Supreme Court case. Other changes include changing the annual filing date from July 15 to July 1 to align with the reporting period for exempt schools; imposing a deadline on NDE to review, process and issue an exemption acknowledgement letter to all filers that have filed by no later than 30 days after receipt; adding a definition of "resident/reside"; updating the appendices to reflect proposed changes; and, added a section "Supplemental Sheet for Parent Representative" to assist parents in providing the required information to NDE. Mr. Inbody's written testimony is attached to this memo.

**GRAND ISLAND VIDEOCONFERENCE SITE**

**Jolene Catlett, Nebraska Christian Home Educators Association (NCHEA).** Ms. Catlett testified that there isn't any need for changes in Rules 12/13. Since 1984 when LB928 was enacted, Rule 13 has been working well the past 29 years. The proposed language to Rules 12/13 appear to change from giving notification to asking for permission of NDE, this goes against the original intent of Rule 13 and the sincerely held religious beliefs of the majority of home school families. See written testimony.

**Melani Wonch, Sandhills Christian Schools.** Objects to both the changes in the filing date limitations for those who would change their mind about enrolling in public school later in the year are not in the best interests of children or of our freedoms as American parents. Ms. Wonch's written testimony is attached.

**Angela Hock, Kearney.** Home educator who is against changes in Rules 12/13 and would like to reinforce the previous testimony.

**Adam Wonch, Sandhills Christian Schools.** Testified that the proposed changes limit parents' freedoms as how and when to provide the best education for their kids. See written testimony.

**Darla Sobotka.** Reinforced previous testimony. Opposes changes, new language would unnecessarily increase government oversight of homeschooling. See written testimony.

**Wanda Mecone, Grand Island.** Reinforced previous testimony. Moving from one state to another puts undue pressure on families. "Asking the state for permission" is not how it was in the past and not taken lightly.

**Monica Bartknecht, Juniata, NE.** Opposed the proposed changes. Reinforced previous testimony. Changing date from July 15 to July 1 puts hardship on homeschool families as it will rush them to make curriculum decisions. See written testimony.

#### SCOTTSBLUFF VIDEOCONFERENCE SITE

**Glynette Carradine, Scottsbluff.** July 1 date is a hardship on single parents as non-custodial parents have to sign and notarize forms and it can take a while for that to happen as well as any military spouses that are overseas and families just moving into Nebraska. The July 15 is enough of a challenge, don't need to change. The current requirement of 30 days notice for first time filers and a July 15 deadline for those who are continuing to home school their children is enough of a burden, no reason to move deadline forward two weeks. Ms. Carradine's written testimony is attached.

**Steven Petersen, Angora, NE.** Feels that if bullying is a factor as to why a family wants to pull their child out of public school, waiting the 30 days for an acknowledgement letter is not reasonable. The child needs to get out of that environment once papers are filed, not waiting another 30 days.

**Amanda Peters, Sheridan County.** She and her husband drove 100 miles to come to public hearing and testify. Ms. Peters testified that she is not in favor of the proposed changes as she knows her children better than NDE in meeting their educational needs. The rules need to be less intrusive. She home schools part time in Arizona and their laws give more freedom, they are required to sign a one-time affidavit of intention to home school, not required to inform year after year. If they don't hear from them again, they assume everything is fine. Coming from that environment she feels that Nebraska laws are very restrictive. Why can't Nebraska do something similar? See her attached written testimony.

**Laura Leggott, Leggott Christian Academy, Gering, NE.** Opposed the changes. The changes are not within authority of statute 79-1601(3). Reinforced the July 1 hardship if curriculum is not ready as Home School Curriculum Fair doesn't end until mid July. See Ms. Leggott's written testimony is attached.

**Scott Shaver, Scottsbluff.** Is a single parent not homeschooling, but reading changes, it is insanity, why can't you pull a child out of public or private school immediately?

**LINCOLN VIDEOCONFERENCE SITE**

**Mr. David Lostroh, Legislative Liaison for the Nebraska Christian Home Educators Association (NCHEA)**, testified that NCHEA opposes the changes as written and introduced. These changes will adversely affect families and homeschooling in Nebraska. The changes represent significant restriction on the rights of parents to take immediate action, without government intervention, in light of their religious beliefs and the best interests of their children. The proposed changes seem to be a very harsh response to the Nebraska Supreme Court ruling in State v. Thacker. Mr. Lostroh's written testimony is attached.

**Peter Kamakawiwoole, Home School Legal Defense Association staff attorney**, and was involved with the Thacker case. An appellate court in Nebraska agreed that the Thackers had not violated Nebraska law, because "neither the statute nor the rules and regulations of the Nebraska Department of Education provide any deadline for the initial establishment of an exempt school." The court also rejected the state's argument that homeschoolers must be "enrolled" while the local public school is in session. A rule cannot contradict an explicit statute. The HSLDA and NCHEA would be more than willing to meet with NDE and discuss any proposed changes to Rules 12 and 13 and have a united effort in the language in the rules.

**Kirby Wilson, Kearney**. Mr. Wilson testified that he strongly believes in the rights of the parents to have the freedom of choice. If the intent of the language is to stop truancy it would be better to give the parents a list of all educational options. What will happen if student's life endangered and parents have to leave in school for 30 days?

**Mary Hilton, Lincoln, NE**. Ms. Hilton decided to go to the original source that empowers the State Board of Education, the Nebraska State Constitution. Article I, Section 4. The proposed changes to Rules 12/13 are not within the parameters of the Nebraska Constitution and the State Board of Education would be in violation of their constitutional responsibilities. See Ms. Hilton's written testimony attached.

**Virginia Alexander, Lincoln**. Ms. Alexander wanted to comment and applaud NDE, she is proud of NDE in giving each child an education. The proposed changes in Rules 12/13 would take time away from NDE personnel to serve the public schools. She doesn't want to see additional burdens on NDE and taxpayers.

**Jennifer Hicks, Auburn, NE**. People homeschool for a lot of different reasons. As a parent who once participated in the enrollment option program, she was pleased to see in Rule 19 that "the Legislature finds and declares that parents and legal guardians have the primary responsibility of ensuring that their children receive the best education possible." The proposed changes in Rules 12/13 would penalize a parent for removing a child from a public school in the interim between filing for exemption and receiving the Letter of Acknowledgement. This change may allow for circumstances that would inadvertently put a child's safety and well-being at risk, such as bullying. See her attached written testimony.

**LINCOLN VIDEOCONFERENCE SITE (cont'd)**

**Rob Holz, Lincoln, NE.** Echoes the appreciation of NDE's efforts in educating children throughout the state. As a government employee, he understands the rule making process, the state statutes, Legislation, etc., and logistics involved. State v. Thacker was decided in May 2013, so the Legislature hasn't even dealt with this case yet. Mr. Holz suggests removing reference to the mandatory attendance requirement and not ceasing to attend until a Letter of Acknowledgement is received. Supports keeping the July 15 date.

**Nydra Karlen, Bellevue, NE.** Feels NDE should expand options for educating.

**Amy Haberman, Papillion, NE.** She does not have a problem with clarifying how truancy laws affect homeschool families. She believes changes should protect the best interest of students and families and the proposed revisions do not. The proposed changes clearly seek to protect the state from losing cases such as State v. Thacker. The purpose of truancy laws are to ensure children are receiving a quality education, not to prevent or delay parents from home educating their children, which is what would result from the proposed changes. See her written testimony attached.

**Melanie Smotherman, Nebraska Family Forum.** Opposes the changes in Rules 12/13. Consider the lesson from Thacker. These rules do not need to be fixed. She liked the truancy laws of 2005, then they were changed in 2010 and truancy has risen.

**Haley Buell, Lincoln, NE.** Currently a senior in high school. There are 7,000 homeschoolers in the State of Nebraska and these students would suffer repercussions of the proposed revisions. Leave the rules as they are. Offered helping the NDE staff in developing a software program for digital interfacing of receipt of applications from home schoolers.

**Elizabeth Griffith, Lincoln, NE.** Testified that the proposed changes in Rules 12/13 are not done in an "American Spirit." Reminded the government that they are to be a servant and not a predator. She is concerned about the reputation of NDE and the State Board of Education. The dictatorial tones of the proposals are shocking! The government tends to produce their agenda according to their ideas.

**Samuel Lyon, Lincoln, NE.** Testified that he doesn't understand the intent of the rule change. In State v. Thacker, the Thacker's did not make a mistake, they were not confused on the law. Law enforcement was mistaken and confused. Mr. Lyons feels that Rules 12/13 do not need to be revised and that the law enforcement needs to be educated in what the law is for homeschoolers.

**Sheila Collins, Davey, NE.** Testified she has been homeschooling for years. She remembers homeschooling without filing an application. Lines have now been drawn in the sand. Revisions are not constitutional. Respectfully asks to drop the whole thing and work together.

**Linda Renoud, Dwight, NE.** Opposes the proposed changes. Proposals lay a framework that is overly restrictive and tends towards creating "criminals" of good families with high academic and moral standards for their children. See her written testimony attached.

**LINCOLN VIDEOCONFERENCE SITE (cont'd)**

**Kara Chase, Louisville, NE.** Agrees with Legislature that homeschooling begins when NDE receives application/paperwork. Doesn't like "as soon as practicable." What is that? Need a definitive date. Agrees that NDE should work with NCHA.

**Father Brendan Kelly, St. Wenceslaus Church of Bee, Bee, Nebraska.** Testified that the proposed changes make an already burdensome rule(s) more burdensome. Doesn't like the July 1 date, waiting for the Letter of Acknowledgement before pulling out of school and a threat of criminal prosecution of the parents if they don't do what the rule says. "This is tyranny, pure and simple, under the guise of regulation." See attached written testimony.

**Kevin Dowd, Lincoln, NE.** Would like to thank the State Board for the opportunity to speak about our concerns. Also like to thank NDE for all they do for homeschool parents and students. Two concerns: 1) Waiting for the Letter of Acknowledgement, 30 days is out of norm, should be instantaneous; and 2) Thacker – "Nip problem in the bud." Instead of increasing the regulatory burden; educate law enforcement.

**Christine St. Hilaire, Lincoln, NE.** Homeschools her four children. Homeschool families strive for excellence and want their children to succeed. Increased government control takes away parental rights. Parents have the right to educate their children.

Written testimony received and is attached.









## Testimony for Rule 12

### ("Regulations and Procedures for Exempting Schools for Which Parents Elect Not to Meet Legal Requirements for Other than Religious Reasons")

Russ Inbody, Administrator of Finance and Organizational Services

October 15, 2013

1. Changes regarding First year filers

- The primary changes to the rules were made at the request of the Commissioner of Education following the Nebraska Supreme Court's decision in *State v. Thacker* on May 31, 2013. That case involved a truancy charge against the Thackers brought by law enforcement for Dawson County. NDE was not a party to that case. The court ruled in that case that the County authorities had not proven the truancy case because the Thackers were first year home schoolers, and the NDE regulations only provide that for a first year (initial) Rule 12 or 13 filing, parents must only file their exemption request documents 30 days prior to the exempt school beginning operation.
- The changes NDE proposes to secs. 003.02A-003.02A3 only effect persons filing for the first time. These revisions make no changes to the existing rules for all renewing filers, which are the vast majority of the filings, other than changing the annual filing date from July 15 to July 1.
- The proposed changes made to these rules do not in any way require a home school to start its school year (start schooling) any earlier than presently required, which is simply whenever the parents want, so long as they provide the required number of hours between July 1 and June 30 each year. That is the existing law and rule, and that does not change for anyone. Again, all that the revisions to sec. 003.02A-003.02A3 would do is have first year home schoolers file the request for exemption by the same date as everyone else does, that is by July 1. It does not require anyone to start their home schooling by the date a local school district does.
- The changes we propose regarding first year filers in secs. 003.02A-003.03A3 are not because NDE believes the Thackers should have been held truant. These are made instead to provide more clarity for both the home schoolers and for local school district officials and local law enforcement. It is intended to avoid another situation like the Thacker case. It is intended to avoid first year home school families from having local school district and law enforcement officials making contact with them for truancy concerns when the first year home school family wishes to start their home school later in year than a traditional and local school system does.
- The current wording of sec. 003.02A, which only states that first year home school filers must file their exemption request (Rule forms A & B) 30 days prior to starting the

school, (other renewing filers are given a July deadline to file), leaves local school officials and law enforcement unclear on the status of children of compulsory attendance age. As with the Thacker matter, when the calendar is well past the start of traditional and local school years, and a resident child of compulsory attendance age is not attending the public schools nor any approved or accredited private schools, the authorities contact this Department as to home school status. Since first year home school parents may want to start their schooling later, they may not have filed anything with NDE, and NDE can tell them nothing as to these kids. However, with the proposed revisions in effect, NDE would have on file the exemption request filings, even if the parent is not starting school until say October, and NDE could then inform districts and law enforcement of these facts, and avoid the confusion that resulted in the Thacker litigation. It simply put first year filers that are present in Nebraska by the filing date on the exact same footing as all the other renewal filers. That is all.

- If the proposed revisions had been in effect before, there would not have been a Thacker case, the Thackers could have done what they were doing anyway (starting school later in the year than traditional), the Department would have been aware of that, and law enforcement would have had no reason to visit them.
- The proposed revision to Sec. 003.02A2 regarding transferring a child from an approved or accredited public or private school to an exempt or home school reflects current NDE practices. NDE has advised that parents not simply cease attending these schools during the school year and then begin the process of submitting the exempt school materials to NDE, but instead to wait until the materials are submitted, reviewed, and they are issued the exemption acknowledgment letter from the Commissioner.
- NDE recognizes that there are situations where parents may decide to home school and are not able to file for the exemption request by July 1. We have dealt with that in secs. 003.02A1 and A2. These are when persons are not Nebraska residents on July 1 and when the parents enroll their child in a public or approved / accredited private school to start the year, then decide they wish to home school instead. Provisions for these situations are stated in these subsections.

#### 1. Other changes

- We propose to change the annual filing date from July 15 to July 1 to align with the reporting period for exempt schools.  
And as schools are starting earlier each year we wanted the district and exempt school filers to have all the paper work submitted and NDE's review completed prior to the start of school.
- We have imposed a deadline on ourselves in sec. 005 that requires NDE to review, process and issue an exemption letter to all filers that have filed the required information by no later than 30 days after receipt. This is current practice, but formally places the requirement into rule.

- We have included the existing definition of “resident/reside” already in state regulation on school enrollment (Rule 19) to assist first year filers in properly interpreting proposed sec. 003.02A1 that deals with persons not residing in Nebraska on July 1.
- Updated the forms in the appendices to reflect the proposed changes.
- Added section 004.05 that a “Supplemental Sheet for Parent Representative “ is available to assist parents in providing the required information to NDE.

## Testimony for Rule 13

### ("Regulations and Procedures for Exempting Schools for Which Parents Elect Not to Meet Legal Requirements for Religious Reasons")

Russ Inbody, Administrator of Finance and Organizational Services

October 15, 2013

1. Changes regarding First year filers

- The primary changes to the rules were made at the request of the Commissioner of Education following the Nebraska Supreme Court's decision in *State v. Thacker* on May 31, 2013. That case involved a truancy charge against the Thackers brought by law enforcement for Dawson County. NDE was not a party to that case. The court ruled in that case that the County authorities had not proven the truancy case because the Thackers were first year home schoolers, and the NDE regulations only provide that for a first year (initial) Rule 12 or 13 filing, parents must only file their exemption request documents 30 days prior to the exempt school beginning operation.
- The changes NDE proposes to secs. 003.02A-003.02A3 only effect persons filing for the first time. These revisions make no changes to the existing rules for all renewing filers, which are the vast majority of the filings, other than changing the annual filing date from July 15 to July 1.
- The proposed changes made to these rules do not in any way require a home school to start its school year (start schooling) any earlier than presently required, which is simply whenever the parents want, so long as they provide the required number of hours between July 1 and June 30 each year. That is the existing law and rule, and that does not change for anyone. Again, all that the revisions to sec. 003.02A-003.02A3 would do is have first year home schoolers file the request for exemption by the same date as everyone else does, that is by July 1. It does not require anyone to start their home schooling by the date a local school district does.
- The changes we propose regarding first year filers in secs. 003.02A-003.03A3 are not because NDE believes the Thackers should have been held truant. These are made instead to provide more clarity for both the home schoolers and for local school district officials and local law enforcement. It is intended to *avoid* another situation like the Thacker case. It is intended to *avoid* first year home school families from having local school district and law enforcement officials making contact with them for truancy concerns when the first year home school family wishes to start their home school later in year than a traditional and local school system does.
- The current wording of sec. 003.02A, which only states that first year home school filers must file their exemption request (Rule forms A & B) 30 days prior to starting the

school, (other renewing filers are given a July deadline to file), leaves local school officials and law enforcement unclear on the status of children of compulsory attendance age. As with the Thacker matter, when the calendar is well past the start of traditional and local school years, and a resident child of compulsory attendance age is not attending the public schools nor any approved or accredited private schools, the authorities contact this Department as to home school status. Since first year home school parents may want to start their schooling later, they may not have filed anything with NDE, and NDE can tell them nothing as to these kids. However, with the proposed revisions in effect, NDE would have on file the exemption request filings, even if the parent is not starting school until say October, and NDE could then inform districts and law enforcement of these facts, and avoid the confusion that resulted in the Thacker litigation. It simply put first year filers that are present in Nebraska by the filing date on the exact same footing as all the other renewal filers. That is all.

- If the proposed revisions had been in effect before, there would not have been a Thacker case, the Thackers could have done what they were doing anyway (starting school later in the year than traditional), the Department would have been aware of that, and law enforcement would have had no reason to visit them.
- The proposed revision to Sec. 003.02A2 regarding transferring a child from an approved or accredited public or private school to an exempt or home school reflects current NDE practices. NDE has advised that parents not simply cease attending these schools during the school year and then begin the process of submitting the exempt school materials to NDE, but instead to wait until the materials are submitted, reviewed, and they are issued the exemption acknowledgment letter from the Commissioner.
- NDE recognizes that there are situations where parents may decide to home school and are not able to file for the exemption request by July 1. We have dealt with that in secs. 003.02A1 and A2. These are when persons are not Nebraska residents on July 1 and when the parents enroll their child in a public or approved / accredited private school to start the year, then decide they wish to home school instead. Provisions for these situations are stated in these subsections.

## 2. Other changes

- We propose to change the annual filing date from July 15 to July 1 to align with the reporting period for exempt schools. And as schools are starting earlier each year we wanted the district and exempt school filers to have all the paper work submitted and NDE's review completed prior to the start of school.
- We have imposed a deadline on ourselves in sec. 005 that requires NDE to review, process and issue an exemption letter to all filers that have filed the required information by no later than 30 days after receipt. This is current practice, but formally places the requirement into rule.

- We have included the existing definition of “resident/reside” already in state regulation on school enrollment (Rule 19) to assist first year filers in properly interpreting proposed sec. 003.02A1 that deals with persons not residing in Nebraska on July 1.
- Updated the forms in the appendices to reflect the proposed changes.
- Added section 004.05 that a “Supplemental Sheet for Parent Representative “is available to assist parents in providing the required information to NDE.

TO: Nebraska State Board of Education

FROM: Jolene Catlett, parent, grandparent and board member of NCHEA

RE: Hearing concerning proposed changes to Rule 12 & 13

DATE: October 15, 2013

The last Department of Education hearing I attended was in 1984 when the implementation of LB928 was being discussed. The crux of the meeting was how to honor the sincerely held religious beliefs of parents who choose not to send their children to accredited schools. The result of that meeting was what we now call Rule 13. A few years later, Rule 12 was implemented for those who choose to home educate for reasons other than sincerely held religious beliefs.

Home education has worked well in the state of Nebraska for the last 29 years and we have reason to think that it will continue to serve the families of Nebraska well in the future.

Rule 13 and Rule 12 have worked well for many years. Parents have notified the Department of Education of their intent to home school, and have provided required information. There does not seem to be any reason to change a system that has been working well, and is not burdensome for the families or the Department of Education.

The proposed new language in Rule 13 and Rule 12 appears to change from giving notification to asking for permission of the Department of Education. This goes against the original intent of Rule 13 and the sincerely held religious beliefs of the majority of home school families.

Also, the new language would put heavy burdens on new or transferring home schooling families. These are unnecessary. They should be treated the same as any parent transferring their child from one school to another. Home educators should not have a higher standard to follow than other parents.

Thank you for your consideration of these points.

Sincerely,

Jolene Catlett

308 534 8215

[jolenecatlett@gmail.com](mailto:jolenecatlett@gmail.com)

To: Dept of Education

Dear Board members,

My name is Melani Wonch. I am a college graduate, wife, mother of four young children and home educator. I myself was on the steps of the Capitol when Gov. Kay Orr signed the Rule 12-13 into law. I had been Home Educated for several years prior to that law because of the deep conviction of my parents to teach our Christian Faith freely. I went on to graduate from college with a bachelor's double major and the highest honors of the school. They did their job well and I am equally as convicted in my responsibility as parent and teacher.

As I understand, the new changes being proposed would narrow the window of those seeking to file from July 15 to July 1 with no apparent provision for those who would become convinced that home-schooling is in their children's best interests after that point, without being subject to criminal charges. It also changes the language of the law from "notifying" the commissioner of their intent to home school to wording that suggests that we have to request permission to home school. We would also have to "wait for approval" from the commissioner before we proceed. Even in the instance where a parent needs to withdraw a child from public school for their safety they would be required to "wait for approval" or face criminal charges. The government is not my kids' parents. God gave that job to my husband and I, we intend to do our job and don't appreciate the government thinking they have a say in our home, in our Faith or our way of life. It is simply un-American. It is interesting to me that we have a "choice" in so many other areas of our American lives...even a choice to get rid of unwanted children, but it seems to me that our choices for education are being narrowed and limited even as we speak.

These new proposals are not in keeping with American Freedom. We are finding ourselves being more and more limited by our government both Federal and now state, in our citizenship. I, for one, stand up and say, "That's far enough".

Let the laws stand as they are, or design them so they allow more freedom, not less.

Thank you for your time,  
Melani Wonch

## Wid, Brenda

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**From:** Molly O'Holleran <molly.oholleran@gmail.com>  
**Sent:** Monday, October 14, 2013 2:08 PM  
**To:** Melani Wonch  
**Cc:** Wid, Brenda; Worth, Margaret  
**Subject:** Re: Rule 12-13

Dear Melani,

Thank you for your email regarding changes to Rules 12 & 13. We appreciate your input as a Home Educator.

As you likely know already, a public hearing on these proposed revisions has been scheduled for Tuesday, October 15, 2013, beginning at 10 a.m. Central time. For your information, a copy of the public notice of that hearing appears on this Department's web site at [http://www.education.ne.gov/Legal/Hearing\\_notices.html](http://www.education.ne.gov/Legal/Hearing_notices.html). This notice was also published in the Omaha World-Herald on 9/14/13. As is explained in that notice, you may present testimony at the hearing or submit written testimony in advance of the hearing that will be made part of the record of the hearing.

If you wish to express your opinion in a written testimony, please communicate that in advance of the hearing date by sending an e-mail to [brenda.wid@nebraska.gov](mailto:brenda.wid@nebraska.gov).

Yours truly,

*Molly H. O'Holleran*

Molly H. O'Holleran  
Nebraska State Board of Education  
1001 S. Deerwood DR  
North Platte, NE 69101-6317  
Phone: (308) 532-8783  
[molly.oholleran@gmail.com](mailto:molly.oholleran@gmail.com)

On Oct 14, 2013, at 11:17 AM, Melani Wonch <[mdwonch4@hotmail.com](mailto:mdwonch4@hotmail.com)> wrote:

Dear Mrs. O'Holleran,

I understand some changes have been purposed to the Title 92, Chapter 12-13. As I have read them I'm finding myself opposed to their content and believe that they are further limiting and narrowing our freedoms as American home educators. I would like to understand the reasons behind the changes and where they are in the legal process at this time. In the Nebraska Department of Education site it stated that they were changing wording to "align with current practices" and also there were "non-substantive wording" changes. I'd like to know to which they were referring. Both the changes in the filing date with the apparent limitation for those who would change their mind about enrolling in public school later in the year AND the need for "approval" and written confirmation before proceeding, instead of our current rights to notify the state of our intentions and ability to immediately withdraw, are not in the best interests of our children or of our freedoms as American parents who care. Please consider voting these proposed ammendments away for good. We have enough to worry about with our federal government trying to change all the rules, please vote for MORE FREEDOM and not for more restrictions.

Thank you for your time.

Sincerely,

Melani Wonch  
11.07.13 State Board of Education Work Session

2.4-19

To Department of Education

Dear Board Members,

My name is Adam Wonch. I attended both public and private schools. I have a wife who was home schooled. Currently we are enjoying home schooling our kids, watching them grow is one of the greatest gifts God has given us. I also believe God has given us the responsibility of educating, protecting, and growing our kids and that someday we will give an account for this.

I have looked over the proposed word changes and date changes. These changes limit the parent's freedoms as how and when to provide the best education for their kids. In a time when government is taking more and more of the people's rights, we must protect each one all the more. I also see this as singling out a group of people who hold a particular view. I still believe in America and what it stands for, Liberty and Justice for all.

Thank you for you time,  
Adam Wonch

PO Box 254  
Spencer, NE 68777

October 14, 2013

Nebraska Department of Education  
State Board of Education  
301 Centennial Mall South  
P.O. Box 94987  
Lincoln, NE 68509-4987

Dear Nebraska Board of Education Member:

I am a Nebraska resident and tax payer. I am opposed to changes in Rule 12 and Rule 13, which would unnecessarily increase government oversight of homeschooling in Nebraska.

There is no legitimate need to change what is already working well, and research shows that increased regulation has no direct correlation to homeschooling success. Please see a summary of research at: <http://www.hslda.org/docs/study/comp2001/HomeSchoolAchievement.pdf>

The Nebraska Supreme Court decision in State v. Thacker on May 31, 2013, reinforced the fact that parents do not need "approval" from the Department of Education before they can begin homeschooling. This finding is challenged by the proposed changes (003.02A2).

The current law requiring parents to file paperwork 30 days prior to beginning homeschooling is reasonable and measurable. The proposed changes (003.02A1 and 003.02A2) either eliminate the allowance making the requirement unreasonable, or are ambiguous and subject to interpretation.

Homeschooling parents in Nebraska are currently able to choose the best format for documenting the information required by the state. Apart from legitimate evidence that this system does not work, justification for requiring a department-produced form does not exist (004.05).

Effective government will avoid interfering in areas where it is not needed, and concentrate efforts and funding to areas of need and measurable results. Please use my tax money wisely and do not waste it by regulating areas that do not evidence need.

Sincerely,



Darla Sobotka

Testimony of: Monica Barfknecht  
1535 N. Adams Central Ave.  
Juniata, NE 68955

In Regards to: Rule-making hearing  
Revisions to Title 92, Nebraska Administrative  
Code Chapter 12 and Chapter 13  
October 15, 2013  
Grand Island Public Library

This testimony is in opposition to the proposed revisions to Title 92, Nebraska Administrative Code Chapter 12 and Chapter 13.

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My name is Monica Barfknecht. My husband and I are in our fourteenth year of educating our children at home. We have four children ranging in age from 6 years old to 19 years old. The oldest is currently a freshman in college and the other 3 are being educated in our home school. I am a Nebraska resident and native, a graduate of the University of Nebraska, and was a Certified Public Accountant before choosing to devote my time to the education of my children.

My testimony is in opposition to the proposed revisions to Title 92, Nebraska Administrative Code Chapter 12 and Chapter 13.

If a system is not broke, why fix it? With over 13 years of experience under the current regulations, I see no need for tightening regulations. In our nation, overregulation is an epidemic which curtails growth, innovation and productivity. Home educators are productively educating their children with no burden on the taxpayers of Nebraska. What rational reason is there to make it more difficult for parents to provide a service that would

otherwise cost Nebraska taxpayers thousands upon thousands of dollars?

I object to all of the proposed changes, but my strongest disagreement is with proposed Section 003.02A2. Under the regulations as they currently exist, the parents are simply notifying the State Department of Education of their decision to have their child attend an exempt school. Notice that I said of their decision: the parents' decision. The proposed change creates a mandatory enrollment in public school unless the parents have a Letter of Acknowledgement of their exempt school in hand. This change takes the decision making power at least temporarily out of a parents hands. This is precariously close to requiring state approval for home education. It is my understanding that the legislature intended that an exempt school begins as soon as the Department of Education receives the paperwork from parents. The change puts the parents at the mercy of the Department of Education. I will complement the Department of Education on their prompt responses to all correspondence I have had with them, but that does not mean I want to give them power over a decision that I believe properly belongs with a parent.

The proposed change of filing date from July 15 to July 1 is unnecessary. The current date works well for home educating parents, who like myself, follow a schedule somewhat similar to the public school calendar. As a family, we wrap up the school year in May and are making curriculum decisions during that time. We order the curriculum, receive it, and thus have all of the necessary information to fill out the required paperwork on or before July 15. When my eldest daughter was finishing grade school, I had concern about her English Composition skills. I spent an enormous amount of time researching various composition curriculums. After intensive research I found a curriculum that greatly aided us in developing written communication skills. This fall my daughter is in a college

English Composition class. The comment she received from her teacher after her first writing assignment was, "I am going to hold you to a higher standard," indicating she was starting the class with excellent composition skills. This illustrates one of the beauties of home schooling: the ability to be flexible in choosing materials that best meet the needs of our individual children. I ask you to not reign in that freedom and flexibility with these proposed regulations. Moving the deadline to July 1 would rush very important curriculum decisions. The Department of Education must process the surge of paperwork at sometime. I think the Department should leave the date as is in order to better serve the home educating parents who are Nebraska taxpayers.

Home school parents are a unique group. We do not want anything from the state other than to be left alone to educate our children in the best way that we know how. We ask for no money from Nebraska taxpayers. Overzealous regulation has destroyed or curtailed much growth, innovation and progress in our world. Please do not let our great state head any further on the path of overregulation. Leave the regulations as they are and allow parents time and decision-making power to direct the education of their children.

The proposed changes to Title 92, Chapter 12 and Chapter 13, of the Nebraska Administrative Code are unnecessary and could create undo hardship for families desiring to begin home educating their children for the first time, for single parents, for military families, and for families who have recently moved to Nebraska. In addition, there should not be a need for families who have submitted the required paper work to wait to begin teaching their children at home until they have received an acknowledgment of their decision from the Nebraska Department of Education.

During the course of any given year, a family may experience changes in health, finances, school atmosphere, or religious convictions that would cause parents to choose to move their child into a new educational setting. It is unrealistic to expect that every family will know by July 1 whether or not they will want to teach their children at home. The current requirement of 30 days notice allows families to make these decisions when the need arises in each unique situation. It also allows them time to acquire curriculum, birth certificates, and necessary signatures without risking unwarranted accusations of truancy while doing so.

Single parent families often have to wait for the other parent to return a notarized copy of Form A before filing. When that involves sending the form to another state and back again, the turn around time may be measured in weeks rather than days. Military families can face even greater challenges when a parent is deployed overseas. The current requirement of 30 days notice for first time filers and a July 15 deadline for those who are continuing to home school their children is enough of a burden for these families, and there is no reason to move the deadline forward by two weeks.

As with other first time filers, those moving to Nebraska are currently asked to provide 30 days notice of their decision to file for exempt status. The new wording asking for them to file "as soon as practicable" leaves the time frame open to individual interpretation and is simply too ambiguous to be useful.

Since the Nebraska Department of Education does not approve or disapprove of any exempt school, families should not have to wait to receive their letter of acknowledgment before beginning their children's education at home. Those who have submitted the necessary paperwork giving 30 days notice should then be able to teach their children without waiting for any further time to pass.

The decision to home school is not one that should be made without due consideration. Time is needed to secure both curriculum and documents that are required before filing with the Nebraska Department of Education. Thirty days is the amount of time that the Nebraska Department of Education is asking to acknowledge a family's election to receive exempt status; it is a length of time which is commonly accepted as giving reasonable notice of changes in any number of contractual arrangements, and parents should be allowed to continue to provide 30 days notice of their decision to receive exempt status. The proposed changes are clearly unnecessary and potentially burdensome, and therefore should not be made.

Please enter this testimony into the public record of these hearings dated October 15, 2013. Thank you.



Glynette Carradine  
2601 Ave. D, Scottsbluff, NE 69361

## Wid, Brenda

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**From:** Lyn Carradine <somekindamom@hotmail.com>  
**Sent:** Tuesday, October 15, 2013 1:11 AM  
**To:** Wid, Brenda  
**Subject:** Hearings regarding changes to Rules 12 & 13

I am forwarding to you a copy of testimony that I plan to submit at the hearing on October 15 in Scottsbluff.

The proposed changes to Title 92, Chapter 12 and Chapter 13, of the Nebraska Administrative Code are unnecessary and could create undo hardship for families desiring to begin home educating their children for the first time, for single parents, for military families, and for families who have recently moved to Nebraska. In addition, there should not be a need for families who have submitted the required paper work to wait to begin teaching their children at home until they have received an acknowledgment of their decision from the Nebraska Department of Education.

During the course of any given year, a family may experience changes in health, finances, school atmosphere, or religious convictions that would cause parents to choose to move their child into a new educational setting. It is unrealistic to expect that every family will know by July 1 whether or not they will want to teach their children at home. The current requirement of 30 days notice allows families to make these decisions when the need arises in each unique situation. It also allows them time to acquire curriculum, birth certificates, and necessary signatures without risking unwarranted accusations of truancy while doing so.

Single parent families often have to wait for the other parent to return a notarized copy of Form A before filing. When that involves sending the form to another state and back again, the turn around time may be measured in weeks rather than days. Military families can face even greater challenges when a parent is deployed overseas. The current requirement of 30 days notice for first time filers and a July 15 deadline for those who are continuing to home school their children is enough of a burden for these families, and there is no reason to move the deadline forward by two weeks.

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Since the Nebraska Department of Education does not approve or disapprove of any exempt school, families should not have to wait to receive their letter of acknowledgment before beginning their children's education at home. Those who have submitted the necessary paperwork giving 30 days notice should then be able to teach their children without waiting for any further time to pass.

The decision to home school is not one that should be made without due consideration. Time is needed to secure both curriculum and documents that are required before filing with the Nebraska Department of Education. Thirty days is the amount of time that the Nebraska Department of Education is asking to acknowledge a family's election to receive exempt status; it is a length of time which is commonly accepted as giving reasonable notice of changes in any number of contractual arrangements, and parents should be allowed to continue to provide 30 days notice of their decision to receive exempt status. The proposed changes are clearly unnecessary and potentially burdensome, and therefore should not be made.

Please enter this testimony into the public record of these hearings dated October 15, 2013. Thank you.

Glynette Carradine  
2601 Ave. D, Scottsbluff, NE 69361

Good morning. My name is Ananda Peters and my husband Joe and I live in Sheridan County, along with our five children, whom you see along with me here today. We drove 100 miles to be here. On the way, we watched science DVDs, and we've brought a few more for the ride home. Today is a field trip for them. Thankfully, we can do that because we homeschool and we can design their education how we, as parents, see fit.

With that in mind, I would urge you to please NOT make the proposed changes to the homeschool rules. You would be adding an unnecessary load to an already excessive burden. We brought these children into the world and we are passionate about giving them the best possible education. We KNOW our children and what they need; you don't. You don't know, for example, that my 10-year-old son learns methodically, that there is a process of logic by which he tests everything he learns. My daughter, on the contrary, cringes at the thought of reading instructions. She would much rather learn while doing. Two unique individuals with unique learning styles, and I am so grateful to be able to teach them according to their design. If you would like to make any changes to the code, PLEASE consider LESS invasive rules, give us MORE freedom, not LESS!!!

Let me give you an example of what that might look like. Our family spends part of our year in Arizona, where the laws give homeschoolers more freedom. We are required to sign a one-time affidavit of our intention to homeschool, along with a commitment to teach the core subjects of Math, Reading, Grammar, Science, and Social Studies. Done. We are not required to inform them year after year of our intentions. If they don't hear from us again, they assume we're doing fine. Why can't Nebraska do something similar? Arizona is known as a great place to homeschool. People MOVE to Arizona because of that freedom, we've met several families with that testimony.

