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California Homeschool Network

Strengthening the Voice of California Homeschoolers™

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THE FACTS **ABOUT PRIVATE [HOME]SCHOOLING IN CALIFORNIA**

Prepared by the Legal Rights Committee of CHN

On occasion, a school district administrator may initiate a challenge to the right of parents to operate a small private school for the purpose of educating their own children¹. Because these rare confrontations cause unnecessary tension and rancor for all parties, and are a pointless waste of school administrators' time, CHN offers the following information:

Statutory law² is unambiguous about the right of any California citizen to operate a private school of any size enrollment:

- ✓ A private school operator is not prohibited from familial relationship to students enrolled in the school.
- ✓ Private schools do not need to be operated as business ventures.
- ✓ Private school operators must file an affidavit annually with the State Superintendent of Public Instruction. *"There is nothing in current California law that prevents a parent without a teaching credential from filing a Private School Affidavit pursuant to Education Code section 33190. If a valid affidavit is on file, then a child attending that private school is exempt from public school attendance under Education Code section 48222."*³
- ✓ Teachers in private schools must be "capable of teaching." Certification is **not** required.
- ✓ Public school personnel have only two authorities with respect to private schools:
 1. They may verify that a private school has filed an affidavit as required by law by contacting the California Department of Education.
 2. They may verify the enrollment of a particular student by inquiring about that student *by name*.

No California school district has successfully prosecuted a family operating a private home school in more than 40 years.⁴ CHN has long held that existing case law is old, superceded, and of scant value in a court of law, and on August 8, 2008, this was confirmed: *"California statutes permit home schooling as a species of private school education"* (p.5) and *"...more recent enactments demonstrate an apparent acceptance by the Legislature of the proposition that home schooling is taking place in California, with home schools allowed as private schools. Recent statutes indicate that the Legislature is aware that some parents in California home school their children by declaring their homes to be private schools. Moreover, several statutory enactments indicate a legislative approval of home schooling, by exempting home schools from requirements otherwise applicable to private schools."* (p. 7) *"... it is our view that the proper course of action is to interpret the earlier statutes in light of the later ones, and to recognize, as controlling, the Legislature's apparent acceptance of the proposition that home schools are permissible in California when conducted as private schools."* (p. 8)⁵

The facts about private school law negate any hope or prospect of a school district prevailing against a private home schooling family. District Attorneys *know* this; the "DA Threat" used by some school districts is an empty threat. The practical realities of a challenge are prohibitive. California homeschoolers are well organized⁶ and determined to maintain their freedoms provided by California's private school statutes. While California Homeschool Network will not hesitate to bring public attention and pressure to bear in support of any family that is threatened if it becomes necessary to do so, CHN prefers to work with any school officials who need information about why the privately educated children in their district are legally not truant. Call 800-327-5339 or email chn_legal@CaliforniaHomeschool.net for additional information.

¹ "Homeschooling" is not defined in California; homeschoolers follow private school law.

² Education Code §48222; §33190; §48415

³ CDE policy statement, 2004

⁴ In Re Shinn (1961) 195 Cal. App. 2d 683

⁵ Court of Appeal of the State of California Second Appellate District Division Three, case B192878

⁶ March 26, 2008 "Joint Statement" See <http://californiahomeschool.net/howTo/jointstatement.pdf>