
For Ohio Homeschoolers...Action, Please!

Five-Year Review of Homeschooling Rules and Public Comment

Revised August, 2008

Summary: By Ohio law, every state agency, including the Department of Education, must process a review of each of their respective portions to Ohio Administrative Code (often referred to as "rules") in five-year cycles. Home education in Ohio is governed by **Rules for Excuses from Compulsory Attendance for Home Education, Ohio Administrative Code 3301-34**. The required review process has begun for these rules, to be completed by February 2009.

An out-of state organization has sent out an "urgent" alert to Ohio homeschoolers that contains inaccuracies and alarms homeschoolers needlessly based on the situation as it currently stands. It is unwise and unhelpful to ignore accuracy in information, intended to be widely broadcast to people who may not have all the background. It is dangerous to alarm people into knee-jerk reactions that may serve to diminish the reputation of homeschoolers as being reactionary and ill-informed.

Certainly, Ohio homeschoolers, who live with the rules every day, should be alert to any potential changes in the current rules. We can respond during the review process, at several stages, with well-thought, informed statements. Ohio homeschoolers have the largest commitment to maintaining good Ohio rules and are the constituents of Ohio elected officials. And a grassroots effort among Ohio homeschoolers can create intelligent, informed and energetic coalitions that can far surpass the motives, monitoring, input and commitment of those from outside.

This fact sheet will describe the current situation, including a current opportunity for public comment on the rules, and offer things homeschoolers can do to protect the rules in place.

IMPORTANCE TO HOMESCHOOLERS

Ohio home education rules, first enacted in 1989, may be read at <http://codes.ohio.gov/oac/3301-34>. At the bottom of the page the original effective date of August 1, 1989, as well as the last date a review was completed, February 13, 2004, are noted. No changes to the original rules were made during any previous review process. The next stated review process is scheduled for completion by February 13, 2009.

As the current process unfolds, the Ohio Department of Education has created a means for public comment on home education rules, asking for input from "stakeholders". Public comments can be submitted online at:

<http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?Page=3&TopicRelationID=24&Content=52412>

or by mail to Ohio Department of Education, Attention Nina Pace, 25 S. Front Street, MS 710, Columbus, OH 43215-4183.

"Stakeholders" is undefined, which is a concern. Stakeholders might be construed to mean anyone, including those who have little familiarity with the history of homeschooling and its successes all these years. It could also mean anyone who has an interest in homeschooling, including for economic motives or reasons of career advancement. Yet, it most

certainly means current, past and future Ohio homeschoolers as well.

This is the first time that the rule review process has included a public comment opportunity. On its face, there is no cause to speculate that a public comment component is a good thing or not, specifically since both homeschoolers and those who are not involved in homeschooling have input. There could be a variety of reasons for this method of review.¹ But it is important to remember that there is a process beyond the point of this advance public comment and that the best chance for maintaining good homeschooling rules in Ohio is to respond in an informed, proactive manner based on reason and facts.

No doubt, Ohio homeschoolers should be alert and understand what well-reasoned things they can do

¹ A new coordinator at the Ohio Department of Education writes: "The Ohio Department of Education (ODE) restructured programs and the nonpublic duties transitioned to the Center for School Options and Finance from the Center for School Improvement since the work of nonpublic schools through the area coordinators and state scholarship voucher programs are under the same center. As Nonpublic Educational Options Coordinator, I coordinator (sic) the activities for the Center, including processes related to Chartered Nonpublic Schools, Non-chartered, Non-tax Supported (08) Schools and Home Education. With home education, a parent may choose to opt out of public education; therefore, would be considered a stakeholder including parents from the general public as home education may be of interest to them." Email to a private citizen, 6/23/08.

to protect the rules. While not perfect, the rules have proven effective in providing a framework for compliance with the compulsory attendance statute and afforded a relative level of homeschooling freedoms not enjoyed in other states. Certainly, under these rules, it will not be long before two generations of homeschooling families can demonstrate the proven successes of homeschooling in Ohio. So yes, homeschoolers can certainly offer their input, including sharing stories of their success.

The Office of Non-public Education is taking comments from July 14th through August 8. Homeschoolers who want to provide their input should do so now at the above addresses. The Office of Non-public Education will gather these comments by the end of August and send them along to the State Board of Education for review at their September meeting. The office has said that they welcome brief, personalized notes from all stakeholders. In other words, this would *not* be the time for form letters, nor long missives.

BACKGROUND TO RULES PROCESS

The Ohio Legislative Service Commission (LSC) has an online resource called “The Guidebook for Ohio Legislators.”² where the standard Cyclical Review is explained. (JCARR, referenced in the first paragraph, stands for the Joint Committee on Agency Rule Review, composed of 10 members of the General Assembly, whose mission is to make sure that a state agency, such as the Department of Education, does not write rules that conflict with Ohio law, the intent of the General Assembly or the agency’s statutory authority.) The explanation states (all emphasis added):

Cyclical Review of Rules

Every state agency must assign a date for review, by the agency and JCARR, of each of its rules. Approximately one-fifth of an agency’s rules must be reviewed each year so that no rule goes more than five years without review. **Before a rule’s review date, the agency must determine whether or not the rule should be amended or rescinded and must file notice of its determination with the Secretary of State, the Director of the LSC, and JCARR.**

If the agency decides that a rule should be amended or rescinded, it must follow the same procedure it used in adopting the rule. If the agency notifies JCARR that a rule should continue as is, JCARR must give public notice of the agency’s determination in the Register of Ohio for four consecutive weeks...”