So with regards to the specific changes set forth, I would suggest the following:

- In terms of taking away the 30-day grace period for new homeschoolers moving into the state, that's cruel. Many homeschool families are large. Moving to a new place, it takes some time to get find a place to live, get moved in and unpacked, to find the schoolbooks ... if anything, INCREASE this grace period. Give families a chance to get settled.
- As far as the state's supplemental sheets for reporting, please save the trees. Asking families to report their educational plan to the state and what curricula we will be using

**Peters -1-**  
State Board of Education Work Session

Wid, Brenda

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From: Laura Leggott <lleggott@gmail.com>  
Sent: Tuesday, October 15, 2013 1:10 AM  
To: Wid, Brenda  
Subject: Testimony for the Hearing on the Proposed Home-school Rule Changes

From: Ben and Laura Leggott  
160947 County Road 29  
Gering, NE 69341  
308-783-6107  
[lleggott@gmail.com](mailto:lleggott@gmail.com)

To: The Nebraska Department of Education  
October 14, 2013

To those who are presiding over this hearing, I thank you for the opportunity to speak, and for holding a hearing in Western Nebraska as well.

I pray you will consider the thoughts of a home-educating parent of 7 years. I am also a graduate of a home-school, having been home-educated from Kindergarten all the way up. My parents were among the first generation of home educators in Nebraska, and I am proud of that heritage.

Current Nebraska law regulates school attendance by requiring parents to notify the state of their choice to form an exempt school and be responsible for their children's educations, for the reason of sincerely held religious beliefs or because the decisions of the DOE interfere with the decisions of the parents in directing the students' education.

*Statute 79-1601 (3) The provisions of subsections (3) through (6) of this section shall apply to any private, denominational, or parochial school in the State of Nebraska which elects not to meet state accreditation or approval requirements. **Elections pursuant to such subsections shall be effective when a statement is received by the Commissioner of Education** signed by the parents or legal guardians of all students attending such private, denominational, or parochial school, stating that (a) either specifically (i) the requirements for approval and accreditation required by law and the rules and regulations adopted and promulgated by the State Board of Education violate sincerely held religious beliefs of the parents or legal guardians or (ii) the requirements for approval and accreditation required by law and the rules and regulations adopted and promulgated by the State Board of Education interfere with the decisions of the parents or legal guardians in directing the student's education, (b) an authorized representative of such parents or legal guardians will at least annually submit to the Commissioner of Education the information necessary to prove that the requirements of subdivisions (4)(a) through (c) of this section are satisfied, (c) the school offers the courses of instruction required by subsections (2), (3), and (4) of this section, and (d) the parents or legal guardians have satisfied themselves that individuals monitoring instruction at such school are qualified to monitor instruction in the basic skills as required by subsections (2), (3), and (4) of this section and that such individuals have demonstrated an alternative competency to monitor instruction or supervise students pursuant to subsections (3) through (6) of this section.*

<http://nebraskalegislature.gov/laws/statutes.php?statute=79-1601>

The new rule changes, concerning the reporting deadlines, the reporting forms, and the timing of when such educational preferences can be put into practise, violate this statute. It is not in the authority of the Department to effect a rule which contradicts the statutes of Law in the state of Nebraska, which protects the rights of parents and guardians to make the decisions to direct the education of their children, effective upon notification of the Department.

Often, parents decide upon and purchase the year's curriculum at educational conferences held in different locations throughout the country. Many parents travel hundreds of miles to attend these and make careful

curriculum choices. The homeschool conference season begins in March and hits its peak in June, but does not wrap up until mid July. This leaves parents NO time to receive their ordered materials, evaluate them, and plan their usage. The July 15th deadline is already a hardship, and if it should be changed at all, it should be moved to a later date, not an earlier one.

Also, the application of such a deadline to students who are making an educational change without relocating from another state, is dangerous and illegal. Again, the law State Statute 79-1601-3 states that such a change “shall be effective when a statement is received by the Commissioner of Education.” This cannot be limited to before July 1st for the current school year, as many mid-year changes are due to major health changes or extreme bullying situations. To delay for a full school year, or even 30 days, could endanger the child, and unnecessarily so, since the parents are presenting all of the needed information to prove that school WILL take place. This is not a truancy issue.

Legal concerns aside, I also find the rule changes impractical. The change for moving the repeat filing deadline up by two weeks, while moving the “department response” from immediately to “within 30 days” is impractical and unreasonable. In essence, we as parents and exempt school administrators, will have 15 fewer days to plan and schedule and prepare our curriculum, while the department is getting another 30 days to respond, when the law doesn’t require us to wait upon such a response.

I respectfully submit that this is a situation where there is no problem to correct, and that to make these changes would only stir up more work and trouble for the department, when the current system is fine as it is. I close with a quote from one of our own Senators.

Sen. Beau McCoy, a home schooled graduate himself, stated when addressing the role of the state in home education: “It ought to be a limited role, as we’ve seen throughout our country’s history, that’s served us best.”

<http://netnebraska.org/interactive-multimedia/news/net-news-home-school-nebraska-beau-mccoy>

This quote comes from a NET documentary about homeschooling in Nebraska, where the point is made that homeschooled children are performing above average and only represent 2% of the school population in Nebraska. They are not a problem population, and the department should focus on fixing the issues with the other 98% before trying to address this small minority. This is my loose interpretation of the words of Sen. Adams (Speaker of the Legislature) in the public television news piece. I urge you to watch it.

I thank you for your time, and respectfully request that you vote against the proposed rule changes. I humbly request that this testimony be included in the public record.

Sincerely,  
Laura Leggott,  
*home-educator, mother of four, wife to Ben.*

CC: hard copy to the hearing, at the Scottsbluff location.



October 15, 2013

My name is David Lostroh; I am a Board Member and Legislative Liaison for the Nebraska Christian Home Educators Association. I am here to testify on behalf of the NCHEA against the proposed changes to Rules 12 and 13.

Contrary to the Nebraska Secretary of State's website regarding the regulation process, the NDE did not solicit input from the NCHEA during the rule drafting period, making it more difficult to change the regulation since it is already set for hearing.<sup>1</sup> See the footnote.

I would encourage you to thoroughly read the attached *NCHEA Observations and Position on Proposed Changes to Rules 12 and 13*, October 9, 2013. More details of the many violations of law and oppositions to the Nebraska Supreme Court ruling are listed there.

The proposed changes seem to be a very harsh response to the Nebraska Supreme Court ruling in *STATE v. THACKER*, 286 Neb. 16. In the Thacker case, there was a tremendous amount of force applied to and hardship endured by children who ultimately received a good education and parents who were vindicated by the courts. The changes appear to intend that home school parents shall comply with lots of additional and unnecessary restrictions that will create lots of unnecessary truancy cases in the courts, or force the parents to temporarily violate their religious, educational, or safety concerns for their children.

After 29 years with the existing exemption statement forms filing requirements required by 79-1601(3), we fail to see that there is now a great need to change the rules. In at least nine states (Alaska, Idaho, Illinois, Indiana, Michigan, Missouri, New Jersey, Oklahoma, and Texas) there is no requirement to notify the State Department of Education, the local school district, or other government agency in order to start homeschooling.

I will present four scenarios that will result from the proposed Rule 12 and Rule 13 changes. The scenarios show some of the illegal requirements and unnecessary hardship that will be resulting for home school parents and children. [The changes and associated section numbers are the same in both Rule 12 and Rule 13.]

## I. First year and subsequent year homeschooling:

1. File exemption statement forms by July 1, and there will be no trouble for the parents because the timing sequence required in the rule changes are met (modified 003.02A and new 003.02A3), OR be found not in compliance with 79-201, the compulsory attendance law (new 003.02A and 003.02A3).

## II. First time homeschooling in Nebraska after moving into Nebraska:

2. File exemption statement forms by July 1, or forms "upon becoming a resident", and there will be no trouble for the parents because the timing sequence required in the rule changes are met (modified 003.02A and new 003.02A3), OR be found not in compliance with 79-201 (new 003.02A1 and 003.02A3).

## III. Transferring from an approved or accredited school to exempt school:

1. Parents must file exemption statement forms "as soon as practicable" (per new section 003.02A2), and
2. Students must remain in their approved or accredited school until receiving the "Letter of Acknowledgement" up to 30 days+ later (per new section 003.02A2), or be found not in compliance with 79-201 (new 003.02A2 and 003.02A3). As noted by the Nebraska Supreme Court,

<sup>1</sup> **Overview of Regulation Process; Rule drafting period:** "The **rule drafting period** is the amount of time used by the agency to draft the proposed regulation and **solicit input from interested parties** as appropriate. Interested parties may include the public, industry associations, or persons or groups affected by the regulation. Because **it is difficult to significantly change a regulation once it has been set for hearing**, the drafting period is an important phase in the development of a regulation." [Bold emphasis added], [http://www.sos.ne.gov/rules-and-regs/reg\\_process.html](http://www.sos.ne.gov/rules-and-regs/reg_process.html)

- a. This is a violation of 79-1601(3) because the exemption **“shall be effective when a statement is received by the Commissioner of Education,”** not when the Letter of Acknowledgement is received by the parents, [**“Under § 79-1601(3), an election to operate an exempt school is effective when the Commissioner of Education receives a signed statement from the parents or legal guardians of all attending students that provides the following information: (1) their reason for electing not to educate their child at a state accredited or approved school; and (2) their commitments that an authorized representative of the parents or legal guardians will submit information to prove that, generally, the school will meet the requirements for basic skills instruction in specified subjects.”**<sup>2</sup>] and
- b. **§ 79-201(2) does not require parents to enroll their child in a legally recognized school until they obtain the State’s recognition of an exempt homeschool.** [**“[7] But under the law as written, we do not agree that a child must be attending a recognized exempt school each day of the public school calendar year. Nor do we read § 79-201(2) as requiring parents to enroll their child in a legally recognized school until they obtain the State’s recognition of an exempt homeschool. Instead, § 79-201(2) provides that a child must “attend regularly a public, private, denominational, or parochial day school . . . or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements, each day that such school is open and in session. (Emphasis supplied.)”**<sup>3</sup>]
- c. **And this is an attempt to use regulation, without statutory support, to apply criminal penalties to parents (should they remove their children immediately after sending their exemption statement forms to the Commissioner) in violation of State v. Thacker.** [**“As stated, § 79-318(5)(c) authorizes the Department to establish the standards and procedures for exempt schools. But we will not interpret the Department’s regulations to impose a requirement that carries criminal consequences when that requirement is not clearly imposed under the governing statute.”**<sup>4</sup>]
- d. The 30 day delay to receive the Letter of Acknowledgement outside the summer rush is simply not justified. (Even in the Thacker case, it only took a few days to send out the Letter,<sup>5</sup> as mentioned by the Supreme Court.) Nevertheless, the exemption **shall be effective when a statement is received by the Commissioner of Education,** not when the Letter of Acknowledgement is received by the parents.

#### **IV. Residents filing first year or subsequent-year homeschooling after July 1:**

1. 003.02A has had a requirement to file the exemption statement forms with the Commissioner of Education 30 days prior to beginning the home school operations; although there is no statutory authority for the 30 days requirement.
2. Now, there is no sequence spelled out for this situation in the proposed rule changes; it was eliminated.
3. One can still file before mid-August and hope that the Letter of Acknowledgement arrives quickly.
4. BUT, if the public schools have already started and the Letter of Acknowledgement has not been received, parents will have to send their children to an approved or accredited school until the Letter of Acknowledgement arrives, then transfer them to their exempt school.
5. This situation is very similar to that for transferring a student from an approved or accredited school to an exempt school, and the legal problems with the rules changes are essentially the same, too.

<sup>2</sup> [STATE v. THACKER](#), 286 Neb. 16, p. 22.

<sup>3</sup> *Ibid*, pp. 23-24.

<sup>4</sup> *Ibid*, p. 26.

<sup>5</sup> [STATE v. THACKER](#), 286 Neb. 16, p. 19: “Gail said that they sent in the paperwork to the Department about the end of September but that the envelope was returned because she had not addressed it properly; she resent the envelope. Their signatures on the forms were notarized on September 27, 2011.

The Commissioner of Education acknowledged receipt of the Thackers’ documents on October 6, 2011. On the same day, the commissioner sent a report to all public school superintendents listing the parents from whom the commissioner had received the required forms for homeschooling by October 4. The report stated that the commissioner recognized the Thackers’ homeschool as of October 6.”

IN SUMMARY:

Those parents or guardians who, after July 1 or during the school year, conclude that **“the requirements for approval and accreditation required by law and the rules and regulations adopted and promulgated by the State Board of Education violate sincerely held religious beliefs”** OR **“interfere with the decisions of the parents or legal guardians in directing the student's education”** (such decisions include **keeping their child(ren) away from guns, knives, bullies, drugs, or the wrong crowd, AND/OR to use the flexibility of home education to achieve a level of education that they cannot get from an approved or accredited school**, will be faced with violating their sincerely held religious beliefs AND/OR educational decisions for up to 34 days or more while having their children continue to attend an approved or accredited school, or 2) being charged with truancy. This is precisely what LB928/Rule 13 (1984) and LB268/Rule 12 (1999) were intended to prevent. It appears that the NDE intends to define when parents can declare a change in their religious beliefs OR make critical educational decisions under Rules 12 and 13, i.e., only early summer before July 1! Otherwise, expect delay and trouble.

Over many years, home schooling has proved to be a method of education that produces students with above average educational abilities as a whole, and who prove to be productive citizens. Home schooling works with low regulations. Studies show that higher regulation does not improve the already high performance of home school students. The increased regulation in the proposed changes is of dubious legality, and will create unnecessary hardship without improving the results of home education. The NCHEA is disappointed in the proposed discriminatory treatment of a legal and successful form of education.

The Nebraska Christian Home Educators Association strongly urges the State Board of Education to reject the defective and illegal proposed changes to Rule 12 and Rule 13.



Nebraska Christian Home Educators Association

October 9, 2013

## NCHEA Observations and Position on Proposed Changes to Rules 12 and 13

By David Lostroh, NCHEA Legislative Liaison

### SUMMARY OF PROBLEMS WITH THE PROPOSED CHANGES TO RULES 12 AND 13

- The proposed regulations violate existing law, 79-1601(3), which states, "Elections pursuant to such subsections shall be effective when a statement is received by the Commissioner of Education." According to the law, parents **notify** the Commissioner of Education of their decision/election to homeschool; parents **are not requesting approval or permission** to homeschool. Parents can begin homeschooling when they have provided their notification to the Commissioner of Education.
- The proposed regulations are also in violation of another law. The Nebraska Supreme Court recently ruled as follows: "Nor do we read 79-201(2) as requiring parents to enroll their child in a legally recognized school until they obtain the State's recognition of an exempt homeschool."
- The changes create a 30 day delay for student transfers to an exempt home school in violation of Nebraska Revised Statute 79-1601(3), which provides that the parents' election and notification is effective when received by the Commissioner of Education.
- The changes effectively require parents, who decide to homeschool after July 1, to enroll their children in a public or approved/accredited private school for up to 30 days before transferring them to their home school while they wait to receive the Letter of Acknowledgement from the Commissioner of Education. This is in violation of 79-1601(3) and 79-201(2).
- The changes apply criminal penalties for failure to abide by rules/regulations unsupported by statute.
- Changes violate the Nebraska Supreme Court ruling *STATE v. THACKER*, 286 Neb. 16 by:
  - o Requiring parents to enroll their child in a legally recognized school until they obtain the State's recognition of an exempt homeschool in violation of § 79-201(2) for transfers.
  - o An implied requirement for children to attend a legally recognized school every day of that school's calendar year until their request to operate a homeschool becomes effective for those parents who decide to file exemption statement forms after July 1. This is a violation of § 79-201.
  - o Criminalizing failure to enroll children in a legally recognized school pending the State's recognition of their homeschool in violation of § 79-201.
  - o Imposing requirements that carry criminal consequences (truancy) when that requirement is not clearly imposed under the governing statute.
- Changes violate parent's religious beliefs and educational decisions by codifying a bureaucratic delay and creating criminal penalties for parents who sincerely need to homeschool immediately upon deciding to do so.
- The changes discriminate against exempt schools, as compared to approved and accredited schools, by creating delays of up to 30 days for exempt school startups or transfers.
- The changes create needless delays for desperate parents who want to homeschool their children immediately because of an illness, guns, knives, bullies, drugs, or the wrong crowd at their current school.
- They needlessly interfere with the intent of LB928/Rule 13 (1984) and LB268/Rule 12 (1999).
  - For details and proof of the bullet items listed above, please continue.

The Nebraska Christian Educators Association opposes the proposed changes to Rules 12 and 13.

Contrary to the Nebraska Secretary of State's website regarding the regulation process, the NDE did not solicit input from the NCHEA during the rule drafting period, making it more difficult to change the regulation since it is already set for hearing.<sup>1</sup>

The proposed changes are not minor and they represent a significant restriction on the rights of parents to take immediate action, without government intervention, in light of their religious beliefs and the best interests of their children. The proposed changes are in direct opposition to state law.

The proposed changes seem to be a very harsh response to the Nebraska Supreme Court ruling in STATE v. THACKER, 286 Neb. 16. In the Thacker case, there was a tremendous amount of force applied to and hardship endured by parents and their children with the parents subsequently vindicated by the courts.. The changes appear intended to force home school parents to comply with lots of additional and unnecessary restrictions that will create lots of unnecessary truancy cases in the courts, or force the parents to temporarily violate their religious, educational, or safety concerns for their children. Why is this? Who is being served?

After 29 years with the existing exemption statement filing requirements, we fail to see that there is now a great need to change the rules. In at least nine states (Alaska, Idaho, Illinois, Indiana, Michigan, Missouri, New Jersey, Oklahoma, and Texas) there is no requirement to notify the State Department of Education, the local school district, or other government agency in order to start homeschooling.

## **RESULTS OF APPLYING PROPOSED RULES 12 & 13 CHANGES:**

Immediately below are four scenarios that will result from the proposed Rule 12 and Rule 13 changes, in black text. The sequences show some of the unnecessary hardship that will be resulting for home school parents and children. Included in the scenarios are comments in blue text that list many very serious problems with the proposals. The changes are the same in both Rule 12 and Rule 13; hence the section numbers referenced at the end apply to both rules.

### **I. First year and subsequent year homeschooling:**

1. File exemption statement forms by July 1 instead of July 15 to allow NDE time to process forms by mid-August. (modified 003.02A)
2. Because this meets the timing required in modified section 003.02A, there will be no truancy charges per new section 003.02A3. Incomplete/erroneous exemption statement forms could still be problematic.

### **II. First time homeschooling in Nebraska after moving into Nebraska:**

1. Before July 1:
  - a. File exemption statement forms by July 1 to allow NDE time to process forms by mid-August per modified section 003.02A.
  - b. Because this meets the timing required in modified section 003.02A, there will be no truancy charges per new section 003.02A3. Incomplete/erroneous exemption statement forms could still be problematic.
2. After July 1:
  - a. File exemption statement forms "upon becoming a resident" (new section 003.02A1). Resident is defined in new section 002.03 (i.e., as soon as one moves into their home located in Nebraska).
  - b. Because this meets the timing required in new section 003.02A1, there will be no truancy charges per new section 003.02A3. Incomplete/erroneous exemption statement forms could still be problematic.

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<sup>1</sup> **Overview of Regulation Process; Rule drafting period:** "The **rule drafting period** is the amount of time used by the agency to draft the proposed regulation and **solicit input from interested parties** as appropriate. Interested parties may include the public, industry associations, or persons or groups affected by the regulation. Because **it is difficult to significantly change a regulation once it has been set for hearing**, the drafting period is an important phase in the development of a regulation." [Bold emphasis added], [http://www.sos.ne.gov/rules-and-regs/reg\\_process.html](http://www.sos.ne.gov/rules-and-regs/reg_process.html)

### III. Transferring from an approved or accredited school to exempt school:

1. Upon deciding to transfer students, parents must file exemption statement forms “as soon as practicable” per new section 003.02A2.
2. Students must stay in the accredited school even if the parents intend to have their children enroll in the exempt school and have filed the exemption statement forms described in modified section 003.02A per new section 003.02A2.
  - a. This violates the Nebraska Revised Statute 79-1601(3) which requires that the exemption “**shall be effective when a statement is received by the Commissioner of Education,**” not when the Letter of Acknowledgement is received by the parents. The Nebraska Supreme Court said in the Thacker case:
    - i. “Under § 79-1601(3), an election to operate an exempt school is effective when the Commissioner of Education receives a signed statement from the parents or legal guardians of all attending students that provides the following information: (1) their reason for electing not to educate their child at a state accredited or approved school; and (2) their commitments that an authorized representative of the parents or legal guardians will submit information to prove that, generally, the school will meet the requirements for basic skills instruction in specified subjects.”<sup>2</sup>
    - ii. “[7] But under the law as written, we do not agree that a child must be attending a recognized exempt school each day of the public school calendar year. **Nor do we read § 79-201(2) as requiring parents to enroll their child in a legally recognized school until they obtain the State’s recognition of an exempt homeschool.** Instead, § 79-201(2) provides that a child must “attend regularly a public, private, denominational, or parochial day school . . . or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements, each day that such school is open and in session. (Emphasis supplied.)”<sup>3</sup>
    - iii. “The State has appealed under Neb. Rev. Stat. § 29-2315.01 (Reissue 2008), asking for a decision to provide precedent under § 79-201 for future cases.  
The State contends that § 79-201 required the Thackers to ensure that their children attended a legally recognized school every day of that school’s calendar year until their request to operate a homeschool became effective. The Thackers contend that Nebraska’s statutes and regulations required them to do only two things: (1) have their children attend their homeschool every day that it was in session; and (2) complete the minimum required hours of instruction by June 30, 2012, the end of the school year.  
**We conclude that § 79-201 did not criminalize the Thackers’ failure to enroll their children in a legally recognized school pending the State’s recognition of their homeschool. We overrule the State’s exceptions.**”<sup>4</sup>
    - iv. “As stated, § 79-318(5)(c) authorizes the Department to establish the standards and procedures for exempt schools. But **we will not interpret the Department’s regulations to impose a requirement that carries criminal consequences when that requirement is not clearly imposed under the governing statute.**”<sup>5</sup>
3. Students must remain in the approved or accredited school until the Letter of Acknowledgement is received per new section 003.02A2. This could take up to 34 days per modified section 005 because the Commissioner no longer must direct that a letter be sent acknowledging receipt of the exemption statement forms “upon receipt,” but now has 30 days to direct that the letter be sent. Two days for preparation and two for delivery could result in the parents receiving the letter as long as 34 days after arrival at NDE.
  - a. See comments in 2. Immediately above.

<sup>2</sup> [STATE v. THACKER](#), 286 Neb. 16, p. 22.

<sup>3</sup> *Ibid*, pp. 23-24.

<sup>4</sup> *Ibid*, p. 18.

<sup>5</sup> *Ibid*, p. 26. 11/13 State Board of Education Work Session

- b. What about the situation where the exemption statement forms have been received by the Commissioner and are effective immediately by law, yet perhaps as many as 30 days later upon further examination by the NDE, they prove defective in some way? The Nebraska Supreme Court says,

- i. “Under § 79-1601(3), an election to operate an exempt school is effective when the Commissioner of Education receives a signed statement from the parents or legal guardians of all attending students that provides the following information: (1) their reason for electing not to educate their child at a state accredited or approved school; and (2) their commitments that an authorized representative of the parents or legal guardians will submit information to prove that, generally, the school will meet the requirements for basic skills instruction in specified subjects.”<sup>6</sup>
- ii. “If the parent representative does not provide the required information, or if any other requirements for obtaining exempt status are not met, the Department will notify the school district in which an attending child resides that the child is not attending an exempt school under § 79-201.”<sup>7</sup>

This says 1) when the Commissioner receives the exemption statement forms the school is exempt, and 2) if the exemption statement forms are incomplete, the NDE will let the school district (and hopefully the parents) know that the school is not exempt. This puts the delay problem (up to 30+ day delay from NDE on the Letter of Acknowledgement) onto the NDE rather than the home school.

4. Because this meets the timing required in new section 003.02A2, there will be no truancy charges per new section 003.02A3. Incomplete/erroneous exemption statement forms could still be problematic.
- a. **Truancy charges are criminal charges. 79-1607. Violations; penalty.** Any person violating any of the provisions of sections 79-1601 to 79-1606 shall be guilty of a Class III misdemeanor. **79-210. Violations; penalty.** Any person violating the provisions of sections 79-201 to 79-209 shall be guilty of a Class III misdemeanor.

#### IV. Residents filing first year or subsequent-year homeschooling after July 1:

1. Late filing situation 1:
- a. File exemption statement forms after July 1 due to 1) oversight, 2) new sincerely held religious belief, or 3) because of recent heightened concern about guns, bullies, drugs, the wrong crowd, etc., in their approved/accredited school (bearing in mind that NDE wants filings by July 1 to allow time to process forms by mid-August.) This case is not covered in modified section 003.02A, or anywhere in the proposed rule changes.
- b. Somehow, the Letter of Acknowledgement arrives from the Commissioner of Education before the local schools start.
- c. Start homeschool as outlined in the exemption statement forms.
- d. This timing does not meet a timing sequence covered by modified section 003.02A, but things turned out to be fortunate. Incomplete/erroneous exemption statement forms could still be problematic.
2. Later filing situation 2:
- a. File exemption statement forms after July 1 due to 1) oversight, 2) new sincerely held religious belief, or 3) because of recent heightened concern about guns, bullies, drugs, the wrong crowd, etc., in their approved/accredited school (bearing in mind that NDE wants filings by July 1 to allow time to process forms by mid-August.) This case is not covered in modified section 003.02A, or anywhere in the proposed rule changes.
- i. See notes in III 2. above.
- b. The Letter of Acknowledgement from the Commissioner of Education does not arrive before the local schools start because they did not have enough time to process it, or the exemption statement forms were filed after the local schools started.

<sup>6</sup> STATE v. THACKER, 286 Neb. 16, p. 22.

<sup>7</sup> Ibid, p. 23. 13 State Board of Education Work Session

- c. Quickly send the children to an approved or accredited public, private, denominational, or parochial school in order to avoid truancy charges. The parents and children may be very, very unhappy about this. The Supreme Court ruled:
    - i. **“We conclude that § 79-201 did not criminalize the Thackers’ failure to enroll their children in a legally recognized school pending the State’s recognition of their homeschool. We overrule the State’s exceptions.”**<sup>8</sup>
  - d. Continue until the Letter of Acknowledgement arrives from the Commissioner of Education.
  - e. Start the homeschool as described in the exemption statement forms.
  - f. Because this meets the timing required in new section 003.02A2 for transferring students from an approved or accredited school to an exempt school, there will be no truancy charges per new section 003.02A3. Incomplete/erroneous exemption statement forms could still be problematic.
    - i. **This is an attempt to use department regulations to impose criminal consequences if NDE rule 12 or 13 sequences and timing are not followed.** The Nebraska Supreme Court says, “As stated, § 79-318(5)(c) authorizes the Department to establish the standards and procedures for exempt schools. **But we will not interpret the Department’s regulations to impose a requirement that carries criminal consequences when that requirement is not clearly imposed under the governing statute.**”<sup>9</sup>
1. Unlike the situations described in I, II, and III above, there is no desirable case listed in the proposed rules changes for filing exemption statement forms after July 1 that offers an appropriate timing of event(s) that will prevent truancy charges. However, even the current 30 day notification for first year home schools does not have statutory support.
  2. This is what Eric and Gail Thacker did, as noted by the Nebraska Supreme Court, “The Commissioner of Education acknowledged receipt of the Thackers’ documents on October 6, 2011. On the same day, the commissioner sent a report to all public school superintendents listing the parents from whom the commissioner had received the required forms for homeschooling by October 4. The report stated that the commissioner recognized the Thackers’ homeschool as of October 6. Gail testified that they planned to start homeschooling on November 14. On October 11, the State charged the Thackers with violating § 79-201 from August 17 through October 4.”<sup>10</sup>
  3. Rules 12 and 13 as currently written only require that the parents file the exemption statement forms thirty days prior to beginning operation, but there is no timing requirement as noted by the Nebraska Supreme Court:
    - o **“But nothing in Nebraska’s statutes or regulations sets a deadline for the filing requirement in the first year of an exempt school’s operation.”**<sup>11</sup>
    - o **“But neither Nebraska’s statutes nor the Department’s regulations set out a deadline for an exempt school to begin operations.** The regulations require only that a notarized statement from an exempt school’s parent representative be filed ‘[t]hirty days prior to the date on which the exempt school is to begin operation, and annually thereafter by July 15 . . . .’ **So although the regulations set a filing deadline for an exempt school’s second year of operation, they conspicuously omit a filing deadline for the first year.**”<sup>12</sup>
  4. The proposed changes are an attempt to provide the timing requirements that the Supreme Court correctly observed currently do not exist and are not required by statute, so that another Thacker-like case will result in firm truancy convictions.

As noted above in the blue inserts and comments, the proposed drafts have too many problems to be helpful.

<sup>8</sup> Ibid, p. 18.

<sup>9</sup> Ibid, p. 26.

<sup>10</sup> Ibid, p. 19.

<sup>11</sup> Ibid, pp. 24-25.

<sup>12</sup> Ibid, p. 25.

IN SUMMARY:

Those parents or guardians who, after July 1 or during the school year, conclude that **“the requirements for approval and accreditation** required by law and the rules and regulations adopted and promulgated by the State Board of Education violate sincerely held religious beliefs” OR “interfere with **the decisions of the parents** or legal guardians in directing the student's education” (such **decisions include keeping their child(ren) away from guns, bullies, drugs, or the wrong crowd**, AND/OR to use the flexibility of home education to achieve a level of education that they cannot get from an approved or accredited school, **will be faced with violating their sincerely held religious beliefs AND/OR educational decisions** by having their children attend an approved or accredited school for up to 34 days or more, or 2) being charged with truancy. This is precisely what LB928/Rule 13 (1984) and LB268/Rule 12 (1999) were intended to prevent. It appears that the NDE intends to define when parents can declare a change in their religious beliefs OR make critical educational decisions under Rule 12, i.e., only early summer before July 1!

[NOTE: Please see the notes referenced in this paragraph immediately below]

<sup>a</sup> The only significant statement about the intent of LB 268 made during the legislative floor debates was made by Senator Pam Redfield of Omaha just prior to the General File (1<sup>st</sup> round) vote on 2/2/99:

*SENATOR REDFIELD: Thank you, Mr. Speaker, members of the house. I'd like to return to what we are here to debate, and that is this bill. It allows people to be honest, as Senator Bohlke has so adequately expressed. And I'd just like to share with you a story that I have encountered time and again in this school district as parents have called me and said, I had a child who was involved in drugs. They got into the wrong group of kids, and now that they have gone through treatment, they are clean of drugs, I have the choice of sending them back into the public school with the same batch of kids, and I know that they may face that temptation and they may fall, and so I want to be able to keep my children at home, home school them because I can't afford a private school, and I don't have the option enrollment available to me because the deadline is past. But I need to keep my child home and school them at home and give them the best chance I can in this drug situation. But they can't sign a religious waiver, not in good conscience, because that is not their reason. There are other things. There are other special needs, gifted children, behavioral things that parents feel that they can home school their children and they can do a good job. I think we need to give them the right to do it and to be honest about it.*

LB 268 passed the first round vote by 35-0-14. The second round vote, after Senator Bohlke's announcement about the new rule for non-religious home schooling and not changing Rule 13, was a simple voice vote (no recorded number of ayes and nays). The Final Reading (3<sup>rd</sup> round ) vote was 44-0-5.

<sup>b</sup> During the Education Committee hearing, Senator Bohlke said that LB 268 (resulted in Rule 12) came about because of the Martin Bremmer family in Venango whose son is unable to attend public or private school because of his accelerated scholastic abilities.

Over many years, home schooling has proved to be a method of education that produces students with above average educational abilities as a whole, and who prove to be productive citizens. Home schooling works with low regulation. Studies show that higher regulation does not improve the already high performance of home school students. The increased regulation in the proposed changes is of dubious legality, and will create unnecessary hardship without improving the results of home education.

The Nebraska Christian Home Educators Association strongly urges the State Board of Education to reject the proposed changes to Rule 12 and Rule 13.

treatment or categorizations that may follow from the workers' compensation scheme will not always result in mathematical niceties and, in some circumstances, may lead to inequality.<sup>51</sup> But this does not make the Act unconstitutional. The Estate has failed to sustain its burden<sup>52</sup> of establishing the unconstitutionality of the Act under the equal protection, due process, special legislation, or right-to-jury provisions of the U.S. and Nebraska Constitutions.

#### VI. CONCLUSION

For the foregoing reasons, we affirm the district court's dismissal of the Estate's complaint. The Estate must seek compensation from the employer for Teague's death exclusively from the Workers' Compensation Court.

AFFIRMED.

CASSEL, J., not participating.

<sup>51</sup> See *Otto v. Hahn*, *supra* note 35.

<sup>52</sup> See, e.g., *State ex rel. Bruning v. Gale*, 284 Neb. 257, 817 N.W.2d 768 (2012).

STATE OF NEBRASKA, APPELLANT, v.  
ERIC C. THACKER, APPELLEE.

STATE OF NEBRASKA, APPELLANT, v. GAIL  
L. MORGAN-THACKER, APPELLEE.

\_\_\_ N.W.2d \_\_\_

Filed May 31, 2013. Nos. S-12-895, S-12-896.

1. **Statutes.** Statutory interpretation presents a question of law.
2. **Appeal and Error.** An appellate court reviews questions of law independently of the lower court.
3. **Criminal Law: Statutes: Appeal and Error.** It is a fundamental principle of statutory construction that courts strictly construe penal statutes, and it is not for the courts to supply missing words or sentences to make clear that which is indefinite, or to supply that which is not there.
4. **Criminal Law: Statutes: Legislature: Intent.** A court gives penal statutes a sensible construction, considering the Legislature's objective and the evils and mischiefs it sought to remedy.

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5. **Criminal Law: Statutes.** A court will not apply a penal statute to situations or parties not fairly or clearly within its provisions.
6. \_\_\_\_: \_\_\_\_\_. Ambiguities in a penal statute are resolved in the defendant's favor.
7. **Schools and School Districts: Parent and Child.** Neb. Rev. Stat. § 79-201(2) (Cum. Supp. 2010) does not require parents to enroll their child in a legally recognized school until they obtain the State's recognition of an exempt homeschool.
8. **Words and Phrases.** The word "or," when used properly, is disjunctive.
9. **Schools and School Districts: Time.** Under Neb. Rev. Stat. § 79-201(2) (Cum. Supp. 2010), an exempt school's ability to complete the minimum instruction hours is the only timing requirement imposed upon an exempt school's calendar year.

Appeals from the District Court for Dawson County, JAMES E. DOYLE IV, Judge, on appeal thereto from the County Court for Dawson County, CARLTON E. CLARK, Judge. Exceptions overruled.

Michael R. Johnson, Deputy Dawson County Attorney, for appellant.

Mark R. McKeone, of Mark R. McKeone, P.C., L.L.O., and Michael P. Farris and Peter K. Kamakawiwoole, Jr., of Home School Legal Defense Association, for appellees.

HEAVICAN, C.J., WRIGHT, CONNOLLY, STEPHAN, MILLER-LERMAN, and CASSEL, JJ.

CONNOLLY, J.

SUMMARY

Eric C. Thacker and Gail L. Morgan-Thacker (collectively the Thackers) sought to homeschool their children but did not obtain state recognition of their homeschool until October 2011. They did not enroll their five children in any legally recognized school before then. In a joint trial, the county court convicted Eric and Gail individually of five misdemeanor counts—one for each child—for violating Nebraska's compulsory education statute.<sup>1</sup> The county court convicted the Thackers of violating the statute from August 17, 2011 (when the public school calendar year began), to October 4 (when

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<sup>1</sup> See Neb. Rev. Stat. § 79-201 (Cum. Supp. 2010).

the State received notice that the Thackers would homeschool their children). After consolidating the Thackers' appeals, the district court reversed. The State has appealed under Neb. Rev. Stat. § 29-2315.01 (Reissue 2008), asking for a decision to provide precedent under § 79-201 for future cases.

The State contends that § 79-201 required the Thackers to ensure that their children attended a legally recognized school every day of that school's calendar year until their request to operate a homeschool became effective. The Thackers contend that Nebraska's statutes and regulations required them to do only two things: (1) have their children attend their homeschool every day that it was in session; and (2) complete the minimum required hours of instruction by June 30, 2012, the end of the school year.

We conclude that § 79-201 did not criminalize the Thackers' failure to enroll their children in a legally recognized school pending the State's recognition of their homeschool. We overrule the State's exceptions.

#### BACKGROUND

In March 2011, the Thackers moved to Farnam, Nebraska, from New Jersey. Farnam is in the Eustis-Farnam Public Schools district. In 2011, the public school calendar year started on August 17. The principal of the public school learned about the Thackers in March. After a couple of weeks, when the family did not enroll their children in school, he contacted the county attorney.

In April 2011, a sheriff's officer contacted Eric about the children's not being in school. Eric told the officer that he and Gail were homeschooling their children but that they had finished the curriculum for their 2010-11 school year before they moved to Farnam. The officer informed Eric that they must file paperwork with the State and contact the school district or that they could be violating the law. Eric then contacted the principal, who told Eric that they must file paperwork with the Department of Education (the Department) over the summer if they intended to homeschool their children. The Thackers did not enroll their children in public school. Around the middle of September, the principal

wrote the county attorney that the children were not enrolled in public school.

Gail testified that after the family moved to Farnam, Eric received a job offer in Kentucky and they believed they would be moving there at the end of September 2011. Instead, Eric received a promotion at his job in North Platte, Nebraska, and the Thackers planned on homeschooling. Based on their religious objections, they applied to the Department for an exemption from state approval and accreditation requirements for schools. Gail said that they sent in the paperwork to the Department about the end of September but that the envelope was returned because she had not addressed it properly; she resent the envelope. Their signatures on the forms were notarized on September 27, 2011.

The Commissioner of Education acknowledged receipt of the Thackers' documents on October 6, 2011. On the same day, the commissioner sent a report to all public school superintendents listing the parents from whom the commissioner had received the required forms for homeschooling by October 4. The report stated that the commissioner recognized the Thackers' homeschool as of October 6. Gail testified that they planned to start homeschooling on November 14. On October 11, the State charged the Thackers with violating § 79-201 from August 17 through October 4.

At trial, the Thackers argued that they did not violate § 79-201 because their children had attended their exempt homeschool each day that it was in session. They argued that the State had not proved they could not complete the minimum hours of instruction required by state law before June 30, 2012 (the end of the school year). Gail testified that they started their homeschool on November 7, 2011, and that they could complete the required hours before June 30, 2012. But the State argued that until an exempt school is in session and conducting classes, the children must be enrolled in some type of legally recognized school, and that the Thackers' children were not.

The county court found that the Thackers could complete the required hours by the end of the school year. But it determined that they were guilty of violating § 79-201 from August 17 to

October 4, 2011. The Thackers appealed to the district court, which consolidated their appeals.

The district court reversed the decisions and remanded the causes with instructions for the county court to vacate the Thackers' convictions and sentences. The court concluded that for the first year of operation, the statutes and regulations required only that the Thackers begin the operation of their homeschool so that they could complete the required minimum hours of instruction by June 30, 2012. The Department's regulations set June 30 as the end of the school year for the Thackers' homeschool. The court concluded that the Thackers were not required to enroll their children in the public schools pending the start of their exempt homeschool. It further concluded that the Thackers' compliance with § 79-201 was not controlled by whether they had enrolled their children in an exempt school by the start date for the public school calendar year. Because the county court had found that the Thackers could complete the required minimum hours of instructions, the district court reversed.

#### ASSIGNMENTS OF ERROR

The State assigns, restated, that the district court erred as follows:

- (1) determining that § 79-201 does not require parents to ensure that their school-age children attend a state approved or accredited school until the parents obtain an exemption;
- (2) determining that Neb. Rev. Stat. § 79-1601(3) (Cum. Supp. 2012) does not establish the "effective" date of a parent's election statement as the date it is received by the Commissioner of Education; and
- (3) determining that the evidence admitted at trial was insufficient to support the convictions.

#### STANDARD OF REVIEW

[1,2] Statutory interpretation presents a question of law.<sup>2</sup> We review questions of law independently of the lower court.<sup>3</sup>

<sup>2</sup> See *State v. Ramirez*, 285 Neb. 203, 825 N.W.2d 801 (2013).

<sup>3</sup> See *State v. Bree*, 285 Neb. 520, 827 N.W.2d 497 (2013).

## ANALYSIS

The State contends that § 79-201 presumes students will be enrolled in and attending a public school until a parent enrolls his or her child in a different school that the State recognizes. It concedes that § 79-201 allows parents to educate their children in other types of legally recognized schools. But it argues that until a parent obtains the State's recognition of a private homeschool, the child must be attending some legally recognized school during the public school calendar year. And it argues that under § 79-1601(3), the State's recognition of a private homeschool is not effective until the Department receives a parent's notarized statement of intent.

The Thackers contend that § 79-201 only required them to have their children attend their exempt homeschool every day that it was in session and to complete the minimum hours of instruction required by law. They argue that Nebraska's statutes do not preclude them from starting a homeschool after the public school calendar year begins or compel them to enroll their children in a public school until their homeschool begins operation.

We agree with the Thackers. We view the State's argument through the prism of statutory construction principles that apply to penal statutes.

[3-6] It is a fundamental principle of statutory construction that we strictly construe penal statutes, and it is not for the courts to supply missing words or sentences to make clear that which is indefinite, or to supply that which is not there.<sup>4</sup> We give penal statutes a sensible construction, considering the Legislature's objective and the evils and mischiefs it sought to remedy.<sup>5</sup> We will not apply a penal statute to situations or parties not fairly or clearly within its provisions.<sup>6</sup> So, ambiguities in a penal statute are resolved in the defendant's favor.<sup>7</sup>

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<sup>4</sup> See *State v. McCarthy*, 284 Neb. 572, 822 N.W.2d 386 (2012).

<sup>5</sup> See *State v. Fuller*, 279 Neb. 568, 779 N.W.2d 112 (2010).

<sup>6</sup> See *Vokal v. Nebraska Acct. & Disclosure Comm.*, 276 Neb. 988, 759 N.W.2d 75 (2009).

<sup>7</sup> See *State v. Dinslage*, 280 Neb. 659, 789 N.W.2d 29 (2010).

Under Neb. Rev. Stat. § 79-210 (Reissue 2008), a person violating a compulsory education statute<sup>8</sup> is guilty of a Class III misdemeanor. As stated, the State charged Eric and Gail with five counts each of violating § 79-201. Section 79-201(2), in relevant part, provides the following:

[E]very person residing in a school district within the State of Nebraska who has legal or actual charge or control of any child who is of mandatory attendance age or is enrolled in a public school shall cause such child to enroll in, if such child is not enrolled, and attend regularly a public, private, denominational, or parochial day school which meets the requirements for legal operation prescribed in Chapter 79, or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements, *each day that such school is open and in session*, except when excused by school authorities or when illness or severe weather conditions make attendance impossible or impracticable.

(Emphasis supplied.)

Section 79-1601 sets out the requirements for obtaining an exemption from state approval and accreditation requirements for schools. Under § 79-1601(3), an election to operate an exempt school is effective when the Commissioner of Education receives a signed statement from the parents or legal guardians of all attending students that provides the following information: (1) their reason for electing not to educate their child at a state accredited or approved school; and (2) their commitments that an authorized representative of the parents or legal guardians will submit information to prove that, generally, the school will meet the requirements for basic skills instruction in specified subjects.

This filing requirement applies to any private, denominational, or parochial school that “elects not to meet state accreditation or approval requirements.”<sup>9</sup> Private, unaccredited

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<sup>8</sup> See Neb. Rev. Stat. §§ 79-201 to 79-210 (Reissue 2008, Cum. Supp. 2010 & Supp. 2011).

<sup>9</sup> § 79-1601(3).

schools include homeschools.<sup>10</sup> If the parent representative does not provide the required information, or if any other requirements for obtaining exempt status are not met, the Department will notify the school district in which an attending child resides that the child is not attending an exempt school under § 79-201.<sup>11</sup>

The State contends that this filing requirement for exempt schools and other notification statutes support its position that parents must enroll their children in public school until they obtain State recognition of an exempt school (one that is not subject to accreditation or approval requirements). It argues that school districts have the duty to enforce the compulsory education statutes. And it argues that the notice requirements in Nebraska's statutes allow the superintendents of public school districts to track whether a child in their district is or is not attending a legally recognized school.

We agree that school districts have a duty to enforce school attendance requirements and that notice requirements help superintendents track children's school attendance in their districts.<sup>12</sup> For example, each school must provide the public school superintendent with the children's names who are enrolled in their school and the names of any children who enter or withdraw from the school during the school session. This information is required so the superintendent can enforce § 79-201.<sup>13</sup> And, as stated, the Department will notify a school district about any children who are not attending a recognized exempt school.<sup>14</sup>

[7] But under the law as written, we do not agree that a child must be attending a recognized exempt school each day of the public school calendar year. Nor do we read § 79-201(2) as requiring parents to enroll their child in a legally recognized school until they obtain the State's recognition of an exempt

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<sup>10</sup> See, generally, 92 Neb. Admin. Code, chs. 12 and 13 (2010).

<sup>11</sup> *Id.*, ch. 13, § 006.

<sup>12</sup> See §§ 79-206, 79-208, and 79-209.

<sup>13</sup> See §§ 79-205 and 79-207.

<sup>14</sup> See 92 Neb. Admin. Code, ch. 13, § 006.

homeschool. Instead, § 79-201(2) provides that a child must “attend regularly a public, private, denominational, or parochial day school . . . or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements, *each day that such school is open and in session.*” (Emphasis supplied.)

[8] The word “or,” when used properly, is disjunctive.<sup>15</sup> So the requirement in § 79-201(2) that a child attend school regularly “each day that such school is open and in session” refers to alternative school choices. That is, a child’s required attendance at “such school” refers to a school subject to state accreditation or approval requirements or an exempt school not subject to such requirements.

And § 79-201(2) does not make the start of the public school calendar year the default start date for other schools. Nor does it provide that a child must attend a legally recognized school each day of the public school year. The State’s interpretation could have unintended consequences for private and parochial schools that operate on a different calendar year than their respective public school district. To the extent that § 79-201(2) is ambiguous whether a child must be enrolled and attending a legally recognized school until the State recognizes an exempt private school, we construe that ambiguity against the State.

Furthermore, the Department’s regulations do not require parents to ensure that their child attends a legally recognized school each day of the public school year. Neb. Rev. Stat. § 79-318(5)(c) (Cum. Supp. 2010) authorizes the Department to establish the standards and procedures for exempt schools under § 79-1601. The Department’s chapter 13 regulations—for exempt schools established because of a parent’s religious objections to the State’s accreditation requirements—define a “school year” as “the period of instruction between July 1 and the following June 30.”<sup>16</sup> But nothing in Nebraska’s statutes or

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<sup>15</sup> *Liddell-Toney v. Department of Health & Human Servs.*, 281 Neb. 532, 797 N.W.2d 28 (2011).

<sup>16</sup> 92 Neb. Admin. Code, ch. 13, § 002.04.

regulations sets a deadline for the filing requirement in the first year of an exempt school's operation.

It is true that § 79-1601(6) clarifies that if a school fails to comply with the exemption procedures, there could be criminal consequences for a child's parent or legal guardian:

Any school which elects not to meet state accreditation or approval requirements and does not meet the requirements of subsections (2) through (6) of this section shall not be deemed a school for purposes of section 79-201, and the parents or legal guardians of any students attending such school shall be subject to prosecution pursuant to such section or any statutes relating to habitual truancy.

But neither Nebraska's statutes nor the Department's regulations set out a deadline for an exempt school to begin operations. The regulations require only that a notarized statement from an exempt school's parent representative be filed "[t]hirty days prior to the date on which the exempt school is to begin operation, and annually thereafter by July 15 . . . ."<sup>17</sup> So although the regulations set a filing deadline for an exempt school's second year of operation, they conspicuously omit a filing deadline for the first year.

The only timing requirement for an exempt school's calendar year is imposed by the Department's regulations for minimal instruction hours:

Prior to the date that the exempt school begins operation, and annually thereafter by July 15, the parent representative will submit to the Commissioner or designee the following:

004.01 A calendar for the school year indicating a minimum instruction of 1,080 hours in secondary schools and 1,032 hours in elementary schools. During the first year of operation, the days of instruction may be prorated based upon the remaining balance of the school year.<sup>18</sup>

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<sup>17</sup> *Id.*, § 003.02A.

<sup>18</sup> *Id.*, § 004.

[9] Arguably, the regulation's reference to prorating days of instruction could be read to imply that the student has already completed some days of instruction. As stated, § 79-318(5)(c) authorizes the Department to establish the standards and procedures for exempt schools. But we will not interpret the Department's regulations to impose a requirement that carries criminal consequences when that requirement is not clearly imposed under the governing statute. So the district court correctly determined that under § 79-201(2), an exempt school's ability to complete the minimum instruction hours is the only timing requirement imposed upon an exempt school's calendar year.

We recognize that at some point in the school year, an exempt homeschool would begin operations too late. That is, it could not reasonably prorate the required instructional hours in the remaining days if the students had not previously completed some instruction hours in a legally recognized school. But we need not decide when in the school year that point occurs. Here, the county court specifically found that the Thackers could complete the required instructional hours in the school year. Because the State did not show that the Thackers could not meet the only timing requirement imposed on their homeschool's operation, the district court correctly reversed the county court's decisions and remanded the causes with instructions for the county court to vacate the convictions and sentences.

EXCEPTIONS OVERRULED.

McCORMACK, J., participating on briefs.

**Wid, Brenda**

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**From:** Summers, Scott  
**Sent:** Thursday, October 10, 2013 2:29 PM  
**To:** dl20310@windstream.net  
**Cc:** Swisher, Scott; mquandahl@bqlaw.com; Wid, Brenda  
**Subject:** RE: NCHEA position on proposed changes to Rule 12 and Rule 13

Mr. Lostroh:

State Board of Education Vice President Mark Quandahl forwarded to Deputy Commissioner Dr. Scott Swisher the e-mail to him that appears below.

As you likely know already, a public hearing on these proposed revisions has been scheduled for Tuesday, October 15, 2013, beginning at 10 a.m. Central Time. For your information, a copy of the public notice of that hearing appears on this Department's web site at [http://www.education.ne.gov/Legal/Hearing\\_notices.html](http://www.education.ne.gov/Legal/Hearing_notices.html). This notice was also published in the Omaha World-Herald on 9/14/13. As is explained in that notice, you may present testimony at the hearing or submit written testimony in advance of the hearing that will be made part of the record of the hearing. If you wish the e-mail you sent Mr. Quandahl to be considered your written testimony submitted in advance, please communicate that in advance of the hearing date by sending an e-mail to [brenda.wid@nebraska.gov](mailto:brenda.wid@nebraska.gov).

Scott Summers, Legal Counsel III  
Nebraska Department of Education

*This e-mail and any attachments to it is confidential and may be attorney-client privileged. It is intended only for the use of the individual or entity identified above. If the receiver of this message is not the intended recipient, you are hereby notified that reading, distribution, use, or copying of this message is strictly prohibited. If you have received this message in error, please immediately notify the sender by replying to the address noted above and delete the message. Thank you.*

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**From:** David Lostroh [mailto:dl20310@windstream.net]  
**Sent:** Wednesday, October 09, 2013 11:21 PM  
**To:** Mark Quandahl  
**Subject:** NCHEA position on proposed changes to Rule 12 and Rule 13  
**Importance:** High

NCHEA



*Nebraska Christian Home Educators Association*

**Dear Mr. Quandahl, State Board of Education, District 2:**

The Nebraska Christian Home Educators Association opposes the proposed changes to Rules 12 & 13,

The NCHEA believes that you as a member of the State Board of Education need to know how the proposed changes will adversely affect families and homeschooling in Nebraska.

**The proposed changes are not minor!** They represent a significant restriction on the rights of parents to take immediate action, without government intervention, in light of their religious beliefs and the best interests of their children. **The proposed changes are in direct opposition to state law.**

#### SUMMARY OF PROBLEMS WITH THE PROPOSED CHANGES TO RULES 12 AND 13

- The proposed regulations violate existing law, 79-1601(3), which states, "Elections pursuant to such subsections shall be effective when a statement is received by the Commissioner of Education." According to the law, parents notify the Commissioner of Education of their decision/election to homeschool; parents are not requesting approval or permission to homeschool. The statute allows parents to begin homeschooling when they have provided their notification to the Commissioner of Education.
- The proposed regulations are also in violation of 79-201(2). The Nebraska Supreme Court recently ruled as follows: "Nor do we read 79-201(2) as requiring parents to enroll their child in a legally recognized school until they obtain the State's recognition of an exempt homeschool."
- The changes create a 30 day delay for student transfers to an exempt home school in violation of Nebraska Revised Statute 79-1601(3), which provides that the parents' election and notification is effective when received by the Commissioner of Education.
- The changes effectively require parents, who decide to homeschool after July 1, to enroll their children in a public or approved/accredited private school for up to 30 days before transferring them to their home school while they wait to receive the Letter of Acknowledgement from the Commissioner of Education. This is in violation of 79-1601(3) and 79-201(2).
- Proposed changes apply criminal penalties for failure to abide by rules/regulations unsupported by statute.
- The changes violate the Nebraska Supreme Court ruling STATE v. THACKER, 286 Neb. 16 by requiring parents to enroll their child in a legally recognized school until they obtain the State's recognition of an exempt homeschool in violation of § 79-201(2) for transfers.

The NCHEA hopes that you will be able to attend the hearing on October 15, 2013. We will be there to provide oral testimony and answer any questions you may have.

Sincerely,

**Nick Lenzen, President and David Lostroh, Legislative Liaison**  
**Nebraska Christian Home Educators Association (NCHEA)**

P. O. Box 57041

Lincoln, NE 68505-7041

**RE: To be recorded as public testimony in opposition to proposed changes to Rule 12/13**

**To: The Nebraska State School Board**

**Submitted by: Mary Hilton**

**October 15, 2013**

As a homeschooling mother of 11 years and the history teacher of my children, I encourage my students to study original source documents when researching people and past events. So when these proposed changes were brought before me, I decided to go to the original source document that empowers the State Board of Education and establishes the foundation of my legal standing; I found as my source the Nebraska State Constitution.

It says in the Nebraska Constitution, Article 1, Section 4 "All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences." This same Religious Liberty section further states that no "interference with the rights of conscience" shall be permitted. It also says that "Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the Legislature to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction." This summarizes each of our duties and responsibilities quite well: Rule 13 filers, as an act of worshipping Almighty God, homeschool their children. Rule 12 filers, as a right of conscience, homeschool their children. And the Board of Education, as the education authoritative arm of the State Legislature, has the duty to pass suitable laws to protect these rights and to be encouraging schools; and this would include exempt homeschools.

The proposed changes to Rules 12 & 13 do not appear to be motivated out of a desire to protect the rights of homeschoolers, nor does there appear to be substantial evidence to suggest that changes are needed. And so I would reason, that these changes would fail to qualify as being "suitable." Furthermore, the proposed changes certainly do not uphold the constitutional obligation of "encouraging" our schools. In every proposed change, homeschooling is made more difficult, and thus discouraged. We continue to be discouraged by paperwork deadlines being moved ever closer to the end of the previous school year (003.02A). We would be discouraged, and our rights of conscience would be violated, by discriminating against parents who withdraw their children from approved or accredited schools during the school year and wish to begin homeschooling immediately (003.02A2). We would be discouraged by requiring new Nebraska residents to file their paperwork on the same day that they move into their new home (003.02A1) (002.03). Also, we are discouraged by the constant threat of possible prosecution, unless we meet every stated requirement and deadline; with there being no exceptions and zero grace written into these governing statutes (006). And so it would seem rather conclusive, that if these changes were adopted, that the State Board of Education would be in violation of their constitutional responsibilities.

In closing, as a Rule 13 filer and Christian parent, you and I do not need to be in conflict. If the State Board of Education will seek to operate within the parameters of the Nebraska Constitution by upholding my rights, passing suitable laws, and by encouraging my homeschool, I will seek to produce religious, moral and knowledgeable citizens that will be essential to "good government" and bring honor to God and the State of Nebraska. It's a win-win. Thank you.

64186 731 RD.  
Auburn, NE 68305  
October 15, 2013

Nebraska Department of Education  
Attn: State Board of Education  
301 Centennial Mall South  
P.O. Box 94987  
Lincoln, NE 68509-4987

Dear State Board of Education Members:

I would like to express to you some concerns I have regarding the proposed revisions to Title 92, Nebraska Administrative Code, Chapter 12 (Rule 12), *Regulations and Procedures for Exempting Schools for Which Parents Elect Not to Meet Legal Requirements for School Approval and Accreditation for Other than Religious Reasons* and to Title 92, Nebraska Administrative Code, Chapter 13 (Rule 13), *Regulations and Procedures for Exempting Schools for Which Parents Elect Not to Meet Legal Requirements for School Approval and Accreditation for Religious Reasons*. Of particular concern is the rule change that states:

In no case shall such child be exempt from the mandatory attendance requirements of 79-201 R.R.S. on the basis that the parents intend to enroll the child in an exempt school or have filed the forms described in Section 003.02A. In order to comply with 79-201 R.R.S., a child shall not cease attending the approved or accredited Nebraska school until such time as the Letter of Acknowledgement described in Section 005 is received.

As a parent who once participated in the Enrollment Option Program, I am pleased to note that it is stated in Chapter 19, which addresses the Enrollment Option Program, that "the Legislature finds and declares that parents and legal guardians have the primary responsibility of ensuring that their children receive the best education possible." The proposed changes to Rule 12 and Rule 13 would penalize a parent for removing a child from a public school in the interim between filing for exemption and receiving the Letter of Acknowledgement, and in doing so, would threaten the parents' ability to carry out the responsibility of ensuring that their children receive the best education possible. The rule changes make no allowances for circumstances of any kind. Parents of a severely bullied child might find themselves having to return their child to an unhealthy environment until a Letter of Acknowledgement is received. In such an instance, mandatory attendance might disrupt the educational environment, not only for the child being bullied, but also for other students as well. Mandatory attendance requirements in such an instance could prove burdensome for teachers as well. Today's technology allows for bullying to take place in ways that do not always make it easy to discipline against. Even the best efforts of the public school to prevent bullying from taking place could still leave a child vulnerable. Mandatory attendance when a better option exists for a child is unfair.

In addition to the concerns I have that the proposed rule changes might allow for circumstances that would inadvertently put a child's safety and well-being at risk, there are other aspects of the proposed rule changes that I find equally as troubling. In the proposed changes to Rule 12 and Rule 13 there is much detail regarding the requirements that parents must meet in order to notify of their intent to homeschool, as well as the consequences for failure to meet those requirements; however, little detail is given to the requirements of the State to give a timely reply in the form of a Letter of Acknowledgement, nor is it stated what course of action a parent may take if a prompt reply is not received. Regarding the Letter of Acknowledgement, Rule 12 and 13 indicate only that, "within 30 days of receipt" of the required forms, the Commissioner will direct that a letter be sent to an authorized parent representative. Beyond this direction that a Letter of Acknowledgement be sent, there is nothing in Rule 12 or 13 that clearly defines the time frame in which a parent representative may expect to receive the letter, nor is there any information given as to what action may be taken if a Letter of Acknowledgement is not promptly received. As such, the proposed changes to Rule 12 and Rule 13 do not protect against any abuses of power that could occur in any instance where a Letter of Acknowledgement might be indefinitely delayed. Nowhere is it indicated what recourse parents would have in the event that a Letter of Acknowledgement is not received in a timely manner. As there is no definite time frame for when a Letter of Acknowledgment must be received, the failure to promptly provide a parent representative with a Letter of Acknowledgement could effectively be construed as denial of the parents' right and responsibility to ensure that their children receive the best education possible. No safeguards are written into the rules that would ensure parents receive a prompt reply. It can be strongly argued that the failure to immediately acknowledge a homeschool upon receipt of notification, and the requirement for mandatory attendance until a Letter of Acknowledgment is received, fails to take into consideration the legislature's finding that it is the primary responsibility of the parents to ensure their children are in the best educational environment possible. In determining the best educational environment for a child, the safety, and well-being of that child must be taken into consideration, and the proposed rule changes have the potential to put a child's safety and well-being at risk.

While I do believe that the proposed changes to Rule 12 and Rule 13 were intended to provide clarification, the changes would raise more questions than they would answer. I strongly urge you to consider the consequences of the proposed changes to Rule 12 and Rule 13. Thank you for taking these concerns into consideration as you proceed forward.

Sincerely,



Jennifer Hicks

003.02A2 Parents or guardians of any child enrolled in and attending an approved or accredited Nebraska school, while such school is open and in session, who elect to transfer such child to a school established or to be established under this Chapter, shall cause the parent representative to file the forms prescribed in Section 003.02A as soon as practicable. ~~In no case shall such child be exempt from the mandatory attendance requirements of 79-201 R.R.S. on the basis that the parents intend to enroll the child in an exempt school or have filed the forms described in Section 003.02A. In order to comply with 79-201 R.R.S., a child shall not cease attending the approved or accredited Nebraska school until such time as the Letter of acknowledgement described in Section 005 is received.~~ Hours of instruction provided in such cases may be prorated as described in Section 004.01.

003.02A3 Failure to file in accordance within the time prescribed in sections 003.02A through 003.02A2 will subject the parents or guardians to the consequences described in Section 006.

To: State Board of Education Members  
Lillie Larsen, Mark Quandahl, Rachel Wise, Rebecca Valdez,  
Patricia Timm, Lynn Cronk, Molly O'Halleran, John Sieler  
and Commissioner of Education, Dr. Roger Breed

From: Amy Haberman  
909 Edgewood Blvd  
Papillion, NE 68046

October 15, 2013

*To be read at the Nebraska Department of Education Rule-Making Meeting*

My name is Amy Haberman and I have been homeschooling in Nebraska for two and a half years.

I am here to voice my opposition to the proposed changes to the laws governing home schools in Nebraska.

I do not have a problem with clarifying how truancy laws affect homeschool families.

However, I do believe that any changes made should protect the best interest of students and families. This is *not* accomplished by the proposed changes. These changes clearly seek to protect the state from losing cases such as State vs. Thacker, in which the state tried to charge a homeschool family with violating the compulsory attendance statute.

The purpose of truancy laws are to ensure children are receiving a quality education, not to prevent or delay parents from home educating their children, which is what would result from the proposed changes.

Families wishing to remove their children from a public school in order to homeschool would be required to leave their child in that school for up to thirty days after filing their homeschool paperwork. When you also factor in the time it takes to choose curriculum, fill out the paperwork, and have both parents visit a notary, this is a considerable amount of time to leave the child in an environment where he or she is having difficulties, which is usually the case when the decision is made to homeschool mid-year. If anything, forcing the child to stay in that environment goes against the goal of having the child in an optimum learning environment.

If clarification must be made, it should be made in favor of homeschool families. If a family is investigated for truancy and claims to be homeschooling, give a 30-day grace period in allowing paperwork to be processed. Families should not face criminal charges due to delays in processing paperwork, or due to a misunderstanding in the filing requirements.

Thank you for your time, and once again, I urge you to oppose these changes.

Sincerely,

Amy Haberman

October 14, 2013

Nebraska Department of Education  
Lincoln Executive Building  
512 S. 14<sup>th</sup> St., Suite 103  
Lincoln, NE 68508

RE: Amendments to Rules 12 and 13

Dear Educators:

We have homeschooled four children in Nebraska, two of whom now attend colleges, having both entered with excellent ACT scores and high-academic-achievement scholarships.

The Department of Education is dangerously discriminatory if it is not helpful in every possible way to all students and families desiring the best possible education in whatever form that is presented.

The proposed changes to Rules 12 and 13, to be discussed October 15, 2013, are *not minor*, but rather significantly burdensome, laying a framework that is overly restrictive and tends toward creating “*criminals?*” of good families with high academic and moral standards for their children. This cannot possibly be right or responsible toward public welfare.

Please consider with open minds, not fearful ones, all the testimonies and arguments offered, and do not take lightly these *unacceptable* amendments.

Sincerely,



Linda Renoud  
Homeschooling Monitor  
Sacred Heart Academy  
320 W. Elm  
Dwight, NE 68635

**ST. WENCESLAUS CHURCH OF BEE**  
**P.O. Box 146 350 ELM ST.**  
**BEE, NEBRASKA 68314**

10/14/2013

I was today made aware of a public hearing on Title 92, Chapter 13 to be held tomorrow morning in Lincoln. On such short notice, I am unable to adjust my class schedule to enable me to attend this whole hearing, but I wanted to make this intervention on behalf of Nebraska's dedicated homeschool parents.

I write this letter both as pastor of the parish of St. Wenceslaus in Bee, and so as responsible for assisting the parents of my parish in educating their children, but also as chairman of the philosophy department and philosophy teacher at St. Gregory the Great Seminary in Seward. There I have responsibility for helping to educate 47 young men for service in the priesthood, many of whom will serve as teachers in our Catholic schools in Southern Nebraska. In addition, I have taught at every level from 5<sup>th</sup> grade to undergraduate education over the past 25 years or more. In that time, I have had considerable exposure to the experiences of families who, for one reason or another, have chosen to educate their own children directly without the intervention of state sponsored schools.

I commend the efforts of these parents who make such a great sacrifice to see to the education of their children. They provide a level of care for their children that could never be provided in a state sponsored school. Incidentally, they also provide a significant savings to the state, since they pay to support the state sponsored school with their property taxes, but do not add to the cost of the schools by sending their children to attend.

It is, and has always been understood, that parents bear the primary responsibility for the education of their own children. Hence, they have the primary right to educate their own children. The state has an interest in assisting the parents in this task, to be sure, but we must be ever watchful lest this assistance from the state not supplant the parents' rights and duties in the education of their own children. It is manifest that the state of Nebraska recognizes this right since it is the parents who are held responsible for the attendance of their school age children in school.

As I mentioned above, I have had experience in and acquaintance with the burdens of homeschooling in a number of these United States, and I must say that from reading the "*rules and regulations governing the procedures for exemption of schools from state approval and accreditation requirements when such schools elect, pursuant to Section 79-1601 R.R.S., not to meet those requirements because they would violate the sincerely held religious beliefs of the parents or legal guardians.*" I find them significantly burdensome already. The proposed changes make them even more so. In requiring the home school family to file this paperwork before July 1, you are taking away significantly from the needed "down-time" that summer should provide for the parents and children.

In any case, the proposed modification to 003.02A2 is unconscionable. By this requirement, if a parent finds that the attendance of his or her child in the local state sponsored public school "would

**ST. WENCESLAUS CHURCH OF BEE**  
**P.O. BOX 146 350 ELM ST.**  
**BEE, NEBRASKA 68314**

violate [their] sincerely held religious beliefs” he or she would be required, against their conscience, to continue to send their children to that school for a month or more until the “Letter of Acknowledgement” is received. Section 005 is also being amended to specify that the Commissioner will direct this letter to be written within 30 days upon receipt of the parents’ completed paperwork. There is no provision to protect the parents and child should the school officials choose to delay until the 30 days are up, or even longer. And all of this is stated under threat of criminal prosecution of the parents. Section 006 states what the penalty may be for the parents if they do not comply, but nowhere is a penalty spelled out for the commissioner or other school officials should they not comply in issuing the letter of Acknowledgement. This serves to put the parents into the false position of being at the mercy of the very school system that they have chosen not to expose their children to in exercising what is their own proper right and responsibility with regard to the education of their own children. This is tyranny, pure and simple, under the guise of regulation.

There is a certain irony in the fact that these proceedings are happening in the city named after Abraham Lincoln, our 16<sup>th</sup> president, who, we are told, was absent from school so much that all of his days in school would not have added up to a single year. He turned out pretty well, nonetheless.

Sincerely,



Rev Brendan Kelly

Pastor,

St. Wenceslaus, Bee

Chairman,

Department of Philosophy

St. Gregory the Great Seminary

Seward

We have received written testimony via email, hand delivery and/or mail from:

Senator Beau McCoy  
Lorraine Lostroh  
Susan Meckel, MBA  
James and Michelle Weldon  
Julie Middendorf  
Valerie Coleman  
Mindy Lively  
Jan Wismer  
Jill L. Greff, B.A., M.A.  
Jessica Freeman  
Vince Ganshorn  
Spencer J. Rothfuss  
Mary Thayer  
Richard Thayer  
Richard Wurtz, M.D.  
Dr. John and Lindsay Boever and family  
Jimmy H. and Patricia M. Polk  
Tom Dierks  
Tracy and Sarah Moser  
Mary R. Borchert  
John and Kari Halweg  
David Brauning  
Cynthia and Michael Hayes  
Cheryl Winter  
Nathan Gurnsey, Esq.  
Jessica Farnsworth  
Chris and Polly Velder  
Laurie Cordray  
Lisa Choquette  
Shelli Cook  
Katrina Burton  
Devi Mersch  
Lori Mraz  
Jessica Klooz  
Michael Kolster  
Michael and Mary Knipp  
Sara Jo Dickey  
Alicia Miller (2)  
Katie Wattermann  
Mrs. Hollie Gilbert  
The Boerkircher Family  
Janae Griess  
Bill and Linda Goodrich  
Ann Elizabeth Kouba, P.E.  
Mr. and Mrs. John Anderson  
Jessica Sander  
Jessica Munderloh  
Christine Seaman  
Diane Anderson  
Natalie Spearman

Gary and Marcy Thomalla  
Darwin and Bethany Adams  
Alan Gustafson  
Darcy Gustafson  
Dan and Cris Carnine  
Lee and Diane Wonch  
Donica Heineman  
Reverend Christopher Morris  
Michael Bogus  
Jarrod and Jodi Ridge  
Mary Hedstrom  
Diana Berg  
Sharon Karas  
Suzy Landreth  
Rachel Madej  
Julie Helms  
Michael Herrington  
Christine Bates  
Gloria Wissmann  
Lisa Hamre  
Paulo & Vanji Bruxellas  
Tiffany Leaders  
Chanin Monestero

# Nebraska State Legislature

SENATOR BEAU MCCOY

District 39  
3922 South 190th Street  
Omaha, Nebraska 68130

Legislative Address:  
State Capitol  
PO Box 94604  
Lincoln, Nebraska 68509-4604  
(402) 471-2885  
bmccoy@leg.ne.gov



## COMMITTEES

Chairperson - Committee on Committees  
Revenue  
Transportation and Telecommunications

October 15, 2013

Scott Swisher, Ed.D., Deputy Commissioner of Education  
Nebraska Department of Education  
301 Centennial Mall South  
P.O. Box 94987  
Lincoln, NE 68509-4987

Dear Deputy Commissioner:

I request this letter be submitted into the public record as a part of the proposed revisions to Title 92, Nebraska Administrative Code, Chapter 12 (Rule 12), *Regulations and Procedures for Exempting Schools for Which Parents Elect Not to Meet Legal Requirements for School Approval and Accreditation for Other than Religious Reasons* and to Title 92, Nebraska Administrative Code, Chapter 13 (Rule 13), *Regulations and Procedures for Exempting Schools for Which Parents Elect Not to Meet Legal Requirements for School Approval and Accreditation for Religious Reasons*.

**Nebraska has long respected the rights of the parent to decide how their child should be educated. The proposed rules changes not only ignore parental control and parental choice, but current law.**

Statute § 79-201(3)(e)(ii) states a child is exempt from compulsory school attendance if

*“Such child's parent or guardian has signed an affidavit stating that the parent or guardian intends for the child to participate in a school which has elected or will elect pursuant to section 79-1601 not to meet accreditation or approval requirements and the parent or guardian intends to provide the Commissioner of Education with a statement pursuant to subsection.”*

The law is clear: a parent may move a child to an alternative school setting at any time by signing and submitting an affidavit to the Commissioner of Education. The rule change under consideration is obviously in conflict with that law. Therefore I submit that any such change can only be accomplished by the Nebraska Legislature.

I am also very troubled by Section 006 of the proposed changes. In that section, parents face prosecution for failure to submit documents under a vague and arbitrary deadline that reads, "as soon as practicable". The long standing 30-day time period for parents to file the necessary paperwork still seems both fair and appropriate. Please keep in mind that this rule applies to all parents, including those coming into our state as new residents, who deserve an opportunity to get settled. If the state is going to prosecute a parent, then the parent deserves a clear, concise and fair deadline.

Nebraska is a state filled with wonderful public school districts, private and parochial schools, and a vast and growing collection of homeschool families. We take great pride in the way our parents and our communities keep and maintain control of the education of our children. Our state government should in no way take any steps to seize any control or choice from parents or our local communities. Any such effort will face strong opposition from me and the vast majority of Nebraskans, regardless of their educational backgrounds.

I ask that you not support the proposed revisions to Rule 12 and Rule 13.

Sincerely,

A handwritten signature in black ink, appearing to read "Beau R. McCoy", with a large, sweeping flourish extending to the right.

Beau R. McCoy  
State Senator, District 39

cc: Governor Dave Heineman  
Senator Kate Sullivan  
Nebraska State Board of Education  
Home School Legal Defense Association  
Nebraska Christian Home Educators Association  
News Media

## Testimony on Proposed Changes to Rules 12 and 13

October 15, 2013

Lorraine Lostroh  
514 North First Street  
Seward, NE 68434  
402-643-6576 [DL20310@windstream.net](mailto:DL20310@windstream.net)

My husband and I began homeschooling in 1981, three years before the state of Nebraska recognized our God-given right to do so. There were a number of other parents at that time who did not have their children in approved or accredited schools, and my husband and I were witnesses to the state of Nebraska prosecuting many of them, fining and imprisoning some, and terrorizing and even taking away a few of their children. Many other threatened families fled from the state.

We risked these things because God placed in our hearts a sincerely held religious conviction that our children should have a Christian education and not a secular one. We did not believe we were breaking any constitutional laws, as we (like all parents) were, in the words of the Declaration of Independence, "endowed by their Creator with certain unalienable rights," one of which was the right to raise the children God blessed us with in the way we felt best. The constitutions of the United States and of Nebraska also recognized our right to religious freedom, the Nebraska constitution stating "All persons have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences."

The battle for homeschool freedom lasted from 1979 to 1984. In that year, the Legislature and the Board of Education recognized the primary right of parents to educate their children according to the dictates of their own consciences. Since then, it has been a pleasure to have relative peace in which to educate our nine children and to graduate all of them from our homeschool.

Also since 1984, home education has been shown by multiple studies to produce outstanding educational results. **On average, home school students score at the 80<sup>th</sup> to 90<sup>th</sup> percentile on standard achievement tests.** These results do not depend on the gender or race of the child, the household income of the family, the level of educational attainment or teacher certification of the parents, or how much is spent on a child's homeschool education. **These results also do not depend on the amount of state regulation of homeschooling.**

Ten states do not even require parents to notify the state of their intention to homeschool. These are known as "no notification" states. Nebraska is one of fourteen others that require notification but are considered "low regulation" states. **Only five states are "high regulation" states, and these have no better academic results than those with low regulation.** (See attached results of study on homeschool achievement.)

After the Nebraska Supreme Court noticed in the Thacker case (decided earlier in 2013) that "nothing in Nebraska's statutes or regulations sets a deadline for the filing requirement in the first year of an exempt school's operation," the Department proposed to change their regulations to require that all parents, including first-year homeschoolers, must file their paperwork by July 1 ([003.02A](#)). They only made exceptions for first-time filers who move in after the July 1 deadline ([003.02A1](#)) and for those whose children are already attending an approved or accredited school ([003.02A2](#)).

**The big problem with this approach is that it is clearly unreasonable to put a deadline on the development of sincerely held religious beliefs or on the realization of parents that their child's attendance at an approved or accredited school is not in the best educational interest of that child. Parents or guardians may actually have the audacity to develop beliefs or come to realizations at *any time* during the school year, not just shortly before July 1. There is no provision for those parents who in the period between July 1 and the beginning of their local public school develop a religious conviction or make a decision that sending their child to an approved or accredited school would not be in the best interest of that child. The only proposed regulation-approved path would be for the parents to violate their sincerely held religious belief, or their best interest of their child decision, by first making their child attend an approved or accredited school, then filing their election to operate an exempt school, waiting an expected 30 days to receive a Letter of Acknowledgement, and then withdrawing their child. This violation of religious conviction or parent decision making is clearly what the Legislature in § 79-1601 sought to remedy.**

Another problem with the proposed regulations is that § 79-1601 states: "Elections ...shall be effective when a statement is received by the Commissioner of Education..." The Nebraska Supreme Court reiterated this in the Thacker case: "Under 79-1601(3), an election to operate an exempt school is effective when the Commissioner of Education receives a signed statement from the parents or legal guardians..." § 79-318 is the law which defines the State Board of Education's duties. In Section (5) (c), the Board is charged with making rules and regulations "as described" in § 79-1601. **After the Commissioner of Education has received their signed documents, the board cannot legally require parents to wait for a period of time before they can begin operating their homeschool.**

The Supreme Court further stated: "Nor do we read §79-201(2) as requiring parents to enroll their child in a legally recognized school until they obtain the State's recognition of an exempt homeschool." **Requiring parents to enroll in or keep their child in an approved or accredited school while they wait for their Letter of Acknowledgement is clearly in violation of the law.**

Another problem is the Department proposes regulations that if the timing is not followed would carry criminal consequences. Proposed regulation 003.02A3 states "Failure to file in accordance within the time prescribed in sections 003.02A through 003.02A2 will subject the parents or guardians to the consequences described in Section 006." Section 006 imposes criminal consequences. In the Thacker case, the Nebraska Supreme Court stated: "But we will not interpret the Department's regulations to impose a requirement that carries criminal consequences when that requirement is not clearly imposed under the governing statute." **These proposed regulations for filing deadlines are not found in any statute and are clearly in violation of the Supreme Court's decision, since failure to file by the arbitrary deadlines carries criminal consequences under proposed regulation 003.02A3.**

I cannot support the proposed changes to Rule 12 and 13 because of **these clear and multiple violations of state statutes**. I urge the members of the Board of Education to vote "no" on these changes.

## **New Nationwide Study Confirms Homeschool Academic Achievement**

Each year, the homeschool movement graduates at least 100,000 students. Due to the fact that both the United States government and homeschool advocates agree that homeschooling has been growing at around 7% per annum for the past decade, it is not surprising that homeschooling is gaining increased attention. Consequently, many people have been asking questions about homeschooling, usually with a focus on either the academic or social abilities of homeschool graduates.

As an organization advocating on behalf of homeschoolers, Home School Legal Defense Association (HSLDA) long ago committed itself to demonstrating that homeschooling should be viewed as a mainstream educational alternative.

We strongly believe that homeschooling is a thriving education movement capable of producing millions of academically and socially able students who will have a tremendously positive effect on society.

Despite much resistance from outside the homeschool movement, whether from teachers unions, politicians, school administrators, judges, social service workers, or even family members, over the past few decades homeschoolers have slowly but surely won acceptance as a mainstream education alternative. This has been due in part to the commissioning of research which demonstrates the academic success of the average homeschooler.

The last piece of major research looking at homeschool academic achievement was completed in 1998 by Dr. Lawrence Rudner. Rudner, a professor at the ERIC Clearinghouse, which is part of the University of Maryland, surveyed over 20,000 homeschooled students. His study, titled *Home Schooling Works*, discovered that homeschoolers (on average) scored about 30 percentile points higher than the national average on standardized achievement tests.

This research and several other studies supporting the claims of homeschoolers have helped the homeschool cause tremendously. Today, you would be hard pressed to find an opponent of homeschooling who says that homeschoolers, on average, are poor academic achievers.

There is one problem, however. Rudner's research was conducted over a decade ago. Without another look at the level of academic achievement among homeschooled students, critics could begin to say that research on homeschool achievement is outdated and no longer relevant.

Recognizing this problem, HSLDA commissioned Dr. Brian Ray, an internationally recognized scholar and president of the non-profit National Home Education Research Institute (NHERI), to collect data for the 2007–08 academic year for a new study which would build upon 25 years of homeschool academic scholarship conducted by Ray himself, Rudner, and many others.

Drawing from 15 independent testing services, the *Progress Report 2009: Homeschool Academic Achievement and Demographics* included 11,739 homeschooled students from all 50 states who took three well-known tests—*California Achievement Test*, *Iowa Tests of Basic Skills*, and *Stanford Achievement Test* for the 2007–08 academic year. The *Progress Report* is the most comprehensive homeschool academic study ever completed.

## The Results

Overall the study showed significant advances in homeschool academic achievement as well as revealing that issues such as student gender, parents' education level, and family income had little bearing on the results of homeschooled students.

National Average Percentile Scores		
Subtest	Homeschool	Public School
Reading	89	50
Language	84	50
Math	84	50
Science	86	50
Social Studies	84	50
Core <sup>a</sup>	88	50
Composite <sup>b</sup>	86	50

a. Core is a combination of Reading, Language, and Math.  
b. Composite is a combination of all subtests that the student took on the test.

There was little difference between the results of homeschooled boys and girls on core scores.

**Boys—87th percentile**

**Girls—88th percentile**

Household income had little impact on the results of homeschooled students.

**\$34,999 or less—85th percentile**

**\$35,000–\$49,999—86th percentile**

**\$50,000–\$69,999—86th percentile**

**\$70,000 or more—89th percentile**

The education level of the parents made a noticeable difference, but the homeschooled children of non-college educated parents still scored in the 83rd percentile, which is well above the national average.

**Neither parent has a college degree—83rd percentile**

**One parent has a college degree—86th percentile**

**Both parents have a college degree—90th percentile**

Whether either parent was a certified teacher did not matter.

**Certified (i.e., either parent ever certified)—87th percentile**

**Not certified (i.e., neither parent ever certified)—88th percentile**

Parental spending on home education made little difference.

**Spent \$600 or more on the student—89th percentile**

**Spent under \$600 on the student—86th percentile**

The extent of government regulation on homeschoolers did not affect the results.

**Low state regulation—87th percentile**

**Medium state regulation—88th percentile**

**High state regulation—87th percentile**

HSLDA defines the extent of government regulation this way:

**States with low regulation:** No state requirement for parents to initiate any contact or State requires parental notification only.

**States with moderate regulation:** State requires parents to send notification, test scores, and/or professional evaluation of student progress.

**State with high regulation:** State requires parents to send notification or achievement test scores and/or professional evaluation, plus other requirements (e.g. curriculum approval by the state, teacher qualification of parents, or home visits by state officials).

The question HSLDA regularly puts before state legislatures is, “If government regulation does not improve the results of homeschoolers why is it necessary?”

In short, the results found in the new study are consistent with 25 years of research, which show that as a group homeschoolers consistently perform above average academically. The *Progress Report* also shows that, even as the numbers and diversity of homeschoolers have grown tremendously over the past 10 years, homeschoolers have actually increased the already sizeable gap in academic achievement between themselves and their public school counterparts—moving from about 30 percentile points higher in the Rudner study (1998) to 37 percentile points higher in the *Progress Report* (2009).

As mentioned earlier, the achievement gaps that are well-documented in public school between boys and girls, parents with lower incomes, and parents with lower levels of education are not found among homeschoolers. While it is not possible to draw a definitive conclusion, it does appear from all the existing research that homeschooling equalizes every student upwards. Homeschoolers are actually achieving every day what the public schools claim are their goals—to narrow achievement gaps and to educate each child to a high level.

Of course, an education movement which consistently shows that children can be educated to a standard significantly above the average public school student at a fraction of the cost—the average spent by participants in the *Progress Report* was about \$500 per child per year as opposed to the public school average of nearly \$10,000 per child per year—will inevitably draw attention from the K-12 public education industry.

## **Answering the Critics**

This particular study is the most comprehensive ever undertaken. It attempts to build upon and improve on the previous research. One criticism of the Rudner study was that it only drew students from one large testing service. Although there was no reason to believe that homeschoolers participating with that service were automatically non-representative of the broader homeschool community, HSLDA decided to answer this criticism by using 15 independent testing services for this new study. There can be no doubt that homeschoolers from all walks of life and backgrounds participated in the *Progress Report*.

While it is true that not every homeschooler in America was part of this study, it is also true that the *Progress Report* provides clear evidence of the success of homeschool programs.

The reason is that all social science studies are based on samples. The goal is to make the sample as representative as possible because then more confident conclusions can be drawn about the larger population. Those conclusions are then validated when other studies find the same or similar results.

Critics tend to focus on this narrow point and maintain that they will not be satisfied until every homeschooler is submitted to a test. This is not a reasonable request because not all homeschoolers take standardized achievement tests. In fact, while the majority of homeschool parents do indeed test their children simply to track their progress and also to provide them with the experience of test-taking, it is far from a comprehensive and universal practice among homeschoolers.

The best researchers can do is provide a sample of homeschooling families and compare the results of their children to those of public school students, in order to give the most accurate picture of how homeschoolers in general are faring academically.

The concern that the only families who chose to participate are the most successful homeschoolers can be alleviated by the fact that the overwhelming majority of parents did not know their children's test results before agreeing to participate in the study.

HSLDA believes that this study along with the several that have been done in the past are clear evidence that homeschoolers are succeeding academically.

## **Final Thought**

Homeschooling is making great strides and hundreds of thousands of parents across America are showing every day what can be achieved when parents exercise their right to homeschool and make tremendous sacrifices to provide their children with the best education available.

Written by Ian Slatter  
August 10, 2009

To be recorded as public testimony in opposition to the changes to Rule 12/13.

October 15, 2013

To the Nebraska State Board of Education:

I am writing to express my opposition to proposed revisions to the Nebraska Administrative Code, Chapters 12 and 13. As outlined below, I have four objections to the proposed changes.

### **July 1 Filing Deadline**

The change of filing deadline to July 1 for all exempt schools (except for new residents and those already enrolled in approved/accredited schools) is unnecessary, and places an undue regulatory burden upon home educators. A significant amount of research and planning is required to make wise curricular choices. With a July 1 deadline, parents who have previously been able to count on having summer vacation time to do so may need to begin their research while their schools are still in session. Calendar preparation will also be more difficult, since full information about fall activities is not always available in June. Completing the forms in a thorough and accurate manner by July 15 is already challenging. The move of the date 15 days earlier, combined with the threat of prosecution if parents fail to file complete information on time, will make it more difficult for home-schoolers to exercise their legal rights.

### **Letter of Acknowledgement Delay**

Current rules in Section 005 state that *upon receipt* of the Forms A, B, and the information required, the Commissioner of Education will direct that a letter be sent acknowledging such receipt. The revisions implement a thirty-day delay for acknowledgement, and perhaps more, since untold additional days could elapse between the Commissioner's direction and parents' receipt of the letter. Such a delay would not be very significant were it not for the additional expectation that parents produce the letter as evidence that they have indeed filed the required paperwork. A more appropriate revision to Section 005 would be that the letter of acknowledgement, or even better, an electronic message, be sent immediately upon the arrival of the required forms and information so that parent representatives know that their materials have been received.

### **Letter of Acknowledgement Requirement**

Changes proposed in Section 003.02A2 state that "...a child shall not cease attending the approved or accredited Nebraska school until such time as the Letter of Acknowledgement described in Section 005 is received." This is a violation of Nebraska Revised Statute 79-1601, Section 3, which says: "Elections pursuant to such subsections shall be effective when a statement is received by the Commissioner of Education signed by the parents or legal guardians..." Not only does the requirement of a letter of acknowledgement violate the statute, but its combination with a potential thirty-day delay from filing to the "direct[ing]" that the acknowledging letter be sent would hinder parents from moving their students from an traditional school setting to another *legal* educational alternative.

**Burdensome Restrictions on New Residents**

Additionally, the revisions are too stringent with respect new state residents intending to file for exempt status. Proposed Section 003.02A1 states that the parent representative must file the forms “upon becoming a resident,” with no grace period or provisions for extenuating circumstances.

In conclusion, I encourage the Nebraska Board of Education to reject the proposed revisions to Rules 12 and 13. None of the changes serve to benefit the affected students; rather, they burden their families with additional time pressures, unnecessary delays, and requirements that violate existing state statutes.

Sincerely,



Susan R. Meckel, MBA  
Home Educator  
Lincoln, NE

**To be recorded as public testimony in opposition to the changes to Rule 12/13.**

My Husband James Weldon and I (Michelle Weldon) are against the proposed changes to Rule 12 and 13. The core question at hand is who has the ultimate authority and responsibility in the education process of our children. I sincerely hope that you believe it is the parents, as we do. I can assure you that no one loves and cares for our children as much as we do. Nor does anyone understand them and their needs as we do.

In our eyes, the only consequence of the proposed rule changes is to hinder the ability of home school parents to exercise their due authority. If there happens to be benefits to the rule changes I don't see them and I doubt that they outweigh the burden that you will be placing on parents and children.

With our oldest child, we were in the middle of a school term when we realized that her needs would be better served at home. I can think of no benefit whatsoever to my daughter for having to delay switching to an educational process that has in fact met her more specific needs.

It is our strong recommendation that you decline the proposed changes to Rule 12/13. Please know that we are very concerned about possible infringements on our right to educate our children and just as importantly the rights of those who come after us.

James Scott Weldon

(402) 202-5561

Michelle Weldon

## Wid, Brenda

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**From:** Julie Middendorf <mjmiddendorf94@gmail.com>  
**Sent:** Tuesday, October 15, 2013 9:27 AM  
**To:** Wid, Brenda  
**Subject:** a written comment for the Board of Education hearing on changes to Rule 12/13

Greetings to the members of the State Board of Education,

My name is Julie Middendorf. Our family has been homeschooling for 12 years. Each summer the process of making plans for our children's coming school year is given a great deal of thought and planning, requiring a significant amount of time. Moving the deadline filing date ahead on the calendar to July 1st will further limit the time we have to think through our goals for each child, explore the ever-changing curriculum options available to us, and make thoughtful and informed decisions for the coming year.

Please include the above comments as part of the written/public testimony in today's hearing.

Julie Middendorf  
Scotia, Nebraska

## Wid, Brenda

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**From:** marsval@aol.com  
**Sent:** Tuesday, October 15, 2013 11:09 AM  
**To:** Wid, Brenda  
**Subject:** Opposition to Rule 12 and 13 Home Education changes

Ms. Wid,

I would like this testimony to be included in the official record. My family has been home schooling for 10 years, and I am asking the Department of Education to oppose changes to Home Education Rules 12 and 13. In my years of home schooling I have found the current regulations to be successful. I oppose changing the date from July 15 to July 1 due to the fact that it takes a considerable amount of time to plan curriculum and scheduling for the up coming school year. I also feel that the changes violate parental rights by possibly forcing a parent to leave a child in an unhealthy environment longer than necessary.

The current regulations are working so I again ask you to oppose any changes to Rules 12 and 13. Thank you.

Sincerely,

Valerie Coleman

## Wid, Brenda

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**From:** jomindyjo@yahoo.com  
**Sent:** Tuesday, October 15, 2013 12:15 PM  
**To:** Wid, Brenda  
**Subject:** Response to proposed changes to Title 92, Chapter 12 & 13

As a homeschooling family of 6 children, I oppose the proposed changes to Title 92, Chapter 12 and Chapter 13, of the Nebraska Administrative Code. I feel they are unnecessary and could create undo hardship for families desiring to begin home educating their children for the first time, for single parents, for military families, and for families who have recently moved to Nebraska. Having to wait to begin teaching their children at home until they have received an acknowledgment of their decision from the Nebraska Department of Education is also an added constraint that is unnecessary and unfair.

My 2 oldest children are from a previous marriage and contacting my ex-husband is sometimes very difficult. The current law is in my favor and doesn't make me subject to truancy charges if my ex-husband is late with returning the proper paperwork.

During the course of any given year, a family may experience changes in health, finances, school atmosphere, or religious convictions that would cause parents to choose to move their child into a new educational setting. It is unrealistic to expect that every family will know by July 1 whether or not they will want to teach their children at home. The current requirement of 30 days notice allows families to make these decisions when the need arises in each unique situation. It also allows them time to acquire curriculum, birth certificates, and necessary signatures without risking unwarranted accusations of truancy while doing so.

Single parent families often have to wait for the other parent to return a notarized copy of Form A before filing. When that involves sending the form to another state and back again, the turn around time can be often be measured in weeks rather than days. Military families can face even greater challenges when a parent is deployed overseas. The current requirement of 30 days notice for first time filers and a July 15 deadline for those who are continuing to home school their children is enough of a burden for these families, and there is no reason to move the deadline forward by half of a month.

As with other first time filers, those moving to Nebraska are currently asked to provide 30 days notice of their request for exempt status. The new wording asking for them to file "as soon as practicable" leaves the time frame open to individual interpretation and is simply too ambiguous to be useful. The wording that asks for notification "upon becoming a resident" leaves them no time to find personal records or other material that may be needed for filing and creates an unnecessary burden on those who are new to the state.

Since the Nebraska Department of Education does not approve or disapprove of any exempt school, I do not believe that families should have to wait to receive their letter of acknowledgment before beginning their children's education at home. Those who have submitted the necessary paperwork giving 30 days notice should then be able to teach their children without waiting for any further time to pass. There is simply no good reason for them to wait.

The decision to homeschool is not one that should be made without due consideration. Time is needed to secure curriculum as well as documentation that is required before filing with the Nebraska Department of Education. The current requirement of filing by July 15th or giving 30 days notice allows parents to take the time needed to acquire

birth certificates, curriculum, and signatures of spouses who may reside out of state or be deployed overseas. Thirty days is the amount of time that the Nebraska Department of Education is asking for acknowledging of a family's election to receive exempt status; it is a length of time which is commonly accepted as giving reasonable notice of changes in any number of contractual arrangements, and it is reasonable for parents to give that same 30 days notice of their decision to receive exempt status. The proposed changes are clearly unnecessary and potentially burdensome, and therefore should not be made. Please enter this testimony into the public record of these hearings dated October 15, 2013.

Mindy Lively

**Wid, Brenda**

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**From:** Janet Wismer <bondwrite@gmail.com>  
**Sent:** Tuesday, October 15, 2013 12:25 PM  
**To:** Wid, Brenda  
**Subject:** Change to Rules 12 and 13

To Whom it may Concern:

As a home school mother who has successfully launched one daughter from 12 years of home schooling into college, then on to her first year as a public school teacher (in East Aurora, IL), and, currently, a successful graduate student at Northwestern University in Evanston, IL, I am wondering why the sudden rush to change the requirements for Rules 12 and 13. Our first daughter was a National Merit Scholar, and our second home schooled daughter is about to graduate from Wheaton Conservatory (Wheaton, IL) having breezed through her studies. She also is headed to graduate school--fall of 2014. Two additional children are well on their way to graduating from high school within the next few years without incident.

I hardly see any reason to change a system that is not broken. I understand that you are concerned about *some* home schooled children slipping through the cracks. My only question is, "What about the *public school children* who are slipping through the cracks?" The idea of cleaning your own house *first* comes to mind, if you are willing to be intellectually honest with yourselves and with the public. Please do not misunderstand me; I am very grateful for the public schools and for all that they offered to our older children of tax-paying parents. The older two thrived in the best of both worlds: core subjects through home schooling--and band, orchestra, and theater (including Lincoln Youth Symphony) at Lincoln High. We will be ever grateful for their experiences under Mr. Terry Rush and Mr. Dan Ehly--and Mr. Rush and Mr. Ehly will be ever grateful for our daughters' contributions to the various ensembles (*their* words, not mine).

Please reconsider the direction that home schooling in Nebraska is heading. I agree that sometimes parents are late with their paperwork, but requiring an *earlier* date will not solve that problem. Plus, how many public school teachers do you know who are absolutely SURE of what they will be teaching by July 1 the summer before the school year starts? According to Dennis Mann--former teacher and assistant principal at East High School in Lincoln, NE--*many* LPS teachers are not hired until a week before school starts in August. Why the double-standard? It hardly seems equitable--especially when we parents are receiving NO federal funding while paying our property taxes and our curriculum on top of all that--not to mention the *hours* that we pour into our children.

Let's everybody play fairly, okay?

Respectfully submitted,

Jan Wismer

**To be recorded as public testimony in opposition to the changes in Rules 12 and 13**

Tuesday, October 15, 2013

Dear Education Committee,

Thank you for giving of your time and talents to consider the educational interests of students in our state. I appreciate it. I hope you would agree with me that it is vitally important for our laws to protect a family's educational options in order to best serve the needs of an increasingly pluralistic and global society.

Because I have been involved in education for many years (three years teaching in a distance learning setting, seven years teaching at UNL and twelve years educating my own children at home), I am keenly interested in **the proposed changes to Rules 12 and 13 as they relate to home education**. On the surface, these changes seem to address perceived "holes" in the law as it addresses dates for notifying the Department of Education regarding a family's intent to homeschool, consequences for not doing so, and the procedure which should be followed by families moving into the state. However, upon further consideration, I believe your committee will find compelling reasons to vote against any changes to Rules 12 and 13 as they will negatively affect education and religious freedom in our state. Please consider the following negative consequences of these possible changes as you make your decision:

1. The proposed changes in Rules 12 and 13 would provide the catalyst for **costly legal cases against our public schools in the State of Nebraska**. Here is a scenario that comes to mind:

\*There is a family with children in a public school who develops a religious conviction during the current school year. They decide to withdraw their children and home educate them based on their religious beliefs, but before they can withdraw their children from the school, they are FORCED to keep their children in the public school for 30 days while their notification of their intent to home educate is being processed. What will prevent the family from **suing the State of Nebraska on the basis of a violation of religious freedom?**

2. The second concern I have regarding the proposed changes to Rules 12 and 13 is a **"brain-drain" and "tax revenue-drain"** in our state. The homeschooling families in my homeschool support group alone (a group of 40 adults) are highly educated and includes: a Cardiologist, an Emergency Room Doctor and Hospital Administrator, Lawyers, UNL faculty and staff, a highly trained Computer Specialists, two Small Business Owners, an Engineer, a Pastor, a Financial Planner, and two highly skilled tradesmen. These are the fathers. The mothers, who will not be homeschooling their children forever, include: Registered Dieticians, one of whom also has an MBA, a Spanish Translator and former UNL lecturer with an M.A., a Nurse, a Medical Specialist, Small Business Owners and other ladies with degrees and specialties that I do not even know about. My point is this: **the proposed changed to Rules 12 and 13 are viewed as "unfriendly" by highly skilled and highly paid professionals** who desire to

homeschool their children for a variety of reasons. These are professionals who could easily get jobs in other states where homeschooling laws are friendlier (and taxes are lower). **By moving Nebraska homeschooling laws from “low regulation” to “higher regulation”, we could lose many valuable and highly educated people (not to mention their tax dollars) that we need in our state, and we could fail to attract people and businesses to Nebraska in the future.**

3. **The cost and logistics to enforce the proposed changes, if they become a law, could be a burden to the Department of Education and cause a reduction in funds to our public school systems.** Keeping track of all the new people moving into our state, and making sure that they declare their intent to home educate on the day they establish residency, seems like an expensive and complicated endeavor that would require extra staff in the Department of Education. Clearly, this isn't a good use of taxpayer money, especially when no statistics or studies have been submitted in order to establish the need for this kind of expensive oversight.

4. **The proposed date change for submission of the intent to home educate from July 15<sup>th</sup> to July 1<sup>st</sup> will be a burden on homeschool families.** As educators are aware, it takes a great amount of time to select quality materials for students and plan for the coming school year. The burden is especially heavy for a homeschooling family as curriculum and planning must often times be done for **multiple grade levels**. While two weeks may not seem like much, they are most helpful when planning for the coming school year.

In conclusion, the proposed changes to Rules 12 and 13 would have consequences that would be detrimental to our state. **I ask that you would vote against any proposed changes to Rules 12 and 13,** and that you would oppose any legislation that reduces educational choices, parental rights, and religious freedoms in our state. Thank you.

Sincerely,



Jill L. Greff, B.A., M.A. (Magna cum Laude)  
2627 S. 35th Street  
Lincoln, NE 68506

ATTACHMENT (This attachment of a newspaper article from the Lincoln Journal Star on Saturday, Sept. 14, 2013 illustrates the national success Lincoln home-educated students are having. If homeschoolers are being successful, why burden them with extra oversight that discourages them in their academic pursuits?)

## National Merit semifinalists include 23 Lincoln students

A total of 23 high school seniors in Lincoln are among the 16,000 semifinalists in the 59th annual National Merit Scholarship Program.

All semifinalists have an opportunity to continue in the competition for some 8,000 National Merit Scholarships worth about \$35 million that will be offered next spring.

National Merit Scholarship winners of 2014 will be announced in four nationwide news releases beginning in April and concluding in July

Lincoln students among

the nation's semifinalists include:

**Homeschool** - Anne Hotz, Anna Meckel and Dominic Winter;

**Lincoln East** - Tianye Chen, Talia Halperin, John Hao, Eric Holmberg, Kevin Jia, Randal Kercher, Chloe Kessler, Samuel Kohler, Anna Matthes, Akshay Rajagopal, Karli Sandin and Katharine Sedlar;

**Lincoln High School** - Lillian Bornstein, Isabella Catalano, Sarah DiMagno, Jennifer Haar and Madeleine Miller;

**Lincoln Lutheran High School** - Emmiline Moll;

**Lincoln Southwest High School** - Keven Feng and Jonathan Freese.

October 14, 2013

Nebraska Department of Education

To the Members of the Nebraska Department of Education:

Thank you for giving parents and citizens of Nebraska an opportunity to speak on the proposed changes to Rules 12 and 13 regarding registering students for home-based education programs. Please consider this letter as part of the written and public testimony for the hearing regarding the proposed changes to Rules 12 and 13 being held on October 15, 2013.

As a citizen, parent, and homeschooler in Nebraska, I am very concerned about the proposed changes to Rules 12 and 13. I believe that the reason for laws and rules is to enable society to run smoothly. Laws should be specific enough to cover most situations, but not so specific that they cause undue hardship for citizens who fall outside of their parameters. For instance, there should be penalties and consequences for people who choose to murder, drive drunk, and commit other dangerous crimes. However, dictating to families when and how they can be approved for homeschooling seems to me to be an area where more flexibility for individual family circumstances should be allowed.

Families who send their children to school have the option of enrolling their children in a different school at any time during the school year with a minimum of notification to the state or former school. They do not have to wait a set time to transfer their students to the new school. Why is the state trying to legislate that Nebraska parents who choose to withdraw their children from public education must continue in the situation while they wait a certain number of days before being "allowed" to homeschool?

Recently, several families who have moved to Nebraska have been prosecuted for failing to immediately file for homeschool status. The proposed changes to Rule 12 and Rule 13 are supposed to prevent future problems with new Nebraska citizens. This seems to me a situation which could better be handled by leaving the Rules as they are (which is specific enough to fit the needs of most homeschooling families) and allowing these new citizens some flexibility and leeway as they adjust to their new environment. Instead of costing Nebraska tax payers money by suing the families for failure to attend school, concerned officials could send a reminder letter to the family who surely would promptly file their paperwork and quickly satisfy the requirements of the state.

I am also troubled by the implications of the Rule 12 and 13 changes for victims of bullies. When a child is being victimized by a bully, the situation can often be dangerous and potentially life-threatening. Schools, teachers, and administrative officials seem to have few tools to prevent bullying from happening. If my child were bullied, I would want to immediately remove them from school while I found a different environment in which they could learn. Under the proposed Rule changes, I would be required to keep my child in school for up to an additional 30 days while my homeschooling paperwork was approved. I shudder to think what can happen in a bullying situation with an additional 30 days of contact.

And finally, I believe that the state is currently unnecessarily persecuting families whose children miss too many days of school. All children who miss 20 days of school are being taken to "truancy diversion court", regardless of the reason that they missed. This lumps children who were actually truant (missed school without teacher/parental approval) with children who are sick (with everything from migraines to cancer), talented (figure skating, musical, or sports competitions), intellectual (traveling to D.C. for honors recognitions and spelling bees), civic minded (volunteering for disaster relief), and numerous other situations. Most of these children have legitimate reasons to miss school and most of the families are responsible enough to take care of making up the work they have missed so that their child continues to excel at their education. Regardless, the state has taken upon itself the job of prosecuting each family and taking them to "truancy diversion" court to lecture, humiliate, and terrify these families into getting their children to school more often. Under the proposed Rule changes, any family who is already being prosecuted for situations that may be beyond their control (illness, snow days, unexpected opportunities) will be considered ineligible for homeschooling. This is unacceptable to me, not least because families who have children who are frequently ill or talented enough to have reasons to miss school are families who would excel at educating their children at home and certainly should not be prevented from doing so by an over-eager and over-zealous state who would rather terrorize and prosecute families and children then help them achieve their mutual goals of an educated citizenry.

In conclusion, I ask that you reject the proposed changes to Rules 12 and 13 as being unnecessary and harmful to current and future Nebraska homeschoolers.

Thank you for your consideration,

Sincerely,

  
Jessica S Freeman  
3022 Browning St  
Lincoln, NE 68516  
402-328-0102

Board of Education,

My family has concerns regarding the proposed legal changes found in Rule 12 and Rule 13. Below you will find some bullet points that summarize our trepidation over the impact these rule changes will have over our family and Nebraska home school families in general. Home schoolers are not against public education; however, home schooling has proven to be extremely successful over a long period of time in our wonderful state. Creating additional regulations that remove even small parts of a home schooler's freedoms or are contrary to already written law give us great reason for concern. Being loving parents we are very interested that our children receive the highest level of education in order to prepare them to be well-rounded adults, able to excel in any community they find themselves living in. We strongly feel that educating our children in our home provides them the chance to master all skills and provides us the assurance that they have done so. It seems to us, being a home schooling family of 9 years that these changes are unnecessary and that home schooling in Nebraska is running satisfactorily. Please note a few more concerns.

- The proposed changes will, in some situations, result in parents being forced to violate their sincerely held religious beliefs or be charged with truancy.
- The proposed changes will, in some situations, result in parents being forced to keep their children in a bad situation or be charged with truancy.
- Many of the rule changes are contrary to law.
- Many of the rule changes are contrary to the Supreme Court decision in STATE v. THACKER, 286 Neb. 16.

We strongly urge you to please vote against the proposed changes.

Very Sincerely,

Vince Ganshorn  
Sonshine Academy  
1021 N. 78<sup>th</sup>  
Lincoln, NE 68505

October 15, 2013

To Whom It May Concern,

Greetings, my name is Spencer Rothfuss. I am 14 years old and a freshman in high school. I have been educated at home since kindergarten and I strongly oppose the proposed amendments to Rules 12 and 13. The changes that will be enacted are regulations that are unprecedented and unnecessary and will limit the freedoms my family and I have enjoyed for years.

A handwritten signature in black ink that reads "Spencer J. Rothfuss". The signature is written in a cursive style with a large, stylized 'S' at the beginning.

Spencer J. Rothfuss

October 14, 2013

To whom it my concern:

I strongly disagree with the changes proposed to Rule 12 and Rule 13. These changes are not designed to improve anything and they will cause unnecessary duress on those who chose to educate their children at home. The Department of Education needs to live within the ruling issued by the Nebraska Supreme Court.

The Department of Education, as well as the Legislature need to shut down this attempt to change the laws and abide by the ruling given by Nebraska Supreme Court.

Sincerely,  
Mary Thayer

A handwritten signature in cursive script that reads "Mary Thayer".

19904 Harney Street  
Elkhorn, NE 68022

October 14, 2013

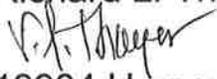
To whom it my concern.

I wish to register my disagreement with the changes proposed to be made to Rule 12 and Rule 13. The Department of Education needs to live within the ruling issued by the Nebraska Supreme Court.

These changes are not designed to improve anything broken but will confuse those who are not aware of these changes and cause unnecessary duress on those who chose to educate their children at home. It would appear as if this is simply an end run around a court ruling. The Department as well as the Legislature needs to rest this attempt and simply live within the ruling given.

Thank you

Richard L. Thayer



19904 Harney Street

Elkhorn, NE 68022

I am opposed to the changes that are proposed to Rules 12/13 and must say that the current requirements are burdensome enough. The deadline is already July 15th. Furthermore, the parents have a right to educate their children and the presumption by the state that a child may not be educated outside of an accredited institution without first receiving a letter of permission (acknowledgement is a better word) is troublesome. Now it is a recommendation that a child who withdraws from an accredited school must await this acknowledgement prior to an education that is guided and overseen by the parents. This further adds a component to the already questionable requirement that is currently in place that can rightfully be seen as a misuse of the state's proper authority. Let us not forget the type of government that exists in this fine country, government of the people, by the people, and for the people. Let us also additionally take note of the history and historicity of this and other countries with respect to those successful persons either whose education was self guided entirely or whose educations were distinct from the common institutional educations of the time. The parents have the primary duty and right to guide the education of their children. Even were abuses of this education to occur, the abuse of something does not take away its use, "abusus non tollit usum," the timeless Latin phrase reminds us.

Sincerely,

Richard P. Wurtz, M.D.  
7121 Stephanie lane, suite 105  
Lincoln, NE 68516  
402-484-8383

To whom it may concern at the Nebraska Department of Education,

We are writing in opposition to the Rules 12 and 13 proposed that would make it more difficult to home school in Nebraska. These would most definitely be an added burden, especially if a family saw fit to home school after the deadline of July 1st. These amendments discriminate against parent's rights to chose what is best for their children. It does not look good for Nebraska to further delegate parent's basic rights to the state. I see many a law suit if these are put into action. That would not be good headlines for Nebraska.

Besides the obvious discrimination, blatant disregard for parent rights, putting Nebraska children at risk (by not being able to remove them in an environment that could be threatening), these rules are adding to the distrust of our leaders and government. I cannot see for the life of me why our neighbors who work for the Nebraska Department of Education would want to make home schooling more difficult for us. Thanks for your time. Please remember that we are all in this together in the great state of Nebraska. Let's try to encourage each other and truly find what is best for each other by listening and working hand in hand. Peace!

Sincerely,

Dr. John and Lindsay Boever and family  
6000 Duxhall Ct.  
Lincoln, NE 68516  
johnboever@hotmail.com

**To the Nebraska Department of Education:**

**We are against any changes to rules 12 and 13. The proposed changes would place further burdens on homeschooling families who are already sacrificing so much in order to educate their children.**

**Jimmy H. and Patricia M. Polk  
(grandparents of 25 Nebraskans)  
4939 Glade Street, Lincoln, NE 68506**

To Whom It May Concern:

I oppose any attempts to restrict the fundamental rights of parents to be the primary educators of their children. I oppose any changes to Home School Rules 12 and 13, based on the sound reasoning of those I know to be home schoolers, and based on the nature of the rules themselves. If anything, we should be easing home school requirements, not adding further restrictions.

Sincerely,

Tom Dierks

3510 R St.

Lincoln, NE 68503

Tracy & Sarah Moser  
5624 s 76<sup>th</sup> st  
Lincoln, NE  
October 15, 2013

Nebraska Department of Education  
Lincoln, NE

Dear Education officials:

I am deeply saddened and concern about the potential addition to homeschool rules 12 and 13.

The possible criminal charges to homeschoolers if they do not file their exemption forms by July 1 instead of July 15 are horrible. This would place an undue burden on the families who are deciding to homeschool and need that precious time to file.

First-year homeschoolers would be expected to file by July 1st. The only exception is for new residents. This is a ruling against the freedom of individual families who decide (perhaps after July 1) that they wish to educate their children. True freedom is being able to decide at any time, and having the government support that.

Families who have an immediate need to remove their children from school due to a bad environment have to file an exemption and then WAIT for approval. This puts the state effectively above the parents and removes the freedom that parents have in protecting and providing an appropriate environment for their own kids.

I pray and hope that these changes will be dropped, and Nebraska will continue to be a nice state to raise our children.

Sincerely,

Tracy and Sarah Moser

October 14, 2013

To Nebraska Department of Education:

RE: Proposed changes to Rules 12 and 13, governing exempt schools

I want to voice my strong opposition to the changes proposed in the filing requirements for exempt schools. First, it places an undue burden on families in transition to have to file paperwork immediately upon becoming residents. There is a reason people are given a timeframe such as 30 days to do things like register their vehicles and update the address on their driver's license. Transitions take time, and to consider a child truant his or her first day in a new home and new town is not reasonable; however, the language of the new rules opens families up to these charges.

Second, it places children at risk. By forcing a family to wait a month after submitting paperwork to form their exempt school, until they receive an acknowledgement from the state, to pull their children out of a bad public school situation, you leave children at risk. What if a child is being severely bullied and is on the brink of committing suicide? What if a child has gotten involved with the wrong crowd and there are issues with drugs? A parent should be able to remove his or her child from these dangerous situations immediately; they should not have to wait a month to receive a letter of acknowledgement from the state.

This becomes particularly egregious when one realizes that the letter is just that: a letter of acknowledgement, not a letter of approval. By law, the state has no authority to approve or deny the parents' right to form an exempt school. Therefore, there is no compelling reason to prevent a parent from removing his or her child from the public school immediately upon filing of the paperwork. Your proposal potentially leaves children in harmful situations for no purpose other than to wait on paperwork to process.

From everything I have read and experienced since I moved to Nebraska and began operation of my exempt school several years ago, the current rules are functioning well. I have seen nothing that establishes a compelling reason to make any changes to the existing rules. They reflect the law as interpreted and upheld by the Nebraska Supreme Court. The proposed changes introduce undue hardship on families, potential danger to children, and imply a redefinition of the law such that the State now approves exempt schools by requiring families to wait for the State's acknowledgement before removing their children from a non-exempt school. The rules should not be changed.

Sincerely,



Mary R. Borchert

October 15, 2013

Dear Nebraska State Board of Education,

The purpose of this letter is to inform you that we strongly oppose the proposed changes for Rules 12 and 13 regarding exempt schools.

The current regulations are clearly adequate and in compliance with current state statues and Supreme Court rulings. The proposed regulations drastically change the State's approach to exempt schools by stating an exempt school cannot begin until after receiving approval from the state. The law clearly says that exempt schools (homeschools) are INFORMING the State of their decision not requesting permission.

Secondly, removing the 30 days prior to starting homeschool deadline is unnecessary and unfair to families new to the state who choose to homeschool. As long as the required hours are met, it is unnecessary for a homeschool to follow a typical public school calendar. The words "as soon as practical" are to protect the state and do not give the benefit of doubt to the constituent. Who gets to define "as soon as practical"? The family or the state? The purpose of laws are to protect the freedom of the constituents, not give more power to the State over our individual lives.

We are also concerned as to why the State Board feels the need to change these regulations. We are aware of the Thacker Truancy Case and have read the legal briefs. We believe that the Thacker family acted in good faith in trying to follow the current, adequate exempt school laws, as did the Nebraska Supreme Court. I have a family member who works as an attendance secretary in a Nebraska Public School. I hear of countless parents who "bend the rules" or often even lie to the school to get around the attendance laws. Often in these situations, it is obvious that it is to the detriment of the child and intervention should occur. These are the children that need your help in making sure they get the education necessary to live a productive life in society. When you look at problems concerning Nebraska—poverty, crime, etc—these are not homeschool families! But based on this one family with whom you disagreed with-yet the Nebraska State Supreme Court DID agree with- you are going to change the rulings, remove freedoms, and make it more difficult for Nebraska homeschooling families who are successfully raising and educating children? Respectfully, this is not why we elected you into office.

According to your own website:

**" The State Board of Education shall:**

1. Be the policy-forming, planning, and evaluative body for the state school program"

By definition, exempt schools are "exempt" from the state school program. We believe you are stepping outside of your legal boundaries when you change the exempt school rules beyond the efficiencies of receiving notifications from the exempt schools.

Please consider these arguments. We are a hardworking, self sacrificing, community supporting, homeschool family working in good faith to abide by the current laws to raise our children according to the freedoms given to us when this country was founded.

Respectfully,

  
John and Kari Halweg  
Elkhorn, Nebraska

10-14-2013  
State Board of Education

I would like to offer testimony in opposition to the proposed changes to Rules 12 and 13 governing homeschooling in Nebraska. The existing rules have served Nebraska and homeschoolers well and need no changing.

As a homeschool parent of 17 years I am concerned and frustrated that after all these years the Department of Education proposes changes that gives them more time to respond to paperwork,

005 Letter of Acknowledgment. Upon Within 30 days upon receipt of the Form A signed by all parents or guardians, Form B signed by the authorized parent representative, and the information required in Section 004, the Commissioner will direct that a letter acknowledging such receipt be sent to the authorized parent representative and reported to the school district where the child resides.

makes the deadline for homeschoolers to file paperwork earlier,

003.02A ~~Thirty days prior to the date on which the exempt school is to begin operation, and annually thereafter by July 15.~~ By July 1 of each school year the school will be in operation, the parent representative will file with the Commissioner or designee a statement containing the names and ages of all children in the school and the names of their parents or guardians and

and threatens me with prosecution under the truancy law if I am late with my paperwork.

003.02A3 Failure to file in accordance within the time prescribed in sections 003.02A through 003.02A2 will subject the parents or guardians to the consequences described in Section 006.

These changes would do nothing to improve a parent's ability to educate their children and would place an unnecessary burden on parents in planning for the new school year. Each year we put a significant amount of time into preparing for the next year and these changes would mean that we would need to concentrate on the upcoming school year well before the current school year is even finished.

With the added definition of residency,

002.03 Resident/Reside shall mean a person having residence in a place. A residence is that place in which a person is actually domiciled, which is one's established home and the place to which he/she intends to return when absent therefrom. It is the place where a person is actually living full-time, as opposed to vacationing or visiting.

a family that moves to Nebraska after the new July 1<sup>st</sup> deadline would need to immediately file their paperwork or be subject to prosecution under the truancy law.

003.02A1 When parents or guardians did not reside in a Nebraska school district as of July 1 of any school year in which they wish their child(ren) to attend an exempt school, they shall cause the parent representative to file the forms described in Section 003.02A upon becoming a resident.

The original rule of

"Thirty days prior to the date on which the exempt school is to begin operation, and annually thereafter by July 15, "

is a more workable rule for all Nebraskans and gives new residents the time they need to setup their homes and plan for their new school years.

I urge the Board to reject the proposed changes as they are harmful to homeschoolers and a step-backwards for Nebraska.

David Brauning  
833 West Q Street  
Lincoln, NE 68528  
402-450-4719

October 15, 2013

Dear State Board of Education Members:

We are writing to you in regards to the proposed amendments to Rules 12 and 13. We are long-time home educators of children aged 14 and 11 in Lincoln, NE. Up to this point, we think the Department of Education and our family have worked efficiently together. However, we do not support any changes to Rules 12 and 13 for the following reasons:

We believe that it is the parents' role to choose their child's place of education, whether this is delegating it to a public school, an accredited private school, or an exempt school. We support the interpretation of the Nebraska Supreme court that parents need only notify the state of their intent to home school. After notification, the parents can withdraw their child immediately from a public or accredited private school without fear of criminal charges.

We would like to promote an environment that encourages families to home school if they so choose. We do not support changes that would create a hardship for families moving into Lincoln or families electing to home school for the first time. The current rules provide for this and shouldn't be changed.

We believe that the due date of July 15 for paperwork is working. An earlier start date does not allow for enough time to finish the current school year and plan for the next year. Much of the success of home schooling is individualizing the academic plan to meet the student's needs. This success could be compromised if the amount of preparation time is truncated by a July 1 due date.

We also find the current procedure for documentation to be appropriate. Parents can use either the forms provided or submit their own. We believe this reflects the parents' role in directing their home school. This freedom for creativity and individualization are distinctive features of home schooling that should be supported.

A July 1 due date also reduces the flexibility in scheduling the school year, a hallmark of home schooling. The earlier due date may force parents to schedule their school year with an earlier start and end date so they have time to plan for the next year. Part of the beauty of home schooling is having the freedom to schedule course work and hours in a way that works the best for the family. Over the years we have changed our start and end dates to reflect our needs and excellent educational opportunities offered to us. We don't support a change that infringes upon our flexibility.

Overall, we do not see adequate justification for amending Rules 12 and 13. We want to facilitate the right to home school with all its advantages. We think Rules 12 and 13 are working as they are and they should not be changed. We hope that you will decide to not make any changes.

Respectfully,

  
Cynthia and Michael Hayes

October 15, 2013

Dear State Board of Education Members:

This is my second letter to you concerning the proposed changes to Rules 12 and 13. I am writing specifically today concerning the proposed change in the paperwork due date to July 1. I do not support this change because it infringes upon the parents' role to direct the scheduling of their exempt school to reflect their family values, not just educational goals.

When I plan our year, I choose the start date, break dates, and end date to ensure that we have time to visit and care for extended family, be involved in the community, and take advantage of unique educational opportunities during our academic year. I need flexibility in scheduling our year to ensure that our homeschool reflects these values. This requires a paperwork due date that is later than July 1. The early due date would compel me to start my school in early August and end in late May in order to accommodate my family values, schooling hours, and planning time for the next academic year. This limits my appropriate role in directing our schedule.

Some examples of what we do in the school year that requires a flexible schedule: volunteer at City Impact Gifts of Love in early December, visiting extended family in Minnesota and Missouri, and traveling to the Czech Republic for nine weeks in 2013.

When I first began home schooling the paperwork due date was August 1. The adjustment to the July 15 date was doable, although still compromised our flexibility a bit. I believe a July 1 due date infringes on our ability to create a schedule that supports our family values to a degree that is unreasonable. For example, our trip to the Czech Republic, an enriching educational and cultural experience, would have been truncated. (This is partly due to the fact that the Rule 13 paperwork was not made available to me, even though requested, before we left for our trip so an early notification was not possible).

We are not the only family that will be compromised by a change in paperwork due date. One of the strengths of homeschooling is the parents' ability to schedule their academic year to incorporate their family values. An early due date restricts that freedom. We hope that you will take that into consideration and leave the due date as it is, July 15.

Respectfully,



Cynthia A. Hayes

Department of Education Public Hearing  
Lincoln Executive Building  
512 S. 14th Street, Suite 103  
October 15, 2013

Homeschool Rule 12/13 Amendments  
Opinion by Cheryl Winter  
1530 E. Manor Drive  
Lincoln, NE 68506  
October 15, 2013

My name is Cheryl Winter and I have been home schooling in Nebraska for over 15 years. I have seven children ranging in age from 6 to 23 years old. My three oldest children have all been either National Merit Semifinalists or National Merit Finalists. My oldest is pursuing a Master's Degree, my second will graduate from college next year with a double major in Spanish and Education, and my third, a High School senior, is examining his college options. Obviously, home schooling in Nebraska has worked successfully for our family under current home schooling law.

Just this past June, I was approached by two families, who after a frustrating school year in Lincoln Schools, and much thoughtful religious reflection, wanted to home school their children. Although both families were new to home schooling and could have filed after July 15th (the current re-filing deadline), they wanted to submit their paperwork by July 15th in order to be "safe." The amount of effort that had to be put forth to get this done in a month was almost heroic. As an experienced homeschooler, I worked hours with them helping them meet this deadline. First, they had to understand, and comply with, Nebraska law, and then they had to choose curricula for their children. Thank goodness they had decided in June. What of well-meaning parents whose children were previously in the school system, who agonize during June or beyond whether or not to undergo a major life-changing decision such as home schooling, and not knowing the law, try to file and it is too late? Their religious freedom to home school would be forfeited by an arbitrary deadline.

As any home schooling parent knows, selecting a child's curriculum is a long and thoughtful process, that, for someone new to home schooling, usually takes hours and hours of research and decision-making. I, myself, go through this process year after year, as my children advance from grade to grade. Although I have already taught every grade, K-12, at least twice, it still takes me hours to pull my curriculum together each year. The recently-changed July 15th re-filing date is already distressing to me, as I have just finished nine months of schooling at least five children (September to June), and already I am asked to submit new paperwork just one month later. Moving the date up to July 1st would make it even harder on me, and more importantly, less-experienced homeschoolers who are re-filing, or especially families new to home schooling all together. And what if an emergency has taken place in a family over the summer and our filing is delayed? Under new law proposals, we could face criminal charges. This would be ridiculous. Further, changing home schooling paperwork or requiring more information from homeschoolers would only burden home schooling families, who are already asked to list their family details and curriculum choices.

Finally, if a parent feels their child needs to be removed from an approved or accredited school situation for some reason, for example they feel their child is in a dangerous or unhealthy situation, they should be able to do

that immediately, and not fear criminal penalties. Removing a child from a harmful situation should always be the parents' first priority and they should not be hampered by waiting to receive a letter of acknowledgement. As I explained to the two families I helped this summer, if a parent needs to make a decision about home schooling immediately, they can, with much less effort, sign-up with an established home schooling curriculum provider and begin home schooling within a few days. Or these same parents can start homeschooling using books from the library or their home. This would certainly suffice until the parents can examine curricula across the board and make more thoughtful decisions about the curriculum that is best for their child.

Thank you for considering my opinion.

**To be recorded as public testimony in opposition to the changes to Rule 12/13.**

**Submitted By: Nathan J. Gurnsey, Esq.**

I was a home educated student born and raised in Nebraska. Though I have no intent or desire to brag about my personal successes, I think it beneficial to briefly describe my background. After high school I continued on to an undergraduate college of 4,000 students where I graduated with a 4.0 and at the top of my class in the Business College. I was then accepted to the UNL College of Law with a full ride scholarship, where I completed the Juris Doctorate program with honors. I am presently an attorney and partner at Woods & Aitken Law Firm in Lincoln, Nebraska. I am not the exception, as success of this nature is typical among home educated families and individuals. Please note that it is a well-proven and time-tested fact that home educated students excel in their chosen endeavors and careers. Statistically, they perform much better than their public school counterparts.

I have been the parent of several home educated children for the past 4 years. We have fully complied with the Rule 12/13 regulations as have the vast majority of home educating families in Nebraska. I desire to continue to comply with such regulations. I am entirely in opposition to the proposed changes to Rule 12/13 regulations. It is obvious the proposed changes are reactionary to the Thacker case and are not warranted in light of the numerous compliant home educating families in Nebraska. While change may be desired by the Department, the propose changes go too far:

- 1) Filing Deadline: There is no sufficiently reasonable basis for moving the filing deadline from July 15 to July 1. Changing such date will result in numerous and unnecessary noncompliance by those home educating families who have developed a habit of complying by July 15.
- 2) Proposed Effective Date is Illegal and Discriminatory: The proposed change that the exemption is not effective until 30 days after a Letter of Acknowledgement is received from the Department is illegal. This proposed revision is contrary to Nebraska Revised Statute 79-1601(3) and contrary to the Supreme Court's decision in the Thacker case, which both state such exemption is effective when the signed statement is received by the Department. Adopting regulations contrary to the statute will result in future challenges to the exemption process. Interestingly, students who desire to transfer from or among accredited schools, approved schools, public schools or religious schools can transfer immediately; they don't have to wait 30 days. Yet, students cannot transfer to an exempt school without up to a 30 or more day delay. This is discriminatory.
- 3) Ambiguity in New Resident Filings: The proposed revisions that require an individual to file "upon becoming a resident" leaves open much ambiguity that will again, create future challenges and litigation. First, how quickly is "upon" and where should the children attend while the signed statement is being processed. Second, the proposed definition of "resident" is not sufficient and creates ambiguities regarding the timing or events that actually

attain resident status in Nebraska. While I recognize revising the regulations to accommodate a family moving to Nebraska is challenging, I would contend that the proposed method of addressing the situation creates more problems than it solves.

Home education is working well in Nebraska under the current regulations and does not need more restrictive regulations or complex requirements. Iowa recently adopted a sweeping reform of its home education laws and has removed all notice requirements for parents who wish to home educate. Nebraska should become more progressive, as its neighbors Iowa and Missouri, rather than attempting to place more hurdles and potential criminal sanctions on the home educating community.

Based on the foregoing facts, the Board should desire to retain home educating families in Nebraska, and should not create an environment that is hostile to home educators. I am one of many home educating families that would have no problem moving my family, household, and tax dollars to Iowa, Missouri or another state that fosters and appreciates home educators.

I love my children and will pursue what is in their best interests in all aspects, particularly in regard to their education. I hope Nebraska is the state where I can continue to do this.

Thank you for your time and thoughtful consideration of these matters.

**Wid, Brenda**

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**From:** Jessica Farnsworth <jessicajo78@yahoo.com>  
**Sent:** Monday, October 07, 2013 9:39 AM  
**To:** Wid, Brenda  
**Subject:** email regarding Rule 12 and Rule 13

On Sep 24, 2013, at 4:01 PM, Jessica Farnsworth <jessicajo78@yahoo.com> wrote:

Dear Mrs. Cronk,

I am writing to you as a concerned homeschooling parent. My husband and I just moved to Kearney from Holdrege this summer. We have two children. Our youngest is in kindergarten this year, schooled at home by myself. I am a family physician, but am currently home full-time raising my children.

I have read the proposed changes to Rule 12 and Rule 13, and I would ask you to vote against them. I am concerned that the changes will cause difficulties for homeschooling families. Overall, homeschooling has been shown to educate children well, with above-average scores on SAT and ACT testing, and good performance in college education. Home school parents are people who are very invested in their children's academic development. Nebraska's homeschooling community is working well without these changes, and if enacted, these changes could cause serious problems for families, including charges of truancy. For example, if a family decides to remove their child from a public school, under the new changes, they must wait 30 days and also must wait for the letter of acknowledgement from the state. This letter could be delayed per the new changes, thus causing a further delay for the family to be able to carry out their desire for their child's education. Parents should be able to carry out what they feel is in the best educational interest of their child, without facing criminal charges. Interestingly, students transferring from accredited schools to approved schools or from public schools to religious schools can transfer immediately; they don't have to wait 30 days. Yet, students cannot transfer to an exempt school (a very successful and legally recognized form of education) without up to a 30+ day delay (over 10% of a typical school year). This is discriminatory.

Many of the rule changes are contrary to the Supreme Court decision in STATE v. THACKER, 286 Neb. 16. The proposed changes will, in some situations, result in parents being forced to violate their sincerely held religious beliefs or be charged with truancy. The proposed changes will, in some situations, result in parents being forced to keep their children in a bad situation or be charged with truancy.

I urge you to vote against these changes. If you have time, I would be interested to hear your response to our concern. Thank you very much for your consideration.

Your truly,  
Jessica Farnsworth

**Wid, Brenda**

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**From:** Chris & Polly Velder <NEVelders@ThreeRiver.net>  
**Sent:** Saturday, October 05, 2013 7:39 PM  
**To:** Wid, Brenda  
**Subject:** Please submit the attached for consideration

Please submit the following text as our opinion regarding the proposed modifications to NDE Rules 12 and 13. Submission was suggested by Mrs. Cronk via e-mail and Dr. Scott Swisher via US Mail.

Thank you,

Chris Velder

Dear Mrs. Cronk,

We are writing in opposition to the proposed changes to Rules 12 and 13 regarding approved unaccredited schools known as home schools.

From our perspective, the rules are working well as they currently stand. Having worked in government service, we also understand the desire of the Education Department to solidify a timeline for approval of paperwork and lessen the burden of processing hundreds of requests during a relatively short period during the summer months. However, the proposals as we have read them, will actually make compliance more difficult and "muddy the waters" so to speak for a system that has worked well for many years. In some instances the proposed changes violate current state laws and established Supreme Court decisions. They also violate the personal rights of parent by forcing them to leave children in a situation that directly opposes their religious or moral beliefs. In certain instances it will force parents to leave their children in situations that are potentially dangerous (i.e. bullies, narcotics, etc). The proposals will likely criminalize parents who are acting in good faith for the interests of their children. We can easily see this leading to further litigation in the future.

We strongly urge you to oppose these changes and seek a compromise which will clarify language and fit the current legal framework. It is our opinion that the language of the proposals can easily be modified to meet the needs of the Department of Education and those of home educators as well as preserve personal rights and respect established law and/or legal precedent. We recommend seeking out the guidance of organizations such as the Home School Legal Defense Association and Nebraska Christian Home Educators Association; both of whom have a thorough understanding of the needs of home educators in Nebraska. Direct exchange between these sort of groups and the Department of Education will foster a better understanding of the issues among the affected parties. We are confident that these sort of discussions will lead to a mutually beneficial solution and perhaps generate other ideas which will enhance educational opportunities for all children.

We look forward to receiving your response that you will oppose these rule changes as currently proposed and support a renewed dialog on the issues.

Sincerely,

Chris and Polly Velder  
117 S 8th Street  
O'Neill, NE 68763  
[NEVelders@ThreeRiver.net](mailto:NEVelders@ThreeRiver.net)

## Wid, Brenda

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**From:** Laurie Cordray <cordrayl@gmail.com>  
**Sent:** Monday, October 07, 2013 1:07 AM  
**To:** Wid, Brenda  
**Subject:** Written testimony for the hearing on proposed changes to Rule 12 and Rule 13

I am submitting the following comments as written testimony for the hearing on October 15, 2013 regarding proposed changes to Rules 12 and 13 regulations.

I am a resident of District 5, and I homeschool my children. I am also a leader of a local group for homeschooling families. I am emailing today in reference to some concerns I have regarding the proposed changes to the Rule 12 and Rule 13 filing requirements. I watched the portions of the videos for the work session on 9/5/13 and the board meeting on 9/6/13 that pertained to these proposed changes. My main concern is that parents withdrawing their children from an accredited public or private school would have to wait 30+ days to begin their homeschooling, but I also have concerns with the earlier filing deadline. Please allow me to explain my concerns.

First, I am concerned that the proposed changes to the filing requirements are in conflict with current state law and the Nebraska Supreme Court decision in *State v. Thacker*. Nebraska Revised Statute 79-1601 (3) clearly states that the exempt school "...shall be effective **when a statement is received by the Commissioner of Education** signed by the parents or legal guardians of all students attending such private, denominational, or parochial school..."

Because of that, saying that the exempt school may begin when the acknowledgement letter is received is in conflict with our current law.

In addition to violating our current law, requiring parents to leave their children in an accredited school for 30-34 days after filing their exempt school paperwork would force them to violate the very reasons they have elected to home school. As a leader of one of the many local groups for homeschooling families, I receive an average of one email/week from parents who are considering homeschooling—many of whom have decided that their local public school is not the ideal learning situation for their child for a variety of reasons (safety/bullying, health concerns, family situations, and religious beliefs being the most common). As a parent, I cannot imagine being asked to leave my child in a less than ideal situation when what is best for them is readily available. What if the situation were reversed and a public school was the best learning environment for a child? Would the NDE tell a parent they had to wait 30+ days to send their child to a public school when they were previously enrolled in a private school or homeschool? Of course not! It just doesn't make sense. So it makes no sense to force parents to wait 30+ days to begin homeschooling.

Regarding the filing deadline of July 1 instead of July 15—In the *Thacker* case, the report from the NDE listing homeschooling families was not sent to the local school districts until October 6<sup>th</sup> which was well after public schools started. I would only support moving up the filing deadline if the reports were being filed prior to the first day of public school classes. Even then, it would cause hardship to homeschooling families as there is an extensive amount of preparation that goes into these forms. We essentially have to plan our school calendar and scope and sequence in order to properly complete them. As a whole, homeschoolers do an excellent job educating our children. There are multiple independent studies that prove our success. I don't see any reason to place any additional burdens on these families.

I request that the board oppose changes to the current Rule 12 and Rule 13 Regulations.

Laurie Cordray

11.07.13 State Board of Education Work Session

2.4-104

Murray, NE

## Wid, Brenda

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**From:** Lisa C. <ljchoquette@cox.net>  
**Sent:** Sunday, October 13, 2013 4:56 PM  
**To:** Wid, Brenda  
**Subject:** TITLE 92- NEBRASKA DEPARTMENT OF EDUCATION CHAPTER 12 & 13- EXEMPT SCHOOLS

To: Brenda Wid -

TITLE 92- NEBRASKA DEPARTMENT OF EDUCATION CHAPTER 12- EXEMPT SCHOOLS (ELECTION FOR OTHER THAN RELIGIOUS REASONS)

003.02A2 ...”In no case shall such child be exempt from the mandatory attendance requirements of 79-201 R.R.S. on the basis that the parents intend to enroll the child in an exempt school or have filed the forms described in Section 003.02A. In order to comply with 79-201 R.R.S., a child shall not cease attending the approved or accredited Nebraska school until such time as the Letter of Acknowledgement described in Section 005 is received.”

I am concerned about the above changed to Chapters 12 & 13 Exempt Schools. I personally experienced our oldest child falling apparent in elementary school. He was profoundly gifted with a number of neurological disorders that weren't fully diagnosed at the time. His overreactions and odd ways meant some students would tease and taunt him. Multiple meetings over months with well-meaning, hard-working school personnel did not get this stopped, though everyone recognized there was a problem. Our son started begging to not attend school. When I insisted he stay (literally pushing him out of the car at school), he started refusing to do his school work. When no one came to his defense when he was teased, he started lashing out and became both the victim and the bully. Then shortly before the end of the school year at age 7, he threatened someone with a pair of scissors. I finally came to my senses and realized that someone needed to respond. He couldn't be allowed to hurt someone – and he shouldn't be left to be hurt by others. So I removed him from school, even though I desperately did not want to homeschool at the time.

It took years to undo the damage done in school. With no academic options in Omaha (like a small Quaker school with super flexibility or a school for twice-exceptional students, both options to the boy who similarly struggled in the attached article), we had no other option but to homeschool. If I knew then what I know now, I should have gotten our son out of school much earlier. Keeping our child who was falling apart in a situation that was unsafe for him emotionally was abusive on our part. Parents have the ultimate responsibility to keep their child safe and must be able to remove their child from an unsafe situation, including school, at any point. A parent should not be forced to keep such a child in school waiting for state homeschool paperwork to be approved. Filing the notarized forms should be sufficient for removal from school.

After beginning to homeschool 13 years ago, I created a support group for parents of gifted kids who don't naturally fit. Along the way, I have helped parents work with a school to help it work – or helped parents feel comfortable with homeschooling when school doesn't work. Our younger son enjoyed attended elementary and now secondary school, so this is not a statement that I believe schools are generally unsafe. However, keeping a child who feels unsafe in school can lead to depression and ultimately suicide (our older son's final decision at age 15) – both issues that could be avoided. I'm quite certain the Nebraska school system wants to limit these devastating issues. Please don't make the homeschool rules overly restrictive for parents who are struggling with children who are fundamentally different and flailing in school.

Lisa Choquette

Omaha, NE  
(402) 330-6056

[http://www.washingtonpost.com/national/health-science/forget-the-meds-and-special-schools-the-best-cure-for-my-sons-learning-issues-is-time-off/2013/10/07/6e0bac7a-ceed-11e2-8f6b-67f40e176f03\\_story.html](http://www.washingtonpost.com/national/health-science/forget-the-meds-and-special-schools-the-best-cure-for-my-sons-learning-issues-is-time-off/2013/10/07/6e0bac7a-ceed-11e2-8f6b-67f40e176f03_story.html)

## Wid, Brenda

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**From:** Shelli Cook <shelli777@hotmail.com>  
**Sent:** Sunday, October 13, 2013 9:48 PM  
**To:** Wid, Brenda  
**Subject:** Revisions to Rules 12 & 13

Dear Nebraska State Board of Education:

I would like to express my concern regarding the upcoming proposed revisions to Rules 12 and 13.

As one who has worked extensively in public, private, and home school settings as a teacher and as a speech-language pathologist, I say from experience that home schooling is a wonderful option for many families. Current state guidelines have served our state well. The proposed changes could make this option needlessly more difficult for families. This would risk keeping many children from an option they may need.

As sorry as I am to hear about the confusions of the Thacker trial, this does not indicate a need to impose possible hardship on other homes school families in this great state.

Thank you for your attention to my concerns.  
Thank you for serving on the Nebraska State Board of Education.

Sincerely,  
Shelli A. Cook  
M.S. CCC-SLP

1944 South 24 Street  
Lincoln, NE 68502

## Wid, Brenda

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**From:** Molly O'Holleran <molly.oholleran@gmail.com>  
**Sent:** Monday, October 14, 2013 1:48 PM  
**To:** Katie Burton  
**Cc:** Lillie Larsen; Mark Quandahl; Wise, Rachel; Rebecca Valdez; Patricia Timm; Lynn Cronk; Sieler, John; Worth, Margaret  
**Subject:** Changes Chapters 12 and 13: Written testimony to be submitted in advance to [brenda.wid@nebraska.gov](mailto:brenda.wid@nebraska.gov).

Dear Katrina,

Thank you for your email regarding changes to Rules 12 & 13. We appreciate your input as a Home Schooler.

As you likely know already, a public hearing on these proposed revisions has been scheduled for Tuesday, October 15, 2013, beginning at 10 a.m. Central time. For your information, a copy of the public notice of that hearing appears on this Department's web site at [http://www.education.ne.gov/Legal/Hearing\\_notices.html](http://www.education.ne.gov/Legal/Hearing_notices.html). This notice was also published in the Omaha World-Herald on 9/14/13. As is explained in that notice, you may present testimony at the hearing or submit written testimony in advance of the hearing that will be made part of the record of the hearing.

If you wish the e-mail you sent the State Board of Education members to be considered your written testimony submitted in advance, please communicate that in advance of the hearing date by sending an e-mail to [brenda.wid@nebraska.gov](mailto:brenda.wid@nebraska.gov).

Yours truly,

*Molly H. O'Holleran*

Molly H. O'Holleran  
Nebraska State Board of Education  
1001 S. Deerwood DR  
North Platte, NE 69101-6317  
Phone: (308) 532-8783  
[molly.oholleran@gmail.com](mailto:molly.oholleran@gmail.com)

On Oct 14, 2013, at 12:28 PM, Katie Burton <[purplekat2012@gmail.com](mailto:purplekat2012@gmail.com)> wrote:

I would like the attached statement to be included in any necessary record. Should individuals be unable to open the appropriate attachment, I've included my statement below (though the email layout may be inaccurate). Thank you.

Sincerely, Katrina Burton  
16114 Madison St Omaha NE 68135

Dear Members of the Nebraska State Board of Education,

I believe it is the responsibility and role of leadership to protect the constitutional rights of parents and families and to assist families in their worthy endeavors. Public servants accomplish such things by creating laws and policies which 1)add to the general happiness of families, 2)avoid and/or remove additional burdens to families, and 3)protect freedoms guaranteed by the United States Constitution. I believe these policy changes detract from general happiness,

add unnecessary burden, and infringe on liberties guaranteed by our beloved Constitution. These policy changes hinder my ability to perform my duties as a parent to protect and raise my children according to the dictates of my conscience.

For the purpose of the following statement, I put forth the following truths:

1. Parents have a natural attachment and care towards children due to the sacrifices necessary to bring children into the world and care for them to adulthood.
2. The state has no natural attachment to children but rather only a relationship allowed and/or forced by the dictates of men.
3. It is the Constitutional right of parents to direct the upbringing education of children. This right may not be infringed under the guise of protecting the public interest.

1. "By July 1st (replacing July 15th) of each school year the school will be in operation..."

-This policy change takes away two weeks of time from parents to determine curriculum and organize paperwork. The removal of time adds constraints and stress to parents and families thereby detracting from the general happiness of those who desire to prepare and teach their children at home.

**-It takes time to make good educational choices for children. The removal of time hinders my ability to perform my parental duties by impeding my ability to more thoughtfully determine appropriate schooling options and curriculum choices for my children.**

2. "When parents or guardians did not reside in a Nebraska school district as of July 1 of any school year in which they wish their child(ren) to attend an exempt school, they shall cause the parent representative to file the forms described in Section 003.02A upon becoming a resident."

-In other words, families who are new to our state will have no time to become familiar with the homeschooling laws within the state of NE, no time to research schools to decide whether or not they feel homeschooling is necessary, no time to research curriculum, no time for children to adjust to a new home and situation, not time to settle. This policy change adds **significant** unnecessary burdens to those who are already dealing with a highly stressful situation.

-I have been new to the state of Nebraska on two occasions. Should another such occasion arise and I determine homeschooling necessary to meet the needs of my children, **I will be hindered in my duty as a parent to protect my children from unnecessary emotional harm by being forced to see to curriculum planning and paperwork rather than assisting my children and family with the physical and emotional demands of relocation.**

3. "In order to comply with 79-201 R.R. S., a child shall not cease attending the approved or accredited Nebraska school until such a time as the Letter of Acknowledgement (no longer required to be immediately sent but rather sent within 30 days) described in Section 005 is received."

-In other words, a parent must obtain the permission of the state in order to make an educational choice and direct their children's upbringing. This policy change unnecessarily removes rights from parents and places it in the hands of the state infringing on the constitutional rights of parents to direct the upbringing and education of children.

-Due to my natural attachment to my children, and until my rights are removed through due process of law, I am the individual best capable, most qualified, most willing, and most legally responsible to see to the immediate needs of my children. Whereas the state does not have direct control over how school employees and

students behave nor what they say; whereas political processes and changes take time, it sometimes becomes necessary for parents to immediately remove children from inappropriate and/or hostile environments for their protection. These situations and environments will vary from school to school and definitions of such will vary from family to family making it impossible for the state to see to every contingency. Parents must be given the greatest amount of liberty possible in order for their duties as parent to be accomplished. **This policy change hinders my ability to immediately protect my children from inappropriate and/or hostile environments and infringes on my constitutional right to direct the upbringing and education of my children.**

These policy changes hinder my ability to perform my duties as a parent to protect and raise my children according to the dictates of my conscience. These policy changes infringe on the Constitutional liberty of parents and families, place additional burdens upon parents and families, and detract from the general happiness of parents and families. These policy changes exert unnecessary and inappropriate authority over those who are still deemed responsible and capable by law to make such decisions for themselves and their children. **I would encourage all leadership involved to immediately halt the process of alterations to Chapters 12 and 13 of The Nebraska Department of Education Title 92.**

Sincerely,

Katrina Burton

16114 Madison St

Omaha, NE 68135

<Statement board of edu regarding changes to homeschooling.docx>

**Wid, Brenda**

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**From:** Molly O'Holleran <molly.oholleran@gmail.com>  
**Sent:** Monday, October 14, 2013 2:22 PM  
**To:** Devi Mersch  
**Cc:** Inbody, Russ; Bolte, Beth; Wid, Brenda  
**Subject:** Re: PROPOSED CHANGES TO RULES 12/13

Dear Devi,

Thank you for your email regarding changes to Rules 12 & 13. The State Board of Education appreciates your input as a Home Educator.

As you likely know already, a public hearing on these proposed revisions has been scheduled for Tuesday, October 15, 2013, beginning at 10 a.m. Central time. For your information, a copy of the public notice of that hearing appears on this Department's web site at [http://www.education.ne.gov/Legal/Hearing\\_notices.html](http://www.education.ne.gov/Legal/Hearing_notices.html). This notice was also published in the Omaha World-Herald on 9/14/13. As is explained in that notice, you may present testimony at the hearing or submit written testimony in advance of the hearing that will be made part of the record of the hearing.

Since you can't attend the meeting, you may wish to express your opinion in a written testimony in advance of the hearing date by sending an e-mail to [brenda.wid@nebraska.gov](mailto:brenda.wid@nebraska.gov).

Yours truly,

*Molly H. O'Holleran*

Molly H. O'Holleran  
Nebraska State Board of Education  
1001 S. Deerwood DR  
North Platte, NE 69101-6317  
Phone: (308) 532-8783  
[molly.oholleran@gmail.com](mailto:molly.oholleran@gmail.com)

On Oct 14, 2013, at 7:14 AM, Devi Mersch <[damersch@cox.net](mailto:damersch@cox.net)> wrote:

**Dear Ms. Oholleran,**

**Your proposed changes to Rules 12/13 punish and inhibit those who follow the rules with the assumption you will stop an extreme minority that break them.**

**Personally, I think it is ridiculous to require a student to remain in the public school if the parents want to remove that child. Now they must wait until receipt of your acknowledgement letter? What if the child has significant health problems? This is not necessary. If a child is removed prior to receipt of paperwork, what is so terrible about that? They just continue on until they make up that time. We, homeschool families, are "for" education. We are not bound by a calendar that must begin or end at a certain time. If you truly understand the homeschool community, you would**

**realize that these changes are not necessary. We, again, are educators. We seek every opportunity to teach our children and instill in them a desire to learn. The far majority of homeschool families teach through summer, evenings, weekend. Learning never ceases. So it seems incredibly naive to be so concerned with pulling a child out of the public school system a few weeks prior to getting your acknowledgement letter. In all actuality the child is most probably being "taught" at home prior to receipt of that letter.**

**These changes would significantly restrict homeschool freedom in Nebraska. Even in refiling annually, to move the date up is unnecessary. You require us to list our curriculum for the next year but you continue to move the date up. Most homeschool educators use the summer to review new curriculum to pick the best for their children. To continually move up the dates is becoming a hardship.**

**I would attend your meeting/hearing but I am teaching 12 subjects to my children, preparing labs for this week, grading papers, preparing lesson plans, reviewing curriculum and quite frankly do not have the time.**

**Please consider dropping these new proposed changes...they are not necessary.**

**Thank you for your time.**

**Sincerely,  
Devi Mersch**

Sent from my iPhone

## Wid, Brenda

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**From:** Molly O'Holleran <molly.oholleran@gmail.com>  
**Sent:** Monday, October 14, 2013 2:25 PM  
**To:** David & Lori Mraz  
**Cc:** Inbody, Russ; Bolte, Beth; Wid, Brenda  
**Subject:** Re: Regarding proposed changes to Rules 12 and 13

Dear Lori,

Thank you for your email regarding changes to Rules 12 & 13. The State Board of Education appreciates your input as a homeschool parent.

As you likely know already, a public hearing on these proposed revisions has been scheduled for Tuesday, October 15, 2013, beginning at 10 a.m. Central time. For your information, a copy of the public notice of that hearing appears on this Department's web site at [http://www.education.ne.gov/Legal/Hearing\\_notices.html](http://www.education.ne.gov/Legal/Hearing_notices.html). This notice was also published in the Omaha World-Herald on 9/14/13. As is explained in that notice, you may present testimony at the hearing or submit written testimony in advance of the hearing that will be made part of the record of the hearing.

If you wish to express your opinion in a written testimony, please communicate that in advance of the hearing date by sending an e-mail to [brenda.wid@nebraska.gov](mailto:brenda.wid@nebraska.gov).

Yours truly,

*Molly H. O'Holleran*

Molly H. O'Holleran  
Nebraska State Board of Education  
1001 S. Deerwood DR  
North Platte, NE 69101-6317  
Phone: (308) 532-8783  
[molly.oholleran@gmail.com](mailto:molly.oholleran@gmail.com)

On Oct 14, 2013, at 2:11 AM, David & Lori Mraz <[joylandfarms@gmail.com](mailto:joylandfarms@gmail.com)> wrote:

Dear Ms. Holleran,

Thank you for your dedication to the education of Nebraska's children and to Nebraska's families by serving as a board member on the NE State Board of Education. I appreciated your kind words of support for homeschooling which were spoken at the Sept. 5 meeting. I also thank you for your circumspect consideration of issues affecting homeschooling.

I am a homeschool parent of three children and very much consider it my responsibility to see to the education of my children. I am also a former public school teacher. I have enjoyed both roles in my life very much and am grateful that various opportunities exist for helping with the education of my children, including public, private, and home education as well as combinations of these.

I viewed the September 5th discussion of this agenda item online and noted the initial support for moving the filing deadline to July 1 by one member of the board. I appreciated her interest in supporting homeschoolers who wish to participate in part-time enrollment programs, but am uncertain as to how much of a problem there currently is with paperwork not making it to districts in time given the July 15 deadline. I just looked at my paperwork for this year and it already states that we are to allow up to 30 days to have the necessary paperwork processed, which would be

by Aug. 15. This seems to land before the start of school already. It also seems that it would be prudent for those who are intending to participate in part-time enrollment to have already contacted the school and been made aware of when the desired class(es) will begin so that they might ensure their paperwork will be in on time. Would it be reasonable to leave the deadline as is but state in the paperwork that, since school districts will not allow unenrolled students to participate in their offerings, exempt schools must contact their district for enrollment deadlines and file their paperwork at least 30 days prior in order to ensure eligibility? This seems as though it would truly assist the children of exempt schools and not hinder them. It would also not unnecessarily burden those parents who will not be participating in part-time enrollment, which I assume is quite a number of families.

Furthermore, we moved to Lincoln five years ago, not arriving until Sept. 15. My children were too young to be in school at that time but it would have been a very unfortunate situation to have found ourselves in if we had arrived in NE, a state to which we moved because of its family-friendly reputation, and planned to home school only to find out that we were being forced to enroll our children in public school or face truancy charges because we had not filed the required paperwork and received an acceptance letter before we could bring them home to "officially" begin homeschooling. Not only would this have seemed shockingly unnecessary, but how terribly unsettling it would have been to our children, to be put in an unfamiliar educational institution against the very will of their parents.

I suppose the underlying uncertainty that I have regarding these proposed changes is that this may represent a subtle attempt to supplant the authority of my husband and myself regarding educational decision-making and replace that with state authority. No one truly knows and loves our children as do we and, because of this, I feel we are uniquely qualified to make decisions such as these.

Again, let me say that I am grateful for our NE public education system and that I have even availed myself of a short-term service for my daughter through our local school district. That interaction was wonderful. Those in the school that I dealt with were friendly and professional and provided a great service for us when we needed them. My daughter and I worked through the developmental difficulty together and made use of some of the material provided by the district. She also had time at home to simply mature and master her area of struggle in an environment that was loving and supportive. She has since progressed beautifully. This is precisely the kind of relationship between exempt schools and public school districts that we ought to continue to have.

In closing, because I feel that the present proposed changes to Rules 12 and 13 could possibly hinder the education of our children rather than protect it I ask that you please NOT enact legislation that might force any parent to enroll their children where they do not wish them to be or risk being in violation of truancy policy according to the Dept. of Education. I also ask that you please consider leaving the filing deadline at July 15 and add additional deadline information in the Rule 12 and 13 paperwork regarding part-time enrollment.

Respectfully,  
Lori Mraz

## Wid, Brenda

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**From:** Molly O'Holleran <molly.oholleran@gmail.com>  
**Sent:** Monday, October 14, 2013 2:30 PM  
**To:** Jessica Cole  
**Cc:** Inbody, Russ; Bolte, Beth; Wid, Brenda  
**Subject:** Re: Home Education In NE

Dear Jessica,

Thank you for your email regarding changes to Rules 12 & 13. The State Board of Education appreciates your input as a Home Educator.

As you likely know already, a public hearing on these proposed revisions has been scheduled for Tuesday, October 15, 2013, beginning at 10 a.m. Central time. For your information, a copy of the public notice of that hearing appears on this Department's web site at [http://www.education.ne.gov/Legal/Hearing\\_notices.html](http://www.education.ne.gov/Legal/Hearing_notices.html). This notice was also published in the Omaha World-Herald on 9/14/13. As is explained in that notice, you may present testimony at the hearing or submit written testimony in advance of the hearing that will be made part of the record of the hearing.

If you wish to express your opinion in a written testimony, please communicate that in advance of the hearing date by sending an e-mail to [brenda.wid@nebraska.gov](mailto:brenda.wid@nebraska.gov).

Yours truly,

*Molly H. O'Holleran*

Molly H. O'Holleran  
Nebraska State Board of Education  
1001 S. Deerwood DR  
North Platte, NE 69101-6317  
Phone: (308) 532-8783  
[molly.oholleran@gmail.com](mailto:molly.oholleran@gmail.com)

On Oct 13, 2013, at 10:39 PM, Jessica Cole <[matthew\\_28\\_18@hotmail.com](mailto:matthew_28_18@hotmail.com)> wrote:

I OPPOSE ADDING REGULATIONS TO HOME EDUCATION IN NEBRASKA for Rules 12 and 13.

I feel that parents have the right to educate their child how they see fit. It's not the governments job to control the people in their rights.

Jessica Klooz

## Wid, Brenda

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**From:** Mark Quandahl <mquandahl@bqlaw.com>  
**Sent:** Monday, October 14, 2013 4:01 PM  
**To:** Wid, Brenda  
**Subject:** Fwd: Opposition to Proposed Changes to Rule 12 and 13

Brenda  
Can you consider Mr. Kolster's email, below a part of the written testimony at the October 15, 2013 hearing?  
Thank you

Mark Quandahl  
Brumbaugh & Quandahl, P.C., LLO  
4885 South 118th Street, Suite 100  
Omaha, NE 68137  
(402) 861-4702  
(800) 887-4747 ext 202  
[mquandahl@bqlaw.com](mailto:mquandahl@bqlaw.com)

On Oct 14, 2013, at 10:13 AM, "Michael Kolster" <[michael.kolster@cox.net](mailto:michael.kolster@cox.net)> wrote:

Dear Mr. Quandahl,

As indicated in the subject line, the purpose of this of this email is to let you know that I strongly oppose the Nebraska Department of Education's proposed changes to Rule 12 and 13 and urge you to do the same. I am concerned that the proposed changes are unnecessary, limit parental rights, and add additional burden to homeschooling families. Specifically, my concerns are:

1. The current rules directing homeschooling (referred to as "exempt schools" in Title 92 of Nebraska's Administrative Code) in the state of Nebraska are sufficient. It is well documented that homeschooling has proven to be a successful method to educate children and is working well under Rule 12 and Rule 13. The energy being taken to change something that is working is misguided and should be redirected.
2. The proposed change to add Section 003.02A2 limits parental rights to decide when their child should change their schooling situation. It is not uncommon for a parent to elect homeschooling to protect their child from a dangerous situation such as bullying or exposure to illicit activities. When a parent makes that decision, they should not have to wait until the state provides a "Letter of Acknowledgement" that could take in excess of 30 days. It is the parents responsibility to protect their children and they should not be threatened with a charge of truancy when electing to educate their children at home rather than continue in a dangerous situation.
3. The changes to Section 003.02A1 and the addition of Section 004.05A create an additional administrative burden on parents choosing to homeschool their children. The proposal to change the required reporting date for renewing families to 1 July is actually a 1 month change from what was required 4 years ago. This change forces parents to develop and submit their paperwork while the current academic year is in progress. Unlike a public or private schools with an administrative staff, the homeschool parents must focus on both teaching their children and developing and submitting the proper notification. Additionally,

the new requirement for a specific forms that may differ from what has been previously acceptable.

As indicated above, I believe any changes to the current rules would be detrimental to homeschooling in Nebraska and I respectfully request you vote against the proposed changes to Rule 12 and 13.

Finally, I would like to thank you for your public service to our state; first as a Senator in the Unicameral and now as a member of the State Board of Education. Your desire to serve the people of Sarpy County, and the entire State of Nebraska is admirable. Thank you for taking the time to read this email. If I can be of any assistance, please feel free to contact me.

Sincerely,

Michael P. Kolster  
1305 Mesquite Cir  
Papillion, NE 68046  
[michael.kolster@cox.net](mailto:michael.kolster@cox.net)  
402-517-0325

**Wid, Brenda**

---

**From:** Mark Quandahl <mquandahl@bqlaw.com>  
**Sent:** Monday, October 14, 2013 4:02 PM  
**To:** Wid, Brenda  
**Subject:** Fwd: Nebraska State Board of Education

Mark Quandahl  
402.981.0929

Begin forwarded message:

**From:** Mary Ann <michmar@cox.net>  
**Date:** October 14, 2013 at 11:46:15 AM CDT  
**To:** <mquandahl@bqlaw.com>  
**Subject:** Nebraska State Board of Education

I am writing to you as a member of your district asking you to please oppose adding regulations to home education in Nebraska. Please leave Rule 12 and Rule 13 unchanged.

Thank you,  
Michael and Mary Knipp

**Wid, Brenda**

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**From:** Mark Quandahl <mquandahl@bqlaw.com>  
**Sent:** Monday, October 14, 2013 4:03 PM  
**To:** Wid, Brenda  
**Subject:** Fwd: Please vote against more Homeschool regulations

More written testimony, below.

Mark Quandahl  
402.981.0929

Begin forwarded message:

**From:** Sara Jo Dickey <sara.jo@cox.net>  
**Date:** October 14, 2013 at 11:17:08 AM CDT  
**To:** <mquandahl@bqlaw.com>  
**Subject:** Please vote against more Homeschool regulations

Dear Mr. Quandahl,

I'm writing to request that on Tuesday, October 15<sup>th</sup> you will vote AGAINST adding new regulations to Homeschoolers in Nebraska. Parents need as much flexibility as possible to provide the best education possible for their children.

Thank you!

Sara Jo Dickey  
1009 Bryn Mawr Drive  
Papillion, NE 68406

## Wid, Brenda

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**From:** Summers, Scott  
**Sent:** Wednesday, October 16, 2013 9:00 AM  
**To:** Worth, Margaret  
**Cc:** Wid, Brenda  
**Subject:** FW: Board of Education Hearing on Tuesday, Oct. 15th

Another one that came in to Molly morning of hearing.

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**From:** Swisher, Scott  
**Sent:** Wednesday, October 16, 2013 8:31 AM  
**To:** Summers, Scott  
**Subject:** FW: Board of Education Hearing on Tuesday, Oct. 15th

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**From:** Molly O'Holleran [<mailto:mollyoho@gmail.com>]  
**Sent:** Monday, October 14, 2013 8:17 AM  
**To:** Swisher, Scott  
**Subject:** Fwd: Board of Education Hearing on Tuesday, Oct. 15th

[Molly.OHolleran@gmail.com](mailto:Molly.OHolleran@gmail.com)  
1001 S. Deerwood DR  
North Platte, NE 69101-6317

*"A good head and a good heart are always a formidable combination."*

**Nelson Mandela**  
(1918 - )

Sent from my iPhone

Begin forwarded message:

**From:** Alicia Miller <[pursefulofdinos@yahoo.com](mailto:pursefulofdinos@yahoo.com)>  
**Date:** October 14, 2013 at 12:13:11 AM CDT  
**To:** "[molly.oholleran@gmail.com](mailto:molly.oholleran@gmail.com)" <[molly.oholleran@gmail.com](mailto:molly.oholleran@gmail.com)>  
**Subject:** Board of Education Hearing on Tuesday, Oct. 15th  
**Reply-To:** Alicia Miller <[pursefulofdinos@yahoo.com](mailto:pursefulofdinos@yahoo.com)>

Dear Ms. O'Holleran

I am writing to encourage you to vote in opposition to the proposed changes regarding the changes to Rule 12 and Rule 13. As a single, home schooling mother, I am required to get my children's father's signature on Form A every year. Since he lives out of state, it is difficult for me to get his forms back in time for me to turn all of the paperwork in by the July 15th deadline. Pushing the deadline up to July 1st would be even harder. And the possibility of facing criminal charges for late filing is even more daunting. In addition, the proposed changes would also make it harder for parents to pull their children out of public schools throughout the school year. As a leader of Valley Home School Association in Scottsbluff, I have seen many parents turn to homeschooling as a result of the state's current truancy policy as it is enforced in the Scotts Bluff school district. Please vote NO to all of the proposed changes.

Thank you,  
Alicia Miller

October 14, 2013

Dear Nebraska Board of Education,

I am writing this to encourage you to oppose the proposed amendments to Rule 12 and Rule 13.

**1. Criminal Charges:** All present homeschoolers would be required to file their exemption forms by July 1 instead of July 15. This would be an added burden for many as it takes a considerable amount of time to plan curriculum and scheduling for each child. Late filers could be subject to criminal penalties. As a single, home schooling mother, I am required to get my children's father's signature on Form A every year. Since he lives out of state, it is difficult for me to get his forms back in time for me to turn all of the paperwork in by the July 15th deadline. Pushing the deadline up to July 1st would be even harder. And the possibility of facing criminal charges for late filing is even more daunting.

**2. Religious Freedom:** First-year homeschoolers would be expected to file by July 1st. The only exception is for new residents. The rule changes include no provision for parents who develop religious convictions or decide that homeschooling is in the best interest of their child after July 1 but before the start of their local public school.

**3. Parental Rights:** Parents who have a child attending an approved or accredited school and who decide to homeschool would have to file their exemption forms and then wait for their Letter of Acknowledgement before they could withdraw their child. Parents could be forced to leave their child in an unhealthy environment or be faced with criminal penalties. As a co-chair of Valley Home School Association in Scottsbluff, I have seen many parents turn to homeschooling rather than face jail time as a result of the state's current truancy policy as it is enforced in the Scotts Bluff school district.

Please enter this testimony into the record of these hearings on October 15, 2013 and please vote NO to all of the proposed changes.

Sincerely,

Alicia L. Miller  
1602 3rd Ave  
Scottsbluff, NE 69361

President, Vice-President and Board Members,

I have recently been made aware that the State Board of Education (SBE) is considering making some changes to Rules 12 and 13 which govern exempt schools in Nebraska. I have looked at the proposed rule changes and am very worried about how they would impact homeschooling families.

I am especially concerned about the changes to section 003.02A. As I understand the proposed changes, the Department of Education (DOE) would no longer recognize a student as enrolled in an exempt school until the parent/guardian receives a letter of acknowledgement of the same from the DOE. My understanding is that currently, students are considered exempt from the time at which the notice of intent to enroll in an exempt school is filed by the parent/guardian. Thus, the proposed changes would essentially switch Nebraska's exemption system from parental control to DOE control, a grave and unnecessary infringement on personal freedom in my opinion.

In addition, if a student is enrolled in an accredited school and the parent/guardian would like to transfer him/her to an exempt school, with the proposed rule changes the student would have to continue attending the accredited school or be considered truant until the DOE decides to send the letter of exempt enrollment acknowledgement. A separate proposed rule change would give the DOE up to 30 days to respond to such notices instead of the current practice of acknowledging the notice upon receipt. Imagine a parent being forced to decide between facing truancy charges and keeping their child in what they consider to be a harmful environment. The child could be bullied, exposed to gangs, drugs or simply the wrong crowd, or be forced to endure teachings that violate sincerely held religious beliefs for an additional 30 days while waiting for a response from the DOE! The goal of the DOE should be to facilitate quality education for all students, not to place undue burdens on certain portions of Nebraska's most important asset, its children.

I would respectfully request that you use your voice on the State Board of Education to vote against changing Rules 12 and 13 when the issue comes up in your next meeting(s).

Thank you for your hard work on behalf of Nebraska students and for taking the time to listen to my concerns.

Sincerely,

Katie Wattermann  
West Point, NE  
Homeschool Alumnus

**Wid, Brenda**

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**From:** Hollie Gilbert <gilberthollie13@hotmail.com>  
**Sent:** Tuesday, October 15, 2013 12:27 AM  
**To:** Wid, Brenda  
**Cc:** alicia@valleyhomeschool.org  
**Subject:** Comment for the Record for Homeschool Meeting

To Whom It Concerns,

I am opposed to any changes in Nebraska's current homeschooling laws that will require more paperwork and more red tape for already busy parents to process. I would suggest if you really want to make changes to the law that you have less interference from the state so parents have more time to educate **their** children.

Sincerely,

Mrs. Hollie Gilbert  
Harrisburg, Ne

My husband and I are writing in regards to the proposed changes to Title 92, Chapter 12 and Chapter 13. The major concern we have with this change is that any homeschoolers who withdraw from a public school or accredited private school will be required to stay in that school until they receive an official letter from the Department of Education, saying that they can homeschool. This is concerning because it takes away a person's freedom to choose and allows the state to decide for you. This also makes it more burdensome and makes us wonder what this will accomplish. Adding this to what is already required does nothing but attack our freedom. Another concern we have is that new homeschoolers will need to file their Rule 12 or 13 paperwork "upon becoming a resident" (if the family moves in from another state, 003.02A1) or "as soon as practicable" (if the child was previously enrolled in an accredited school, 003.02A2). The law currently requires both groups of homeschoolers to file their paperwork "30 days prior" to when they begin homeschooling. The intent behind this was to give people who are new to the state a set period of time to get their affairs in order before they had to begin homeschooling. That period now becomes ambiguous ("as soon as practicable"), or vanishes entirely ("upon becoming a resident"). Finally homeschoolers will be required to submit supplementary sheets, designed by the Department. Under the current rules, parents can choose to submit these sheets, but can also create their own forms for documenting the information requested, if they so desire. This would again put us at the mercy of what the department decides should be in those supplementary sheets and does not allow

for flexibility. These changes are not necessary and do not benefit the state or the homeschoolers.

The Boerkirchers

## Wid, Brenda

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**From:** Janae griess <janaejanae@hotmail.com>  
**Sent:** Tuesday, October 15, 2013 1:09 AM  
**To:** Wid, Brenda  
**Subject:** Comments regarding revisions to Title 92, Nebraska Administrative Code, Chapter 12 (Rule 12) and to Title 92, Nebraska Administrative Code, Chapter 13 (Rule 13)

Nebraska Department of Education,

I am opposed to the proposed changes to title 92 chapters 12 and 13. It seems unnecessary and a possible hardship for some families who choose to homeschool their children. I do not see a reason to move the deadline forward and do not believe that parents should have to wait for acknowledgement to begin teaching their children at home.

I have personally met parents who believe the changes will have a negative effect on their families. Single parents are especially concerned about the time they will have to send forms to their children's other parent and still get them sent to the state in time. We already have to send in our forms and plans for the school year plenty early. I have a lot of teacher friends and family and know that they are not required to have lesson plans completed that far prior to school starting. Why make it even earlier?

In addition to my previously stated concerns it seems like this change can possibly have a negative effect on children who may be in an unhealthy school environment. I have known a few families who have withdrawn their children from public school to homeschool them because they believed that the environment in which their children were in was unhealthy to them physically or mentally. I would be heartbroken, as would most parents, if my child had to stay in a dangerous or unhealthy environment for thirty days or so while I waited for confirmation from the Department of Education saying I could homeschool. It's our job as parents to protect our children and do what we believe is best for them. I do not believe the state should get in the way of that or threaten to prosecute parents who are doing what they know is best for their children. People in that position should be able to begin teaching their children immediately at home while waiting for confirmation from the Department of Education. Those children should not have to be left in an environment that could be detrimental to them.

Please hear these concerns we homeschooling parents have and consider the implications of any revisions that might be made. Thank you for your time and consideration.

-Janae Griess

## Wid, Brenda

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**From:** Linda G <linda@cckweb.com>  
**Sent:** Tuesday, October 15, 2013 1:58 AM  
**To:** Wid, Brenda  
**Subject:** rule 13

Dear Brenda,

The following is testimony regarding the Rule 13 hearings scheduled for Tuesday, October 15, 2013.

We have several concerns about the proposed changes to the Rule 13 home school exemption. They are as follows....

### Section 002.03 definition of a resident

While we understand that some feel the need to define this word, by defining it this way in this law, then wouldn't this also mean that everyone who resides here in this state could get in-state tuition at colleges? I realize we are talking about elementary and high school ages here, but if the Nebraska law defines a resident that way under the law, then it can be contested that anyone from another state can find a place to stay, call themselves a resident, and receive in state tuition at our colleges and universities. In most places colleges say you are not a "resident" until you have lived here for some minimum period of time, and therefore cannot receive an in-state tuition break. This definition has loopholes – the original 'file within 30 days of when you start school' worked just fine. You may have a problem with colleges and universities seeking to change this definition if you make this the law thereby wasting your time and our tax dollars.

### Section 003.02A and 003.02A1 Changing the 30 days notice and July 15<sup>th</sup> filing date to July 1<sup>st</sup>.

Moving the date up by 2 weeks is an inconvenience to us, but not an impossibility. If the department of education cannot process all of our paperwork in a timely manner, I think many would be willing to use the July 1<sup>st</sup> date. Some parents already file early. Many of us still school our children in June though, and this does put a bit of a burden on us to get next year's forms in by July 1. We believe the 30 days notice should stay for new residents. Also, define 'Commissioner or Designee' – do we mean the state board of education – the normal office we send our documents to? Also, the definition of resident is another loophole here. It is a much clearer law to be '30 days before the start of school', just as you have 30 days from when you move to change your driver's license address to your current one.

### Section 003.02A2 waiting for documentation from the state to home school children

We are seriously opposed to incorporating this section into the law. This means to us that if you have a child who is being bullied by another and the situation cannot be resolved by the administration of the school, that child would be subject to more torment until you receive your letter back from the state allowing you to home school. People pull children out of the school when they are at their wits end trying to make it work for their child. Subjecting them and their children to additional weeks of a bad situation is ridiculous and potentially harmful. We have friends who decided to home school when their kids were ready to commit suicide because they had a learning disability and were tormented at school. The teachers either didn't see it or could do nothing about it. Creating a rule that would trap a child in that situation is frightening to contemplate.

Also, this rule means that new residents would have to file their paperwork (let's say they moved here in August), then enroll them in the local public school, make them attend that school, until such time as they received their paperwork, perhaps some time in September. The entire reason we home school under a religious exemption is because we believe the public school system conflicts with or does not uphold our belief system. Many things they teach are not appropriate for our children. Forcing these new residents to attend public school for part of the semester essentially says we no longer have a religious right to choose to home school for part of the year. If this precedent were allowed, further loss of our rights to teach our children is certain to follow.

### 003.02A3 reminder of consequences of not filing

11.07.13 State Board of Education Work Session

2.4-127

This is redundant. We already have the consequences in 006.

004

This is not necessary if you do not make the changes in 003.

004.05 and 005

These additions are fine. They are not necessary, but they are fine to add as it doesn't change the law, just gives us more information.

The changes on the parent forms are fine if they only change the date from July 15<sup>th</sup> to July 1<sup>st</sup>. If we do not change the date, these changes are not necessary.

We certainly understand where these changes are coming from, given the recent court case in Nebraska. We certainly understand the need for children to attend school and even for that to be enforced. However, this is a problem of culture. This is a problem of parents not training their children to have a good work ethic, respect their elders, learn to love learning, and helping them realize that an education is a very valuable asset. This is a problem of an absence of morality among parents and in the public school system. There are children around the globe who would love to have the opportunity to go to school – you wouldn't have to force them to go because they would want to go and would excel at their studies. You can't make a law to change that.

We are parents of 4 children, one of whom has a disability. My disabled child attended preschool one year in a public school special education classroom. She had multiple illnesses that year, possibly related to her heart defect, and I too received the truancy harassment letters about missing too many days of school, even though I was following the rules about not attending with a fever, active cough, etc, etc. I was nearly turned over to the county attorney for truancy for a 3 year old even though Nebraska law requires no enrollment at all until age 6.

This system is messed up. Changing the rule 13 laws will mess it up even further. It has loopholes that will be challenged in court, wasting our money and your time. The proposed changes are infringements on our religious right to home educate our children. We implore you to leave the Rule 13 laws intact the way they are, with the exception of changing the date of filing, should the department of education feel they need more time to process forms.

Sincerely,

Bill and Linda Goodrich  
Nebraska Home school parents  
[linda@cckweb.com](mailto:linda@cckweb.com)

Ann Elizabeth Kouba, P.E.  
1115 24<sup>th</sup> St  
Auburn, NE 68305

October 9, 2013

Mrs. Patricia Timm  
1020 N 21<sup>st</sup> ST  
Beatrice, NE 68310

Board President Timm,

Re: Proposed Changes to Rules 12 & 13 for Exempt Schools

This is the sixth year I have operated an exempt school under Title 92, Nebraska Administrative Code, Chapter 13. It was mentioned during the September 5, 2013 work session that the proposed revisions to Rule 12 and 13 are meant to try "to help the homeschooler." I am one of those homeschoolers affected by these changes and in my opinion, they do not help. In fact, they hurt.

The three big changes being advocated are all negatives for current and future exempt school operators and their children. Moving the filing deadline for renewals forward to July 1<sup>st</sup> will be detrimental for exempt school operators. Setting a deadline for first time filers to July 1<sup>st</sup> or "upon becoming a resident" (new section 003.02A1) creates an unrealistic time expectation and is inconsiderate of the important decision of choosing an appropriate school environment. Changing the rules so that transfers to an exempt school must remain in their accredited school until a Letter of Acknowledgment is received can keep children in a negative situation longer than necessary.

Until the 2010-2011 school year, renewal filings for exempt schools under Rules 12 and 13 were not due until August 1. That year, families seeking to renew their exemption were required to submit their forms by July 15. Sixteen days were cut from the time needed to prepare their calendars and scope and sequence for the five required subject areas. With the current proposed changes, another fifteen days could be removed. Within four years (2010-2014), an entire month could be removed from this crucial assessment, research, and preparation time.

Exempt schools which operate on a typical fall-to-spring school year finish their subjects up between mid-May and mid-June. Once the school year is done, it is important to organize and file completed materials and most significantly, assess how well the goals of the year were met. After all that is completed, goals for each child, grade level, and subject must be made for the following year. In many cases, this requires hours of research and detailed preparation for the oldest child and for any other children with special needs (learning difficulties or accelerated academics). Once goals are determined, materials can be selected, a scope and sequence written, and plans prepared. It takes time to accomplish all these items in a thorough and honest manner while juggling summer activities like swim lessons,

t-ball/baseball/softball, camps, and daily household requirements. Taking away two more weeks of this essential time can result in less detail being available for the exempt filing, materials being chosen that are not ideal, or a haphazard job of the above actions.

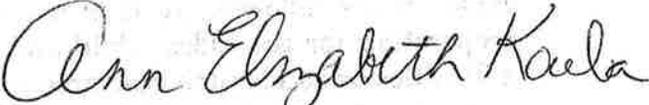
The proposed revisions add a deadline for first time filers to submit their paperwork. For families who are new to the state, these changes do not allow for the time it takes to get settled, tour schools (which might not be possible until early August in some cases), talk to people in the area about their experience with local schools, and possibly locate home educators in the area. A family could fit the definition of legal resident of Nebraska (as defined in the newly proposed Section 002.03) but still be unsure of their school decision until shortly before the local public school starts. If they choose to homeschool, they then would have to go through the planning process listed in the previous paragraph. The proposed changes to add the deadline of July 1<sup>st</sup> or "upon becoming a resident" (Section 003.02A1) are completely impractical.

Wording in the proposed section 003.02A2 no longer allows for immediate disenrollment of children from an approved school upon the Department of Education's receipt of completed Rule 12 or 13 documentation. The new wording is not advantageous for either the children or the approved school. I've personally known three families who chose to remove their children from an accredited school to home educate. One family would not have been unduly harmed by the proposed language as they chose to homeschool for purely academic reasons. Another family's child faced a caustic environment daily. The proposed changes would have required their child to stay for up to 30 more days in a situation that was harmful for his well-being. The third family found themselves being called several times a week to pick up their oldest son from the local public school due to ADHD-related behavior. In cases where safety or behavior are involved in the need to transfer, a delay will cause more negative consequences. Exempt school scheduling is usually flexible enough to meet the necessary hours of instruction, so there should be no need to keep a child enrolled until the Letter of Acknowledgment arrives.

What is the right answer? The proposed revisions are onerous and detrimental to those who currently choose to home educate and future exempt school operators. Keep the rules the way they are if you are truly trying to "help the homeschoolers." New-to-homeschool families can file 30 days before they start. Students can transfer from an accredited school to the exempt school as soon as the letter is received at the Nebraska Department of Education. Renewing exempt schools have until July 15<sup>th</sup> to file, although August 1<sup>st</sup> was much better.

Changing the current wording in every case violates the stated mission of the Nebraska Board of Education to "raise the level of academic achievement" and "improve the quality of education accessible to all students." Please vote **against** all the proposed revisions to Title 92, Rule 12 and 13.

Thank you,

  
Ann Elizabeth Kouba

## Wid, Brenda

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**From:** Bolte, Beth  
**Sent:** Tuesday, October 15, 2013 8:42 AM  
**To:** Summers, Scott; Wid, Brenda  
**Cc:** Iverson, Micki  
**Subject:** FW: FOS Website - General Comment/Other

**From:** [Christinaanderson14@gmail.com](mailto:Christinaanderson14@gmail.com) [<mailto:Christinaanderson14@gmail.com>]  
**Sent:** Monday, October 14, 2013 7:27 PM  
**To:** Bolte, Beth  
**Subject:** FOS Website - General Comment/Other

Name: Mr & Mrs John Anderson  
Address: 4323 S 193rd St Omaha, NE. 68135  
Email: [Christinaanderson14@gmail.com](mailto:Christinaanderson14@gmail.com)  
Phone:  
Fax:

Comment: Rule 12/Rule 13 Concerns: We would love to speak, as a homeschooling family, of our concerns with wording changes regarding homeschooling laws in Nebraska. Thank you for taking time to read and consider our concerns. Concerning the change of law for those wanting to transfer out of an accredited school into a home school, waiting on any state approval completely violates the role of a parent. When parental authority should prevail, this law would limit a parents ability to do what they deem best for their child, when they deem it best for their child. While children transfer out of accredited schools for a variety of reasons, some of those need addressed and taken care of immediately for the best of the child. A parent,if/when they deem it necessary to remove their child from an accredited school, should be able to do so immediately, working out the legalities later --- keeping the child's best interest first priority. With the way the new law is being proposed, it doesn't allow that to happen, which is not in the best interest of the child. It doesn't allow for best interest of a child to prevail. The State should not be in ultimate authority as to when and where a child is educated, but if these wording changes take place, that is exactly what happens. It is not necessary to remove the right of a parent determining the education of their child, even if it is, for what is proposed as a "short period of processing time". A family should not have to wait on the approval of any Department of Education to tell them when or how to educate their children. If you implement the proposed changes, I believe you are usurping the role of family which sets a grave picture of your overall intent with this law change and your future role with the homeschooling community. This is a poorly written and unnecessary change to this law. We request it not be implemented.

## Wid, Brenda

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**From:** Summers, Scott  
**Sent:** Tuesday, October 15, 2013 8:51 AM  
**To:** Wid, Brenda  
**Subject:** FW: Hearing on Tuesday; Rule 12 &13

**From:** Patricia Timm [<mailto:patriciatimm04@gmail.com>]  
**Sent:** Saturday, October 12, 2013 11:17 AM  
**To:** Summers, Scott  
**Subject:** Fwd: Hearing on Tuesday; Rule 12 &13

----- Forwarded message -----

**From:** Jessica S <[luckyjess10@hotmail.com](mailto:luckyjess10@hotmail.com)>  
**Date:** Sat, Oct 12, 2013 at 10:36 AM  
**Subject:** Hearing on Tuesday; Rule 12 &13  
**To:** "[patriciatimm04@gmail.com](mailto:patriciatimm04@gmail.com)" <[patriciatimm04@gmail.com](mailto:patriciatimm04@gmail.com)>

Ms. Timm,

I respectfully ask you to reject the changes to Rule 12 and 13. The changes unnecessarily restrict homeschooling in our state. Essentially they remove the flexibility homeschoolers have enjoyed and used responsibly for many years in Nebraska. Please look closely at the proposed changes and consider how many families could be negatively impacted by them. Thank you for your service.

Jessica Sander  
Seward, Nebraska

P.S. Regretfully I will not be able to attend the hearing to voice my opinion there but I will be anxiously awaiting the outcome.

## Wid, Brenda

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**From:** Summers, Scott  
**Sent:** Wednesday, October 16, 2013 8:53 AM  
**To:** Worth, Margaret  
**Cc:** Wid, Brenda  
**Subject:** FW: Rule 12/13

Not sure on this -- submitted prior to hearing directly to Dr. Swisher. Content does not make sense.

-----Original Message-----

**From:** Swisher, Scott  
**Sent:** Wednesday, October 16, 2013 8:21 AM  
**To:** Summers, Scott  
**Subject:** FW: Rule 12/13

-----Original Message-----

**From:** Jessica Munderloh [<mailto:jmunderloh@hotmail.com>]  
**Sent:** Monday, October 14, 2013 10:50 PM  
**To:** Swisher, Scott  
**Subject:** Rule 12/13

As my district representative I would encourage you to vote no to the proposed changes that puts unnecessary obstacles for families to make there own choice for what is best for their children. Parents should have the choice to take their children out of school when they feel it is in their child's best interest. America does not want the government to take away our rights of freedom as parents in any regard.

We appreciate your vote against these changes and will be following this issue closely.

Thank you,

The Munderloh Family

## Wid, Brenda

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**From:** Summers, Scott  
**Sent:** Wednesday, October 16, 2013 8:56 AM  
**To:** Worth, Margaret  
**Cc:** Wid, Brenda  
**Subject:** FW: Oct. 15th Meeting in Lincoln on Rule 12 & 13

This was submitted one hour after hearing started. Again, public notice provides that "persons may also submit comments to the NDE prior to the hearings..."

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**From:** Swisher, Scott  
**Sent:** Wednesday, October 16, 2013 8:28 AM  
**To:** Summers, Scott  
**Subject:** FW: Oct. 15th Meeting in Lincoln on Rule 12 & 13

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**From:** Christine Seaman [[mailto:ck\\_risty@hotmail.com](mailto:ck_risty@hotmail.com)]  
**Sent:** Monday, October 14, 2013 10:55 AM  
**To:** Swisher, Scott  
**Subject:** Oct. 15th Meeting in Lincoln on Rule 12 & 13

Dear Mr. Swisher,

I would like to express my opposition to the changes being purposed on Exempt School Rules 12 and 13.

The first change from July 15th to July 1st for renewal paperwork to be completed doesn't seem unreasonable.

The second change is a change that is hurtful to a parent and a child. If a child is having trouble in a school, the parent should not have to wait until the state decides to process paperwork before taking that child out of harms way. You are impeding on parental rights in this change. I strongly oppose this change to the rules.

Thank you for you time and consideration in this matter.

Christine Seaman  
8617 N 57th St.  
Omaha, NE 68152

Scott Swisher  
Nebraska State Board of Education  
Lincoln, NE

October 15, 2013

Dear Mr. Swisher,

I am writing concerning the Board of Education's recent discussion about changes to Rule 12 and Rule 13 of Nebraska's Home Schooling Rules. I would like this letter to be included as part of the written testimony for the hearing.

I am home educator who has been teaching my children at home for over 12 years. My oldest child is a freshman in college who received many generous academic scholarships including Regent Scholar at UNL.

I am writing to request that the current proposed changes to Rule 12 and Rule 13 be rejected. Families in Nebraska are doing an excellent job educating their children without unnecessary government oversight. Changing the filing date, yet again, puts an undue burden on families. These families spend the summer carefully planning their upcoming school year. Forcing completion of planning and filing of paperwork by July 1<sup>st</sup>, when August 1<sup>st</sup> was acceptable just a few years ago, is unnecessary. In addition, requiring families who wish to remove their children from an accredited school mid-year to wait until their letter of acknowledgement from the state is received is another undue burden. Once a parent has determined to educate their child at home, notifying the state should be enough to remove the child from an accredited school. Any decision to change schools mid-year is a difficult one and made for serious reasons. Once that decision is made, it is best for the child to leave the school as soon as possible, whether they are going from one accredited school to another or from an accredited school to home school. Making families wait up to 30 days, simply because they are choosing to home school is unnecessary.

I hope you will reject the changes to Rule 12 and Rule 13 regulations and maintain the freedoms of home schooling families in Nebraska.

Sincerely,

Diane Anderson  
3205 Meghan Drive  
Bellevue, NE 68123  
402-292-2960  
joyfuldi@msn.com

From Clint and Natalie Spearman  
130984 Gompert Rd  
Mitchell, NE 69357  
natv23@hotmail.com

October 15, 2013

**To: The Nebraska Board of Education:**

The purpose of this letter is to let you know that I oppose the proposed amendments and revisions to the Rules 12 and 13. These changes seem to bring on many unnecessary burdens to us that are already homeschooling and it seems that they will take away certain options for families that may choose the option of homeschooling during a school year.

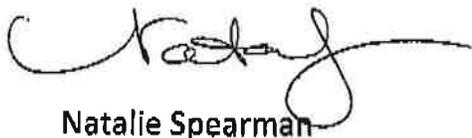
The undue burdens that I foresee are the fact that the filing deadline is pushed up to July 1<sup>st</sup> from July 15<sup>th</sup>. It is already a big task to gather curriculum, sort through it all and plan out a school year by July 15<sup>th</sup>, then you shave off 15 more days making it even more difficult. Then you have to factor in the families that are split and have to send off the forms to be signed and notarized and then returned. This all can take up to weeks, not days, once again that 15 days becomes pretty pertinent. Further than that, what about the families that have a parent that is deployed? That turnaround time could turn into months, and the filing forms are not even available to us until the end of May.

My main concern with these changes is towards the families that encounter unforeseen changes during a school year while their child(ren) is enrolled in an approved or accredited school. The new changes would stop these families from withdrawing their children out of unhealthy and sometimes dangerous situations that they might be facing. In the past parents could file, withdraw their child(ren), start homeschooling, then wait to get their acknowledgement letter back, but with the proposed changes these parents will have to wait 30 days. That is a long time for these families to have to endure.

With all this being said, I would like to ask you to please vote NO to ALL of the proposed changes as I don't feel they'd be beneficial for anyone.

Thank you for your time and consideration.

Sincerely,



Natalie Spearman

I would like this statement to be entered into public records

I am a homeschooling mom of 5 kids. I am also a homeschooling graduate from the state of Alaska who went on to a successful college education. The right to freely choose the best education for my children is very important to me. I oppose the proposed amendments and revisions to both rule 12 and 13 because I believe it puts undue burden on homeschooling parents that may in certain situations restrain their right to pursue the education they feel is best for their children. The majority of homeschool families are conservative law abiding citizens that help make the great state of Nebraska a wonderful place to raise their families. I am confident the Nebraska Board of Education wants to partner with us to continue to build an educated and morally strong state.

April B. Maunu

210162 CR 34

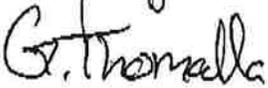
Bayard, NE 69334

To Whom it May Concern at the Dept. of Education,

October 15, 2013

We would like to be entered into the public record as opposing the changes you would like to make to title 92, chapters 12 and 13. As a homeschool graduate parent and second year homeschool family, I understand the challenges this new amendment would add to our **parental choice to educate our children**. We finish our school year on or around June 30 and already have a difficult time getting the proper paperwork to your office by July 15. We appreciate your thoughtful consideration of this as you make your decision.

Sincerely, Gary and Marcy Thomalla

October 15, 2013

Nebraska Department of Education

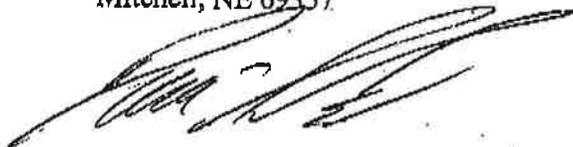
To Whom it May Concern:

Please enter into the public record our opposition to the proposed changes to title 92, chapters 12 and 13. As a homeschool family, we are concerned about the negative impact these changes could have on homeschoolers across the state. We believe that parents should have the right to make the decision to homeschool their children at any point throughout the year, as situations and convictions arise and change. We also believe that parents should have the right to make a decision to place their child in the educational setting that is best suited for them currently, without requiring them to leave their child in a potentially unhealthy situation for 30 days while waiting for state approval.

The current laws are working effectively, therefore the proposed changes are unnecessary. Thank you for your thoughtful consideration.

Respectfully,

Darwin and Bethany Adams  
90492 County Road 12  
Mitchell, NE 69357



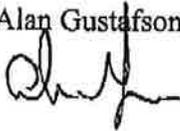
Dear Ms. O'Holleran

I am writing to encourage you to vote in opposition to the proposed changes regarding the changes to Rule 12 and Rule 13. I know a few single, home schooling mothers, and they are required to get their children's father's signature on Form A every year. Since some of these fathers live out of state, it is difficult for them to get his forms back in time for the mothers to turn all of the paperwork in by the July 15th deadline. Pushing the deadline up to July 1st would be even harder. And the possibility of facing criminal charges for late filing is even more daunting. It would also be very difficult for military parents who have a father deployed overseas. In addition, the proposed changes would also make it harder for parents to pull their children out of public schools throughout the school year. It would also be hard for parents who are already home schooling who move to our state during the school year to be able to continue. As a long time member of Valley Home School Association in Scottsbluff, I have seen many parents turn to homeschooling as a result of the state's current truancy policy as it is enforced in the Scotts Bluff school district. Please vote NO to all of the proposed changes.

Please make this testimony part of the public record.

Thank you,

Alan Gustafson



Dear Ms. O'Holleran

I am writing to encourage you to vote in opposition to the proposed changes regarding the changes to Rule 12 and Rule 13. I know a few single, home schooling mothers, and they are required to get their children's father's signature on Form A every year. Since some of these fathers live out of state, it is difficult for them to get his forms back in time for the mothers to turn all of the paperwork in by the July 15th deadline. Pushing the deadline up to July 1st would be even harder. And the possibility of facing criminal charges for late filing is even more daunting. It would also be very difficult for military parents who have a father deployed overseas. In addition, the proposed changes would also make it harder for parents to pull their children out of public schools throughout the school year. It would also be hard for parents who are already home schooling who move to our state during the school year to be able to continue. As a long time member of Valley Home School Association in Scottsbluff, I have seen many parents turn to homeschooling as a result of the state's current truancy policy as it is enforced in the Scotts Bluff school district. Please vote NO to all of the proposed changes.

Please make this testimony part of the public record.

Thank you,

Darcy Gustafson

A handwritten signature in cursive script that reads "Darcy Gustafson". The signature is written in black ink and is positioned below the printed name.

Comments regarding proposed changes to Title 92, Rules 12 and 13.

Submitted by: Dan and Cris Carnine, 12662 US 385, Angora, NE 69331 308-762-7586

Date: October 15, 2013

To Whom It May Concern,

We are a family with five children, two of which are currently enrolled in our exempt home school. We have complied with the requirements of Rule 13 each school year, but we strongly object to the proposed changes to this rule and Rule 12. We understand the administrative burden it may put on the Department of Education to process forms from homeschoolers at all times of the year, which is why they prefer to have forms filed by July 1. However, there are instances when parents do not realize these requirements until after the deadline, and we believe these parents should not be penalized for choosing to keep their children home when they object to aspects of public education. The proposed changes would require that children attend a public school until they receive a letter of acknowledgement of their exempt school, which may take up to 30 days after filing. A month in public school is too long when you object to some of the curriculum content, realize the negative social influences, a child is struggling, or parents are experiencing difficulty getting kids to school (fuel costs and time requirements). Large Christian families in particular are affected.

Thanks for the opportunity to comment.

Sincerely,

The image shows two handwritten signatures in black ink. The first signature is a cursive name that appears to be 'Dan Carnine'. The second signature is also cursive and appears to be 'Cris Carnine'. Both signatures are written in a fluid, connected style.

Dan and Cris Carnine

Oct. 14, 2013  
306 Gandy Haskell Ave.  
Stapleton, NE 69163

Nebraska Department of Education,

My husband and I are very strongly opposed to the proposed amendments to Rules 12 and 13 by the Nebraska Department of Education. These proposed amendments appear to be in contradiction to the decision of our state legislature stating that home schools do not have to be approved by the state.

We do not see one advantage to these proposed amendments. It does appear that this is a power grab by the department in an attempt to make home schooling or the private school option so complicated it will discourage people from making the decision to do so, when it may be advantageous to their child to be in this type of learning environment.

In studying the proposed changes, it seems this is going to cause a lot of confusion and make things extremely complicated for parents to make the best educational choice for their children. Nebraska needs to continue to take the lead in giving the freedom of choice in educating children to the parents and allowing them to do so without complications. If it isn't broken, don't "fix it"!! Thank you.

Respectfully,

*Lee and Diane Horch*

To whom it may concern,

My name is Donica Heineman and this is my first year home educating my two kids. They are eleven and eight. Prior to this year, I was a public school teacher. I would like to tell you my thoughts from a homeschool mom and from my former public school teaching experience. It is important for me as a mom and a teacher to look at the best interest of my kids and students. This should be our first priority! The rule changes that you are proposing are not necessary and in no way will be a benefit to our children. The public school system is full of much needed changes, and I think your focus on them would be a better use of your time.

From my previous experience, children who come to a public school classroom in the middle of the school year or who have not previously attended this school, are in survival mode. Their instinct tells them to worry about making relationships with the teachers and classmates so they can trust who they are around, before they can mentally retain the curriculum that is being taught. There will not be much learning going on for these children in a three week period. I would also like to say, that with all of the testing that is being done on children in the public school system, how are you going to test these children in three weeks so as an educator of them, they know where their weaknesses and strengths are? The school system that I worked for was very stringent on having my students meet their score goals that were set for them, after taking the tests. If you were to put students in my public school classroom for three weeks, and I knew they were leaving, my attention would not fully be on them being successful in three weeks because I have a classroom full of several students, who I am accountable for, by my district, to meet their testing goals.

Having to wait three weeks before I, a homeschool mom, can start my curriculum is a loss of valuable educational time for my children. During the three weeks that I may have to wait for "approval" to home educate my OWN children, I could have been developing a routine, developing a relationship with them, teaching them math, reading, writing, spelling, grammar, science, social studies, health, art, music, and reading aloud to them.

God commands us as parents in Dueteronomy 6:6-7 to educate our own children. "These commandments that I give you today are to be upon your hearts. Impress them on your children. Talk about them when you sit at home and when you walk along the road, when you lie down and when you get up." On behalf of my family and several others who are choosing to educate our children at home, I would ask that you would reconsider making these changes to rule 12 and 13, so that we may do exactly what our creator designed for us to do, without restrictions from the government.

Thank you,

*Donica Heineman*

Donica Heineman

*St. George Orthodox Christian Church*

1505 Avenue G Kearney, Nebraska 68847  
(308) 234-6969 www.saintgeorgekearney.com

A parish of the Antiochian Orthodox Archdiocese of North America  
Diocese of Wichita and Mid-America



October 15th, 2013

To whom it may concern:

This letter is written concerning the possible amendments being proposed to rules 12 and 13 for the Nebraska Department of Education's requirements for creating exempt schools.

I write this letter asking that you reject this proposal. In my personal experience as a priest and pastor, I have found homeschooling families to be people of exceptional character. For various reasons, they undertake a great effort and often make great personal sacrifices in order to educate their children. The specific reasons for their decisions to homeschool—whether of necessity, faith, or practical concerns—are unimportant. They are people of conscience who place the education of their children as their highest priority.

Statistical studies show that this is not merely a subjective opinion. Homeschoolers succeed in higher education. They are exceedingly literate in comparison to the general population. They go on to graduate school at a significantly higher rate than their non-homeschooled peers. They excel in their chosen careers. And the vast majority attribute their successes to the nature of their education.

The proposed amendments would succeed in doing two things: add unnecessary bureaucracy to our state educational system and place an undue burden on homeschooling families. For these reasons, the amendments should not be passed. In order to continue the excellent education that they are providing for their children, homeschooling families need more freedom, not less.

Thank you for your consideration and for your public service.

Sincerely,



The Reverend Christopher Morris  
St. George Orthodox Church  
Kearney, Nebraska

Michael and Alexis Bogus  
4970 Dove Hill Ave  
Kearney, NE 68845

May 23, 2013

Nebraska Department of Education

To whom it may concern:

This letter is in response to the proposed changes to Title 92, Chapter 13, regarding exempt schools, election for religious reasons. We oppose all of the proposed changes.

Our Christian religious beliefs instruct parents to train their children, not the state. We take this command very seriously. From the Bible, Deuteronomy 6:6-7 states, "And these words, which I command thee this day, shall be in thine heart: And thou shalt teach them diligently unto thy children, and shalt talk of them when thou sittest in thine house, and when thou walkest by the way, and when thou liest down, and when thou risest up." As parents, we cannot effectively fulfill this command unless our children are with us. If our children were to spend a majority of their time away from our home, we could not in good conscience complete the task of training our children.

In 1 Timothy 6:20-21 we are instructed to carefully choose what is taught. It states, "Timothy, guard what has been entrusted to your care. Turn away from godless chatter and the opposing ideas of what is falsely called knowledge, which some have professed and in so doing have departed from the faith." To allow our children to be taught anything contrary to our faith would be a disservice to our God. We strongly disagree with several subjects that are taught in the public schools and would never even consider placing our children under this teaching, even for a short period of time.

In principle, we disagree with the necessity of asking the state for permission to educate our own children. We believe this jurisdiction is given by God to the parents. The state has no jurisdiction under God concerning this matter, even though in this present day the state has already usurped this authority from the parents. Any notion that the state would possess this authority is contrary to the true Christian faith. Several of the proposed changes to Chapter 13 would grant the state even more authority than it now has, contrary to God's intended design. For example, Section 003.02A2 would require that children attend an approved or accredited Nebraska school until a Letter of Acknowledgement described in Section 005 is received. This statement alone grants the Department of Education the right to determine if exempt status would be granted and how quickly it would be granted. We oppose the notion that we would be required to be granted permission to educate our own children from the state, whom the Sovereign God has not given this jurisdiction to in the first place.

Respectfully,

  
Michael Bogus

Addressed to the Board of the Nebraska Department of Education on October 15, 2013

**Subject: Proposed Changes to Rules 12 and 13**

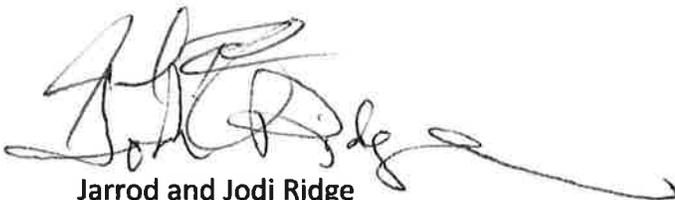
We are writing to offer our grave concern and fervent feedback to the proposed changes to Rules 12 and 13. These changes will not be productive or beneficial for anyone who currently files under these rules for exemption from the public education system.

As parents of 4, we are most troubled when new regulation and or changes are proposed that have a direct impact on our parental authority over our children's education. With each movement of bureaucracy, our nation edges closer and closer to a socialist approach to governance and oversight. It would appear that with the NDE's effort to further regulate home educators and turn a blind eye to the NDE's current public educational problems; the NDE has chosen to launch a direct attack on religious liberties that are guaranteed under current law. Your spotlight appears to be on that which is outside your grasp and has no impact on the public system and therefore, it brings with it an undertone of religious persecution when there are so many other issues to be addressed within the public system. Please consider focusing your efforts on the NDE's public education system that is most certainly fraught with problems.

These current proposed changes may appear on the surface to be small ones, but carry with them long lasting effects that will have a significant negative impact on parental jurisdiction. The fact that these changes would move from simple "notification" of our intent to home educate to waiting for "permission" is a very significant infringement by the NDE on parent's authority. It is not acceptable that the NDE should expect parents in the United States to request "permission" for anything pertaining to the upbringing of our children as is seen in socialist countries in the rest of the world.

I understand that there are sometimes reasons for change, but these changes are not wanted, warranted or welcome from parents of children who are home educated. I respectfully ask that you reconsider these changes and leave Rules 12 and 13 unchanged for the continued benefit of parents for both home and public schooled children.

Respectfully,

A handwritten signature in black ink, appearing to read 'Jarrod and Jodi Ridge', with a long horizontal flourish extending to the right.

Jarrod and Jodi Ridge  
Phelps County, NE

Testimony for Public Hearing: Oct. 15, 2013

My name is Mary Hedstrom of Oxford, Nebraska. My husband, Dale, and I have 7 children and we have been homeschooling for the past 16 years. We still have 5 children at home, ages 5 – 15. Our two oldest have moved away from home and are currently pursuing higher education while working part-time jobs. They are both doing great, having been well-prepared for life on their own.

Before you decide to add more regulations to homeschooling, I would like you to more fully understand who homeschoolers in Nebraska are. Most homeschoolers are very productive citizens, helping to keep Nebraska the great state that it is. If you don't know any homeschoolers personally, I suggest you attend one of the annual conferences in Lincoln and Omaha, and get to know some of them there. Our family has homeschooled in 3 different states, in rural and urban settings, and I have to say that homeschoolers are the finest people I know. They are hardworking and diligent, they pay their bills and their taxes, and they volunteer in their community and church. The dads work hard, and are involved in their children's lives and education. In other words, homeschoolers are the kind of people that benefit Nebraska in many ways. We want to continue to be able to educate our children in peace, without burdensome regulations.

You are considering requiring us to fill out our paperwork by July 1<sup>st</sup>. And if we are late, you are considering charging us with truancy, with criminal penalties. Missing a paperwork deadline should not mean that we will face charges. We are busy people. Our family's summer is full of activities, such as gardening, swim team, music camp, and community vacation Bible school, to name a few. Please do not add this burdensome regulation to homeschooling families.

What about the parents who decide mid-year that homeschooling is in the best interest of their child? Must they keep their child in public school until they receive the Letter of Acknowledgement from the Commissioner of Education that they can homeschool?

Forgive me for questioning your motives, but in this age of NSA surveillance and of IRS corruption, concerned citizens must be vigilant. It looks to me, that with the new proposed regulations you're just trying to exercise more power and control over us, and slowly take away our rights as independent citizens. We believe that it does not take a village to raise a child, nor government to raise a child; we believe that two loving parents can raise a child quite well. And according to the attached 2009 study, 98% of homeschooling children live with their married parents. Please look at the test scores on the attached report. The proof is there: homeschooling families are doing fine without government interference.

Please, do not add any more burdensome regulations to homeschoolers. We are the kind of productive citizens that help keep the good life going here in Nebraska. We ask you to preserve our rights to educate our children. Thank you for your time.

Homeschool Progress  
Report 2009:

Academic achievement  
and demographics

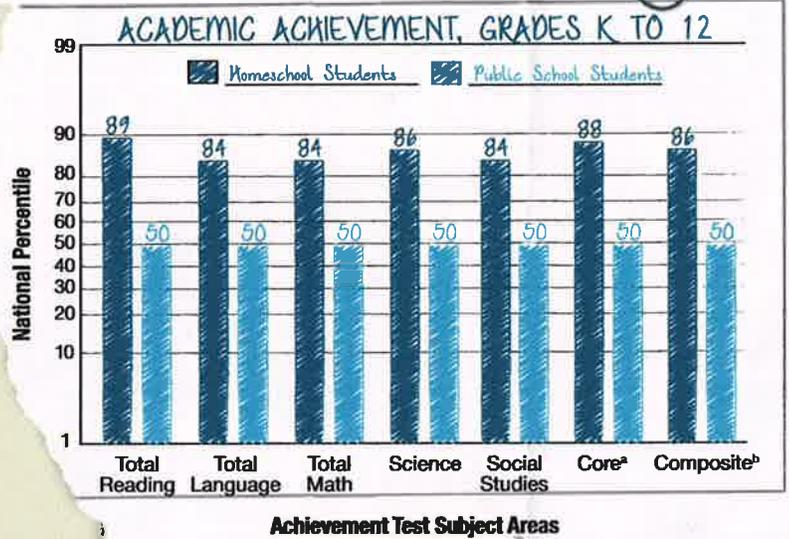
Provided by:



**HSLDA**



Figure 1



a. Core is a combination of Reading, Language, and Math.  
 b. Composite is a combination of all subtests that the student took on the test.

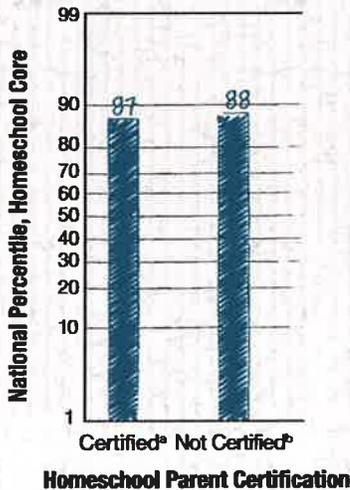
In homeschooling's three decades of dynamic growth, its best advertisement has been its students and graduates. Homeschoolers have been achieving high test scores and winning spelling bees. They have interacted maturely with peers and adults. Children with special learning needs have exceeded the expectations of everyone around them. Homeschool graduates have embarked confidently on college, careers, and starting families of their own.

The anecdotal evidence of homeschooling's success has been backed by multiple research studies. However, it has been at least 10 years since any major nationwide study of homeschooling was done. During that time, the number of homeschooled children has grown from about 850,000 to approximately 1.5 million, according to the National Center for Education Statistics.<sup>1</sup> Other researchers think this number is conservative. Some estimate it as high as 2 million.<sup>2</sup> As homeschooling's appeal continues to broaden, familiar

questions deserve to be revisited. Are homeschoolers still excelling? Do factors that traditionally impact academic achievement have a similar impact in home education? Is homeschooling still the best choice in education?

Figure 2

DOES TEACHER CERTIFICATION MAKE A DIFFERENCE?



a. Either parent ever certified.  
 b. Neither parent ever certified.

2

### A new study

In 2007, the Home School Legal Defense Association commissioned Dr. Brian D. Ray of the National Home Education Research Institute to conduct a nationwide study of homeschooling in America. The study's purpose was to develop a current picture of homeschool students and their families—capturing their demographics and educational background—and analyze the impact of certain variables on homeschoolers' academic achievement.

Dr. Ray collected data for the cross-sectional, descriptive study in spring 2008. The 11,739 participants came from all 50 states, Guam, and Puerto Rico.

## Academic achievement

The biggest news? Homeschoolers are still achieving well beyond their public school counterparts—no matter what their family background, socioeconomic level, or style of homeschooling.

In the study, homeschoolers scored 34–39 percentile points higher than the norm on standardized achievement tests. The homeschool national average ranged from the 84th percentile for Language, Math, and Social Studies to the 89th percentile for Reading. (See Figure 1.)

The study also found that whether or not parents were teacher-certified had no impact on these high scores. Critics of homeschooling have long insisted that parents who want to teach their own children should become certified teachers first. But in this study, students received slightly higher scores if neither parent had ever held a state-issued teaching certificate than if one or both parents had. (See Figure 2.) Critics also insist that the government should regulate homeschooling in order to ensure the quality of education that students receive. However, in this study, the degree to which homeschooling was regulated by state governments had no bearing on student test scores. That's a good reason for state governments to redirect scarce funds from regulating homeschooling to where the money is actually needed. (See Figure 3.)

Figure 3 IS GOVERNMENT REGULATION NECESSARY FOR HIGH ACHIEVEMENT?

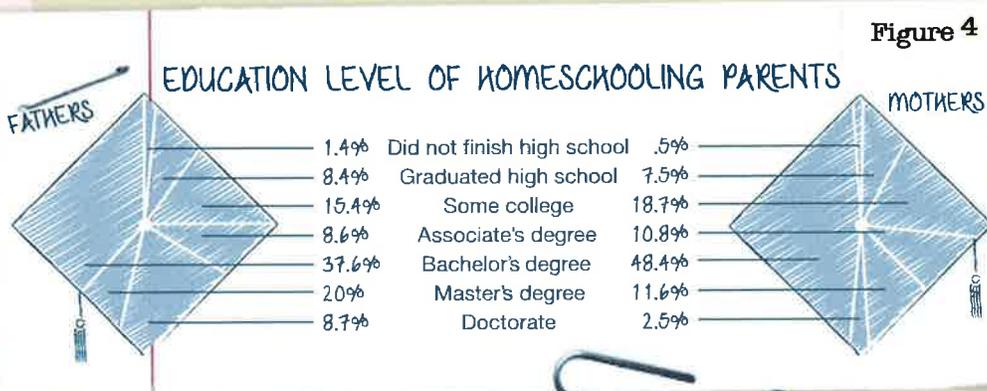
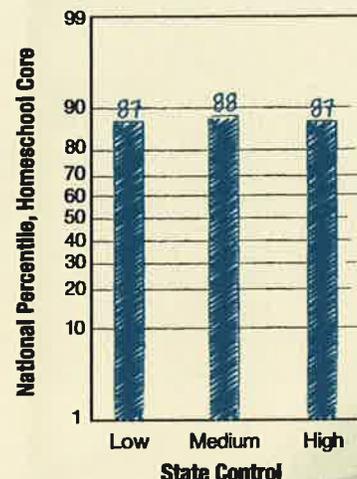
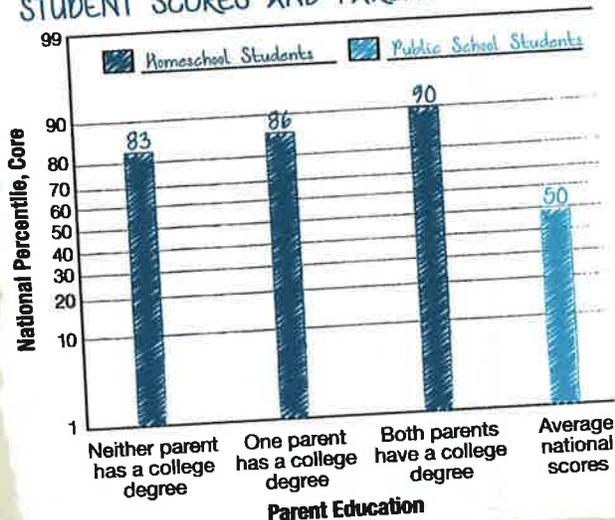


Figure 5 IS THERE A CORRELATION BETWEEN STUDENT SCORES AND PARENT EDUCATION?



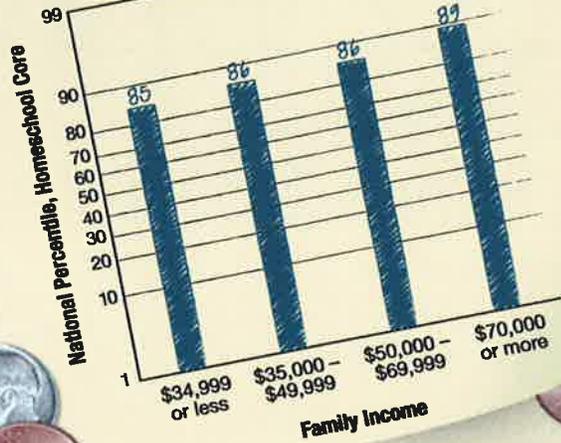
education—and found hardly any difference, less than .5% of variance, in achievement based on the following variables:

- Degree of structure (ranging from very unstructured approaches such as delight-directed learning or eclectic teaching approaches to very structured, preplanned, and prescribed approaches),
- Amount of time spent per day in parent-directed learning activities, and
- Enrollment in a full-service curriculum (one that furnishes a year's worth of textbooks, lesson plans, evaluations, counseling, and record-keeping in all core subjects).



Figure 6

### HOMESCHOOL PERCENTILE SCORES BASED ON FAMILY INCOME



The study also found very little difference between the achievement scores of students who had been homeschooled for their entire academic lives and those who had not. (This variable explains less than .5% of the variance in scores.)

### The impact of major variables on homeschool achievement

How about factors that research repeatedly links to student achievement in public school? Even in those areas, homeschoolers scored notably higher than the norm.

The homeschooling parents' formal education level was above average.<sup>3</sup> (See Figure 4.) As with students who attend an institutional school, there was a correlation between the test scores of homeschooled children and whether one or

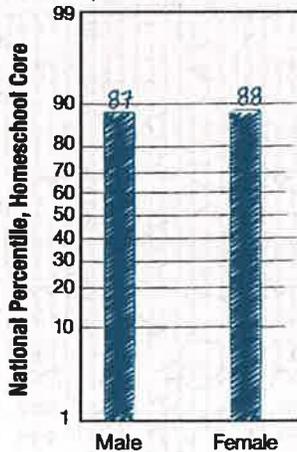
both parents had a college degree. Students whose parents both

had a college degree performed better than those who had no parent with a college degree. However, this correlation is generally weaker for homeschool students than for public school students.<sup>4</sup> The homeschooled students whose parents did not have college degrees still performed at the 83rd percentile. (See Figures 4 and 5.)

Family income is another factor that is noticeably linked to student performance in public school.<sup>5</sup> The higher a family's income, the higher the children score on standardized tests. But in this study, the income of homeschool families had only a slight relationship with student achievement. And those homeschool students in the lowest-income category scored well above the public school average. (See Figure 6.)

Figure 8

### HOMESCHOOL PERCENTILE SCORES RANKING BASED ON GENDER



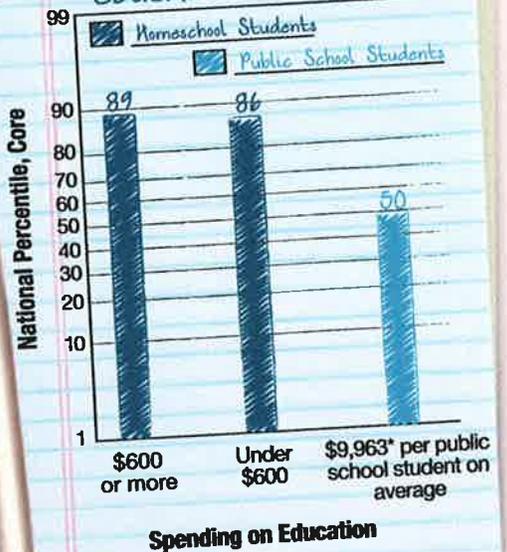
4 Homeschool Student Gender

Another finding demonstrates that individual families do not need the massive budget of a public school to provide their children with a quality education.



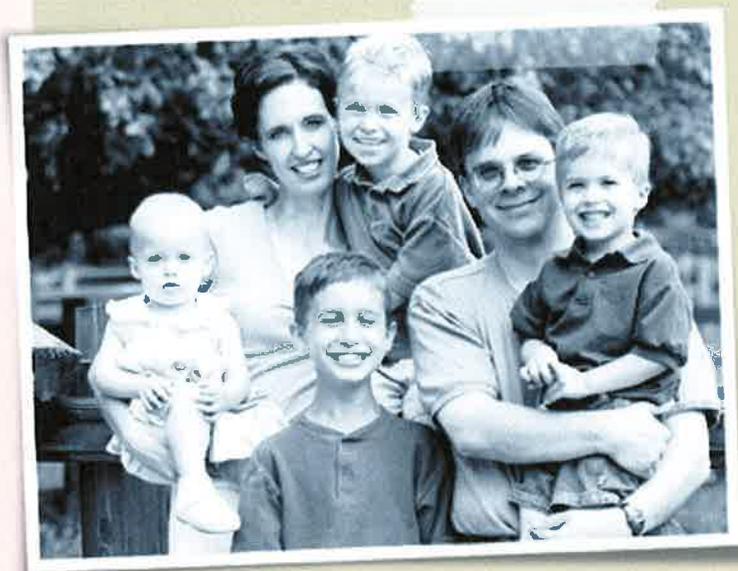
Figure 7

### PERCENTILE SCORES BASED ON MONEY SPENT ON EDUCATION PER CHILD



\* National Education Association. Retrieved August 5, 2009 from <http://www.nea.org/home/29402.htm>. (This figure does not include capital expenditures or research and development.)





In the study, there was an only slight relationship between the yearly cost of education (including textbooks, other teaching materials, tutoring, enrichment services, counseling, testing, and evaluation) and homeschooled student test scores. The median amount spent per child each year was \$400–599. Where \$600 or more was spent, a slight difference was observed. (See Figure 7.)

Contrary to the gender gaps found for decades in the national education arena, the homeschooled males and females in this study performed almost the same at all grade levels.<sup>6</sup> (See Figure 8.)

### What do homeschooling families look like?

The vast majority of the parents in the study were married (97.9%), and the families had an average of 3.5 children compared to the general population's average of 2.0 children.<sup>7</sup> (See Figure 9.)

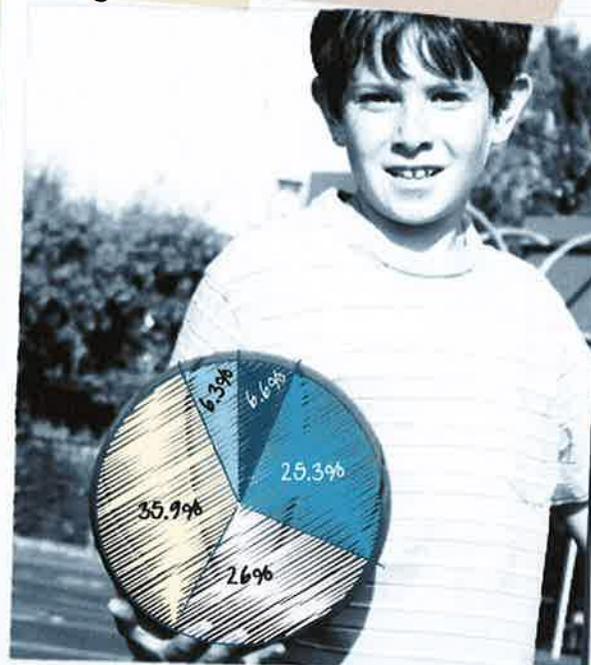
Homeschoolers' median family income (\$75,000–79,999) closely spanned the nationwide median (about \$79,000) for families headed by a married couple and with one or more related children under 18.

Of the 19.4% of homeschool mothers who worked for pay, most of them, 84.8%, worked part-time.

Parents held to a wide variety of religious beliefs, although the majority identified themselves with various denominations of Christianity (82.4% Protestant, 12.4% Roman Catholic, and .2% Eastern Orthodox). Other categories included atheist/agnostic (1.1%), Jewish (.4%), Mormon (.8%), Muslim (.1%), and a variety of others (about 2.5%).

Almost all (98.3%) of the homeschooled students used a computer at home. In 2007, 91%

Figure 9



NUMBER OF CHILDREN PER FAMILY





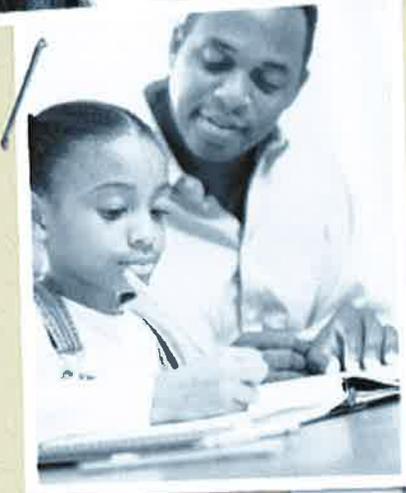
of U.S. 8th-grade non-American Indian/Alaska Native students reported they had a computer available to use at home.<sup>8</sup> (While this is not an exact comparison, it is the most recent available at the time of release of this study.)

### **Still a great option!**

Through three decades of growth and change, homeschooling continues to stand out as an educational option that gives every child the opportunity to succeed at learning. Whether homeschool students are male or female, younger or older, and have been homeschooled for one year or eleven, they consistently outperform their public

school peers. Even with variables that are linked to higher or lower levels of student achievement in public schools—such as whether a parent is college educated—homeschoolers still score well above the norm.

As the evidence accumulates, it only serves to further establish homeschooling as a valid and truly effective educational option.



### **ENDNOTES**

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3. National average education attainment of adult males and females: U.S. Census Bureau, 2009, Table 222.
4. For example: United States Department of Education, National Center for Education Statistics. NAEP Data Explorer analyses for 2007, 8th grade Reading, Writing, and Math. <http://nces.ed.gov/nationsreportcard/nde/>.
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6. U.S. Department of Education, Institute of Education Sciences. (2005). Trends in educational equity of girls and women: 2004 (Report NCES 2005–016). <http://nces.ed.gov/pubs2005/2005016.pdf>.
7. United States Census Bureau. (2009). The 2009 statistical abstract; The national data book (Table 63). <http://www.census.gov/compendia/statab/tables/09s0063.pdf>.
8. United States Department of Education, National Center for Education Statistics. [http://nces.ed.gov/nationsreportcard/nies/nies\\_2007/n0317.asp](http://nces.ed.gov/nationsreportcard/nies/nies_2007/n0317.asp).

## Appendix: Adjusting the scores down

Over the last 25 years, studies have shown homeschoolers scoring at an average of the 65th to the 80th percentile. However, during that same time span, homeschooling has grown dramatically. It would make sense for the scores to have lowered somewhat. In view of this, Dr. Ray considered whether there were ways to appropriately adjust the scores down.

He began by asking whether children with higher test scores participated in the study in a higher proportion than those with lower scores. Ray found that 69.4% of the parents did not know their children's scores before the study was conducted. The scores for this group and for the group of parents who did know their children's scores were the same: the 88th percentile.

Ray then compared the scores of study participants with all the scores (study participants and non-participants) from three of the four major testing services involved with the study. Nearly all of the 22,584 students tested by these three services were homeschooled. The all-scores average was between only two and four percentile points lower than the participants-only scores.

Ray also found no difference in the scores of students from groups with lower-participation rates compared to those of students from higher-participation groups.

The conclusion is the same as in previous studies: homeschool students are scoring well above their public school peers on standardized tests.



### About the researcher

Brian D. Ray is an internationally known scholar and the president of the nonprofit National Home Education Research Institute in Salem, Oregon. He earned his PhD in science education from Oregon State University, his MS in zoology from Ohio

University, and his BS in biology from the University of Puget Sound. He has been a professor of science and education at the undergraduate and graduate levels, has been a classroom teacher in both public and private schools, and has taught homeschool students. Dr. Ray conducts and publishes research and provides expert testimony to legislatures and courts.

### More detail about the study

For a comprehensive and in-depth report on all of the methods and findings for this research study, contact NHERI and ask for *Homeschooling Across America: Academic Achievement and Demographic Characteristics*.

7



National Home Education Research Institute  
P.O. Box 13939, Salem, OR 97309  
www.nheri.org • mail@nheri.org • 503-364-1490

# **HOMESCHOOLED: HOW AMERICAN HOMESCHOOLERS MEASURE UP**

By <http://www.topmastersineducation.com/homeschooled/>

Once upon a time, all children were homeschooled. But around 150 years ago states started making public school mandatory and homeschooling eventually became illegal. It wasn't until the 90's that all states made it legal again. Today, with more than 2 million homeschoolers making up 4% of the school-aged population, it's the fastest growing form of education in the country.

## **HOMESCHOOL HISTORY**

- 1840: 55% of children attended primary school while the rest were educated in the home or by tutors.
- 1852: The "Common School" model became popular and Massachusetts became the first state to pass compulsory attendance law. Once compulsory attendance laws became effective, America eventually relied entirely on public and private schools for educating children. Homeschooling then became something only practiced by extremely rural families, and within Amish communities.
- 1870: All states had free primary schools.
- 1900: 34 states had compulsory attendance laws.
- 1910: 72% of children attended primary school.
- 1960: Educational reformers started questioning public schooling's methods and results.
- 1977: "Growing Without Schooling" magazine was published, marking a shift from trying to reform public education to abandoning it.
- 1980: Homeschooling was illegal in 30 states.
- 1983: Changes in tax law forced many Christian Schools to close which led to soaring homeschooling rates.
- 1993: Homeschooling become legal in all 50 states and saw annual growth rates of 15-20%.

### **Today:**

32 states and Washington D.C. offer Virtual Public Schools - free education over the internet to homeschooling families: Alaska, Arizona, Arkansas, California, Colorado, District of Columbia (DC), Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa,

Kansas, Louisiana, Massachusetts, Michigan, Minnesota, Nevada, New Mexico, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, Wyoming.

4 States offer tax credits for homeschooling families: Iowa, Arizona, Minnesota, Illinois.

10 States don't require notification of homeschooling: Alaska, Idaho, Texas, Oklahoma, Missouri, Illinois, Indiana, Michigan, New Jersey, Connecticut.

14 States require notification of homeschooling: California, Nevada, Arizona, Utah, New Mexico, Wyoming, Montana, Nebraska, Kansas, Mississippi, Alabama, Kentucky, Wisconsin, Delaware.

20 States and D.C. require notification of homeschooling, test scores and/or professional evaluation of students: Washington, Oregon, Colorado, South Dakota, Minnesota, Iowa, Arkansas, Louisiana, Florida, Georgia, South Carolina, North Carolina, Tennessee, Virginia, West Virginia, Ohio, Maryland, New Hampshire, Maine, D.C., Hawaii.

6 States require notification of homeschooling, test scores and/or professional evaluation of students; plus other requirements like curriculum approval, parent qualification, home visits by state officials: North Dakota, Pennsylvania, New York, Massachusetts, Vermont, Rhode Island.

No Federal help is available to homeschooling families yet. The IRS says that homeschooling costs "are nondeductible personal, living, or family expenses."

## **HOMESCHOOL GROWTH**

Home schooling is the fastest growing form of education in the country.

- 1999: 850,000 homeschoolers (1.7% of the school-aged population)
- 2003: 1.1 million homeschoolers (2.2% of the school-aged population)
- 2007: 1.5 million homeschoolers (2.9% of the school-aged population)
- 2010: 2.04 million homeschoolers (4% of the school-aged population)
- From 2007- 2009 home-schoolers increased at a rate of 7%/year
- From 2007- 2009 public-schoolers increased at a rate of 1%/year

## **HOMESCHOOL PARENTS**

Education Level of Homeschooling Parents (Fathers/Mothers)

- No High School Degree: 1.4% / 0.5%
- High School Degree: 8.4% / 7.5%
- Some College: 15.4% / 18.7%
- Associate's Degree: 8.6% / 10.8%
- Bachelor's Degree: 37.6% / 48.4%
- Master's Degree: 20% / 11.6%
- Doctorate Degree: 8.7% / 2.5%

**Number of children in homeschooled families:**

- 1 child: 6.6%
- 2 children: 25.3%
- 3 children: 26%
- 4-6 children: 35.9%
- 7+ children: 6.3%

**Most important reasons parents say they homeschool their kids (students, ages 5-17, 2007):**

- 36 %: To provide religious or moral instruction
- 21 % : Concern about the environment of other schools: safety, drugs, and negative peer pressure
- 17 %: Dissatisfaction with academic instruction at other schools
- 14 %: Unique Family Situation such as time, finances, travel, and distances
- 7 %: Nontraditional approach to child's education
- 4 %: Child has other special needs
- 2%: Child has a physical or mental health problem

**HOMESCHOOL STUDENTS**

Standardized achievement tests: On average, homeschoolers rank in at the 87th percentile. (Note: The 87th percentile is not the test score. It is the percent of students that scored lower... so, only 13% of students scored higher.)

- Boys: 87th
- Girls: 88th
- Reading: 89th
- Language: 84th
- Math: 84th
- Science: 86th
- Social Studies: 84th
- Core: 88th

- Parents income <\$35,000: 85th
- Parents income \$35,000-\$70,000: 86th
- Parents income >\$70,000: 89th
- Parents spend <\$600/child/year: 86th
- Parents spend >\$600/child/year: 89th
- Neither parent has a college degree: 83rd
- Either parent has a college degree: 86th
- Both parents have college degrees: 90th
- Neither parent has a teaching certificate: 87th
- Either Parent has a teaching certificate: 88th

Grade Placement compared to public schools:

- Behind: 5.4%
- On track: 69.8%
- Ahead: 24.5%

## **WHEN THEY GROW UP**

### **Homeschooled Adults' Perception of Homeschooling**

#### **"I'm glad that I was homeschooled"**

- Strongly Agree: 75.8%
- Agree: 19.4%
- Neither: 2.8%
- Disagree: 1.4%
- Strongly Disagree: 0.6%

#### **"Homeschool gave me an advantage as an adult"**

- Strongly Agree: 66.0%
- Agree: 26.4%
- Neither: 5.7%
- Disagree: 1.5%
- Strongly Disagree: 0.4%

#### **"Homeschool limited my educational opportunities"**

- Strongly Agree: 1.0%
- Agree: 4.2%
- Neither: 6.6%

- Disagree: 29.2%
- Strongly Disagree: 58.9%

**"Homeschool limited my career choices"**

- Strongly Agree: 0.9%
- Agree: 1.2%
- Neither: 3.9%
- Disagree: 18.8%
- Strongly Disagree: 75.3%

**"I would homeschool my own children"**

- Strongly Agree: 54.8%
- Agree: 27.3%
- Neither: 13.5%
- Disagree: 2.8%
- Strongly Disagree: 1.6%

**Homeschooled / General Population**

- Participate in an ongoing community service activity (71% / 37%)
- Consider politics and government too complicated to understand (4.2% / 35%)
- Read a book in the past six months? (98.5% / 69%)
- Continue on to college (74% / 49%)

**"Taken all together, how would you say things are these days—would you say that you are ..."**

- Very happy (58.9% / 27.6)
- Pretty happy (39.1% / 63%)
- Not too happy (2% / 9.4)

**HOMESCHOOL COST**

Average homeschool family spends \$500/child/year.

The average public school spends \$9,963 per child per year, not including capital expenditures or research and development.

**Sources**

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<http://www.k12.com/schools-programs/online-public-schools#.UfATehZdU6o>

<http://www.connectionsacademy.com/our-schools/availability.aspx>

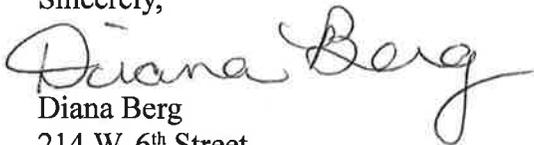
October 15, 2013

To the Court with all due respect:

I am opposed to the changes to Home School Rules 12 and 13 for the following reasons:

1. **Criminal Charges:** All present homeschoolers would be required to file their exemption forms by July 1st instead of July 15th. This would be an added burden for many as it takes a considerable amount of time to plan curriculum and scheduling for each child. Late filers would be subject to criminal penalties.
2. **Religious Freedom:** First-year homeschoolers would be required to file their exemption forms by July 1<sup>st</sup>. The only exception is for new residents. The rule changes include no provision for parents who develop religious convictions or decide that homeschooling is in the best interest of their child after July 1<sup>st</sup> but before the start of their local public school.
3. **Parental Rights:** Parents who have a child attending an approved or accredited school and who decide to homeschool would have to file their exemption forms and then wait for the Letter of Acknowledgement before they could withdraw their child. Parents could be forced to leave their child in an undesirable or unhealthy environment or be faced with criminal penalties.

Sincerely,



Diana Berg  
214 W. 6<sup>th</sup> Street  
Hastings, NE 68901

**Wid, Brenda**

---

**From:** Summers, Scott  
**Sent:** Thursday, October 17, 2013 8:55 AM  
**To:** Wid, Brenda  
**Subject:** FW: Rule 12 and 13 proposed revisions

**From:** Patricia Timm [<mailto:patriciatimm04@gmail.com>]  
**Sent:** Wednesday, October 16, 2013 3:33 PM  
**To:** Summers, Scott  
**Subject:** Fwd: Rule 12 and 13 proposed revisions

----- Forwarded message -----

**From:** Sharon Karas <[sharonkaras@yahoo.com](mailto:sharonkaras@yahoo.com)>  
**Date:** Wed, Oct 16, 2013 at 10:49 AM  
**Subject:** Rule 12 and 13 proposed revisions  
**To:** "[patriciatimm04@gmail.com](mailto:patriciatimm04@gmail.com)" <[patriciatimm04@gmail.com](mailto:patriciatimm04@gmail.com)>

Dear Mrs. Timm, I do not feel the proposed revisions are necessary to Rules 12 and 13. The established legislation is adequate and has worked well. Any more additions would overstep the homeschool legislation's intent and take away the parents' authority over their children's education. Please leave the provisions in Rule 12 and 13 as they are with now and preserve parental authority where it belongs. Thank you. Sharon Karas

**Wid, Brenda**

---

**From:** Summers, Scott  
**Sent:** Thursday, October 17, 2013 8:56 AM  
**To:** Wid, Brenda  
**Subject:** FW: Proposed changes to Rule 12 & 13 for Home Educators

**From:** Patricia Timm [<mailto:patriciatimm04@gmail.com>]  
**Sent:** Wednesday, October 16, 2013 3:34 PM  
**To:** Summers, Scott  
**Subject:** Fwd: Proposed changes to Rule 12 & 13 for Home Educators

----- Forwarded message -----

**From:** Suzy Landreth <[suzylandreth@gmail.com](mailto:suzylandreth@gmail.com)>  
**Date:** Wed, Oct 16, 2013 at 9:19 AM  
**Subject:** Proposed changes to Rule 12 & 13 for Home Educators  
**To:**

Dear Board of Education Member:

I would like to go on the record as opposing the following changes to Rules 12 & 13 for home educators in the State of Nebraska.

- Any homeschoolers who withdraw from a public school or accredited private school will be required to stay in that school until they receive an official letter from the Department of Education, saying that they can homeschool (003.02A2). **This is the first step toward state approval for homeschoolers and is contrary to the legislature's decision that an exempt school begins as soon as the Department receives the paperwork from parents.**
- New homeschoolers will need to file their Rule 12 or 13 paperwork "upon becoming a resident" (if the family moves in from another state, 003.02A1) or "as soon as practicable" (if the child was previously enrolled in an accredited school, 003.02A2). The law currently requires both groups of homeschoolers to file their paperwork "30 days prior" to when they begin homeschooling. The intent behind this was to give people who are new to the state a set period of time to get their affairs in order before they had to begin homeschooling. **That period now becomes ambiguous ("as soon as practicable"), or vanishes entirely ("upon becoming a resident").**
- Homeschoolers will be required to submit supplementary sheets, designed by the Department. **Under the current rules, parents can choose to submit these sheets, but can also create their own forms for documenting the information requested, if they so desire.**

Sincerely,

Suzy Landreth  
7430 Otoe Court  
Lincoln, NE68506

## Wid, Brenda

---

**From:** Summers, Scott  
**Sent:** Thursday, October 17, 2013 8:57 AM  
**To:** Wid, Brenda  
**Subject:** FW: homeschooling changes

**From:** Patricia Timm [<mailto:patriciatimm04@gmail.com>]  
**Sent:** Wednesday, October 16, 2013 3:35 PM  
**To:** Summers, Scott  
**Subject:** Fwd: homeschooling changes

----- Forwarded message -----

**From:** Rachel Madej <[rachelmadej@yahoo.com](mailto:rachelmadej@yahoo.com)>  
**Date:** Tue, Oct 15, 2013 at 8:45 AM  
**Subject:** homeschooling changes  
**To:** "john.sieler@nebraska.gov" <[john.sieler@nebraska.gov](mailto:john.sieler@nebraska.gov)>, "molly.oholleran@gmail.com" <[molly.oholleran@gmail.com](mailto:molly.oholleran@gmail.com)>, "lynn.cronk@charter.net" <[lynn.cronk@charter.net](mailto:lynn.cronk@charter.net)>, "valdezstateboard@gmail.com" <[valdezstateboard@gmail.com](mailto:valdezstateboard@gmail.com)>, "rachel.wise@nebraska.gov" <[rachel.wise@nebraska.gov](mailto:rachel.wise@nebraska.gov)>, "lillielarsen@windstream.net" <[lillielarsen@windstream.net](mailto:lillielarsen@windstream.net)>, "mquandahl@bqlaw.com" <[mquandahl@bqlaw.com](mailto:mquandahl@bqlaw.com)>, "patriciatimm04@gmail.com" <[patriciatimm04@gmail.com](mailto:patriciatimm04@gmail.com)>, "roger.breed@nebraska.gov" <[roger.breed@nebraska.gov](mailto:roger.breed@nebraska.gov)>

Please do not make the changes in regards to Nebraska's homeschooling rules 12 and 13. These changes would only negatively affect the freedoms that we homeschoolers hold so precious to us. There is no need to make these changes. Please consider how much you value your freedoms as an American. Please value the rights of parents and their wisdom in raising their children. The government does not know best about raising children.

Regards  
Rachel Madej

**Wid, Brenda**

---

**From:** Summers, Scott  
**Sent:** Thursday, October 17, 2013 8:57 AM  
**To:** Wid, Brenda  
**Subject:** FW: Rules 12 and 13

**From:** Patricia Timm [<mailto:patriciatimm04@gmail.com>]  
**Sent:** Wednesday, October 16, 2013 3:35 PM  
**To:** Summers, Scott  
**Subject:** Fwd: Rules 12 and 13

----- Forwarded message -----

**From:** **Don & Julie** <[dhelms@abbnebraska.com](mailto:dhelms@abbnebraska.com)>  
**Date:** Tue, Oct 15, 2013 at 11:27 AM  
**Subject:** Rules 12 and 13  
**To:** [patriciatimm04@gmail.com](mailto:patriciatimm04@gmail.com)

Dear Patricia,

I am writing to ask you to carefully consider the proposed changes to rule 12 and 13 which apply to homeschool families and children. Please consider honestly the reasons and motivation behind these changes. The proposed changes will restrict further and reduce the rights of homeschool families unnecessarily. I ask that you oppose these changes. Listen to what families have to say, examine the facts, and apply common sense before making decisions that will needlessly restrict the education choices of our state.

Sincerely,

Julie Helms

402-478-4515 (home)

402-690-5498 (cell)

## Wid, Brenda

---

**From:** Summers, Scott  
**Sent:** Thursday, October 17, 2013 8:57 AM  
**To:** Wid, Brenda  
**Subject:** FW: rule 12 & 13

**From:** Patricia Timm [<mailto:patriciatimm04@gmail.com>]  
**Sent:** Wednesday, October 16, 2013 3:36 PM  
**To:** Summers, Scott  
**Subject:** Fwd: rule 12 & 13

----- Forwarded message -----

**From:** MICHAEL MICHEL HERRINGTON <[mnm4isu@msn.com](mailto:mnm4isu@msn.com)>  
**Date:** Tue, Oct 15, 2013 at 10:40 AM  
**Subject:** rule 12 & 13  
**To:** [patriciatimm04@gmail.com](mailto:patriciatimm04@gmail.com)

Ms. Timm,

We are opposed to the changes being proposed to Rule 12 & 13. These changes would impose unnecessary burdens on parents seeking the best education and environment for learning for their children, particularly those who feel compelled to remove their children from a public setting. It is hard to identify anyone that these changes would benefit.

Michael & Michel Herrington  
Omaha, NE

**Wid, Brenda**

---

**From:** Summers, Scott  
**Sent:** Thursday, October 17, 2013 8:58 AM  
**To:** Wid, Brenda  
**Subject:** FW: Changes to rules 12 and 13 of title 92 for "exempt schools" (i.e. homeschooling)

**From:** Patricia Timm [mailto:patriciatimm04@gmail.com]  
**Sent:** Wednesday, October 16, 2013 3:36 PM  
**To:** Summers, Scott  
**Subject:** Fwd: Changes to rules 12 and 13 of title 92 for "exempt schools" (i.e. homeschooling)

----- Forwarded message -----

**From:** **Christinesd** <christinesd2001@yahoo.com>  
**Date:** Tue, Oct 15, 2013 at 10:31 AM  
**Subject:** Changes to rules 12 and 13 of title 92 for "exempt schools" (i.e. homeschooling)  
**To:** "lillielarsen@windstream.net" <lillielarsen@windstream.net>, "mquandahl@bqlaw.com" <mquandahl@bqlaw.com>, "rachel.wise@nebraska.gov" <rachel.wise@nebraska.gov>, "valdezstateboard@gmail.com" <valdezstateboard@gmail.com>, "patriciatimm04@gmail.com" <patriciatimm04@gmail.com>, "lynn.cronk@charter.net" <lynn.cronk@charter.net>, "molly.oholleran@gmail.com" <molly.oholleran@gmail.com>, "john.sieler@nebraska.gov" <john.sieler@nebraska.gov>, "roger.breed@nebraska.gov" <roger.breed@nebraska.gov>

[http://www.education.ne.gov/legal/pdf/HDRule12\\_2013.pdf](http://www.education.ne.gov/legal/pdf/HDRule12_2013.pdf)  
[http://www.education.ne.gov/legal/pdf/HDRule13\\_2013.pdf](http://www.education.ne.gov/legal/pdf/HDRule13_2013.pdf)

Dear Members of Nebraska State Board of Education,  
I am **OPPOSED** to the suggested alterations to the Nebraska Department of Education Title 92, Chapters 12 and 13 for the following reasons:

1. "By July 1st (replacing July 15th )of each school year the school will be in operation..." - **This policy removes time thereby adding constraints and stress to parents and families .**
2. "When parents or guardians did not reside in a Nebraska school district as of July 1 of any school year in which they wish their child(ren) to attend an exempt school, they shall cause the parent representative to file the forms described in Section 003.02A upon becoming a resident." -**This policy change adds significant unnecessary burdens to those who are already dealing with a highly stressful situation.**
3. "In order to comply with 79-201 R.R. S., a child shall not cease attending the approved or accredited Nebraska school until such a time as the Letter of Acknowledgement (no long required be immediately sent but rather sent within 30 days) described in Section 005 is received." -In other words, a parent must obtain the permission of the state in order to make an educational choice and direct their children's upbringing. -**This policy change unnecessarily removes rights from parents and places it in the hands of the state thereby infringing on the constitutional rights of parents to direct the upbringing and education of children.**

These policy changes hinder a parent's ability to perform their duties to protect and raise their children according to the dictates of their conscience, infringes on their Constitutional liberties, places additional burdens upon them, and detracts from their general happiness. These policy changes exert unnecessary and inappropriate authority over those who are still deemed responsible and capable by law to make such decisions for themselves and their children. **I would encourage all leadership involved to immediately halt the process of alterations to Chapters 12 and 13 of The Nebraska Department of Education Title 92.**

Thank you for your time and consideration.

Sincerely,  
Christine Bates  
18624 T Circle  
Omaha, Nebraska

## Wid, Brenda

---

**From:** Summers, Scott  
**Sent:** Thursday, October 17, 2013 8:58 AM  
**To:** Wid, Brenda  
**Subject:** FW: Please vote against the proposed changes to Rule 12 and Rule 13.

**From:** Patricia Timm [<mailto:patriciatimm04@gmail.com>]  
**Sent:** Wednesday, October 16, 2013 3:37 PM  
**To:** Summers, Scott  
**Subject:** Fwd: Please vote against the proposed changes to Rule 12 and Rule 13.

----- Forwarded message -----

**From:** Loren Wissmann <[lwissmann57@gmail.com](mailto:lwissmann57@gmail.com)>  
**Date:** Tue, Oct 15, 2013 at 9:51 AM  
**Subject:** Please vote against the proposed changes to Rule 12 and Rule 13.  
**To:** [patriciatimm04@gmail.com](mailto:patriciatimm04@gmail.com)

Greetings Ms. Timm,

I would like to appeal to you, as our area representative, to vote against the proposed changes to Rules 12 and 13.

We sincerely believe as our Founding Fathers stated: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among men,..."

There are many who choose to rely upon the Government provided and financed education for their children, and that is very understandable. We appeal to you, that our government might secure the rights of those of us who choose to carry the responsibility and financial burden of our own children's education, a responsibility that we soberly and earnestly carry in reverence of the Lord our Creator. The proposed changes to Rule 12 and Rule 13 would create great and unnecessary burdens on those families, causing their God-given rights to be subject to criminal charges under constraints that are counterproductive.

We are grateful to live in Nebraska where there is a healthy network of homeschool support, and a track record of excellence in education among them. Homeschooling has been our life style since our eldest child started kindergarten 26 years ago. We have nine graduates who are now honorably contributing to society in various capacities in our community, and in other states, with our four youngest children still studying in our homeschool. Please continue to uphold these freedoms for families by voting against the proposed changes to Rule 12 and Rule 13.

Thank you for your time and consideration on this issue.

With respect and prayers,  
Gloria Wissmann

**Wid, Brenda**

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**From:** Summers, Scott  
**Sent:** Thursday, October 17, 2013 8:59 AM  
**To:** Wid, Brenda  
**Subject:** FW: Proposed Changes to Rules 12 and 13 Would Negatively Impact Homeschooling

**From:** Patricia Timm [<mailto:patriciatimm04@gmail.com>]  
**Sent:** Wednesday, October 16, 2013 3:37 PM  
**To:** Summers, Scott  
**Subject:** Re: Proposed Changes to Rules 12 and 13 Would Negatively Impact Homeschooling

On Mon, Oct 14, 2013 at 10:33 PM, Lisa Hamre <[lisahamre@gmail.com](mailto:lisahamre@gmail.com)> wrote:  
Dear Mrs. Timm,

I have several concerns about the changes that are being proposed to rule 12 and 13. First of all, the proposed regulations violate existing law, 79-1601(3), which states, "Elections pursuant to such subsections shall be effective when a statement is received by the Commissioner of Education." According to the law, parents **notify** the Commissioner of Education of their decision/election to homeschool; parents **are not requesting approval or permission** to homeschool. Parents can begin homeschooling when they have provided their notification to the Commissioner of Education.

Secondly, I am concerned that parents who have a child attending an approved or accredited school and who decide to homeschool would have to file their exemption forms and then wait for their Letter of Acknowledgement before they could withdraw their child. This tramples on the parents' religious convictions and the ability of parents to take immediate action in the best-interests of the child. Parents will be forced to leave their child in an unhealthy environment or be faced with criminal penalties.

The proposed regulations are also in violation of 79-201(2). The Nebraska Supreme Court recently ruled as follows: "Nor do we read 79-201(2) as requiring parents to enroll their child in a legally recognized school until they obtain the State's recognition of an exempt homeschool."

First-year homeschoolers would be expected to file by July 1st. The only exception is for new residents. There is no provision for parents who develop religious convictions or decide that homeschooling is in the best interest of their child after July 1 but before the start of their local public school. It appears that these parents will be required to enroll their child into a public or other approved school and to wait to receive the Letter of Acknowledgment from the Commissioner of Education before they can begin to homeschool. This requirement again tramples on the religious convictions of parents and the parents' ability to take immediate action to address areas of concerns for the best-interests of their child.

Finally, the new regulations would subject parents who do not meet the filing deadlines to truancy charges that carry criminal penalties.

I urge you to oppose the changes to rule 12 and 13 and to continue to protect the freedom of parents to homeschool their children in the state of Nebraska.

Sincerely,  
Lisa Hamre

Lisa Hamre  
43716 Hwy 103 State Board of Education Work Session

2.4-171



## Wid, Brenda

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**From:** Summers, Scott  
**Sent:** Thursday, October 17, 2013 8:59 AM  
**To:** Wid, Brenda  
**Subject:** FW: Rule 12 & 13

**From:** Patricia Timm [<mailto:patriciatimm04@gmail.com>]  
**Sent:** Wednesday, October 16, 2013 3:38 PM  
**To:** Summers, Scott  
**Subject:** Fwd: Rule 12 & 13

----- Forwarded message -----

**From:** Bruxellas <[vpbrux@aol.com](mailto:vpbrux@aol.com)>  
**Date:** Mon, Oct 14, 2013 at 9:17 PM  
**Subject:** Rule 12 & 13  
**To:** "[patriciatimm04@gmail.com](mailto:patriciatimm04@gmail.com)" <[patriciatimm04@gmail.com](mailto:patriciatimm04@gmail.com)>

Hi!

It has been brought to our attention that there have been proposals to make changes to the rules governing homeschooling (Rule 12 and Rule 13). We are opposed to these proposed changes and wanted to express our views on this matter.

Thank you.

Respectfully,  
Paulo & Vanji Bruxellas

Sent from my iPhone

**Wid, Brenda**

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**From:** Summers, Scott  
**Sent:** Thursday, October 17, 2013 9:00 AM  
**To:** Wid, Brenda  
**Subject:** FW: Opposition to changes in rule 12/13

**From:** Patricia Timm [<mailto:patriciatimm04@gmail.com>]  
**Sent:** Wednesday, October 16, 2013 3:38 PM  
**To:** Summers, Scott  
**Subject:** Fwd: Opposition to changes in rule 12/13

----- Forwarded message -----

**From:** **Tiffany Leaders** <[jcleadsus@msn.com](mailto:jcleadsus@msn.com)>  
**Date:** Tue, Oct 15, 2013 at 10:22 AM  
**Subject:** Opposition to changes in rule 12/13  
**To:** [patriciatimm04@gmail.com](mailto:patriciatimm04@gmail.com)

Dear Patricia,

I am writing in regard to the proposed changes in the exemption rule 12/13. I feel very strongly that this change will in fact harm the atmosphere of the education in Nebraska. I taught in OPS for many years before staying home with my own children. This change in the rule could impact students in a very negative way. There are times when a parent needs to take immediate action to protect the best interest of their own child. This rule takes some of the authority away from parents. As a Nebraskan, I am strongly opposed to these changes. Please vote to leave our rules as they are. These rules have a direct impact on the freedoms that make Nebraska such a great state to be a part of the educational system.

With Sincere Gratitude,

Tiffany Leaders

October 14, 2013

Nebraska Department of Education

Members of the Department:

Please consider this letter as part of the written testimony for the hearing regarding changes to Rules 12 and 13. I am unable to attend the hearing in person. I am a certified math teacher. I have a BS in mathematics, as well as a masters in mathematics and education both. I work as an instructor at Metropolitan Community College, teach online classes through Devry, and homeschool my two children.

I am writing to express my opposition to the proposed changes to rule 12 and 13.

First, the change in requiring a response from the NDOE before a newly homeschooled student can be released from the previously enrolled-in school is contrary to the legislative decision that exempt schools begin as soon as the paperwork is received by the state. Second, the period described as "as soon as practicable" which would replace the 30 day period that is currently in place is ambiguous at best. Why change it from something clear and practical to something vague and unclear? Third, The earlier deadline is not necessary and may be a difficulty for families who are still making schooling and curriculum decisions. Fourth and finally the newly added supplementary sheets are not necessary and in my opinion, change the previous status of Nebraska being a homeschool friendly state. I have appreciated that Nebraska has been a state that trusts parents to make wise decisions for their children.

Please take into consideration the environment in Nebraska. Parents in all states deserve to be treated with the same respect that Nebraska has extended to homeschool families in the past. I would hate to see this change.

Sincerely,



Chanin Monestero 5725 N 79 Street Omaha, NE 68134