² The Guidebook for Ohio Legislators, Tenth Edition 2007-2008, Chapter 11, p. 111, <http://www.lsc.state.oh.us/guidebook/index.html>

As indicated in the first paragraph in this Review explanation, before a rule’s review date—in this case, February 13, 2009—the agency—that is, Ohio Department of Education—must follow a process of determination.

However, OHEC believes it is detrimental to homeschooling to respond to this process as an “urgent” alarm at this point. And it is very important to note that if any changes to the rules were to be proposed, that the ODE “**must follow the same procedure it used in adopting the rule.**” In this case, from the requirements of Ohio Revised Code, there must be public notification of any intended rule changes for a minimum of 30 days, there must be a public hearing held by the State Board of Education, and whatever rule changes that might be made then must go through a formal JCARR review process where another public hearing is held. These requirements are part of law under Chapter 119 of Ohio Revised Code.

Additionally, when the home education rules were created, there were procedures created to develop those rules. Based on the statement of “procedures” which “must” be followed, those procedures could again include³:

- the creation of an ad hoc advisory committee to include home educators
- multiple meetings of the committee (in the rules creation, the meetings were held over the course of one year) where the homeschooling members could provide strong direction toward preserving the freedoms enjoyed by Ohio homeschoolers
- soliciting more input from homeschoolers during the process

In other words, this is a process⁴ and there are many junctures in the road to consider opportunities for input, well-thought responses and sharing information and strategies among all Ohio homeschoolers. No one can be certain at this time

³ In this revised edition of this fact sheet, after further clarification and research, OHEC has found that there is not necessarily a requirement for an ad hoc committee to be formed. There is nothing, however, that demonstrates that that procedure will not be followed should any rules changes be forthcoming.

⁴ Additional resources for understanding the rule review process include:

- A) The Ohio State Board of Education Administrative Rules Side, OAC Chapter 3301 at: <http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=574&ContentID=409&Content=45961>
- B) JCARR Procedures Manual at <https://www.jcarr.state.oh.us/images/stories/manual.pdf> and
- C) Guide to the Rule-Making Process of the Ohio Department of Education and the Ohio State Board of Education at http://www.registerofohio.state.oh.us/pdfs/rmg/RMG_3301_20021004.pdf

whether the Ohio Department of Education, the State Board of Education or JCARR has the intent or resources to instigate such an involved process for any changes to the rules. And there are no known proposed rule changes of any kind that can be cited by anyone.

INACCURACIES AND BEING REACTIONARY

Instead of reading through this process and reporting to homeschoolers of their current opportunity for input, a national organization outside of Ohio broadcast an alert titled “Urgent—Your Help is Needed to Stop Revisions of the Homeschool Regulations!”⁵ With that title, the organization strongly implies, absent all evidence, that revisions are about to happen and homeschoolers must work urgently to stop them. The implication changes to a definite, unfounded statement in the third sentence: “It is imperative that every Ohio resident who is concerned about homeschooling freedom register his or her opinion regarding proposed changes.” In fact, there are no “proposed changes.” There is, instead, a period of comment designed by the Department of Education.

Further in the alert, the organization states: “... until now, the ODE has not found any revisions to be necessary during the 5-year review. Even though the regulations have worked very well for the past 19 years, the ODE has decided that this time, changes are warranted.” No such “decision” has been made. Instead, again, the ODE has created a period for input.

As we stated in our summary above, anyone from outside Ohio cannot have the same history, interests or opportunities as that of a grassroots response from Ohio homeschoolers themselves. And as this is a process, now only in the early stages, and may have no ulterior purpose, it is harmful to Ohio homeschoolers to create an atmosphere of alarm, misinformation and reaction when there is no evidence to warrant such tactics.

PLEASE CONSIDER THE FOLLOWING:

Ohio Home Education's Rules that were enacted in 1989, have worked well for many homeschoolers. They hold homeschoolers accountable and ensure compliance with Ohio's compulsory school attendance statute. They have given district superintendents a consistent framework, where none previously existed, for issuing the requisite excuses from compulsory attendance, and provided a means for assessment to serve the state's interest in compulsory attendance of minor children.

Each individual must respond for her or himself, but please respond carefully and consider correct information before your response. Just as each of our actions can affect one another, so can our response to the ODE and State Board of Education.

If you make a request at this time for changes to the OAC 3301-34 homeschooling rules, including asking that the state provide resources, funds or programs for Ohio homeschoolers, your request will be brought before the Ohio State Board of Education and may prompt them to open all of the rules for change. Once open, other changes may be created to other portions of the rules, some of which may not be in the best interest of any or all Ohio homeschoolers.

Be very clear that home education is a different educational option than any other in Ohio. In fact, there are 7 different options for educating a child in Ohio (see sidebar on page 4 for comparison). Each option is governed by its own laws (written by the General Assembly into Ohio Revised Code) and its own rules (written into Ohio Administrative Code.) If a homeschooler cannot find something in homeschooling that is available to them in another option, perhaps the family might consider the pros and cons of those other options and, if warranted, make a decision to choose the option which provides that crucial opportunity to them, rather than force a state official's hand to open homeschooling rules at this time.

Since the Ohio Home Education Rules were created, education in general has evolved (some would say devolved) into more “accountability”, greater regulatory control, more federal intervention into state education policy (No Child Left Behind as a culmination--also under current review for greater control), and a greater acceptance of a perception of “compulsory education” rather than the legally required “compulsory attendance.” That is a crucial distinction, one which homeschoolers the nation over have admirably understood and diligently protected. Left alone with the current rules, future Ohio homeschoolers will have the same freedoms we have all enjoyed. Prompted to opening, the rules could also devolve into the same situation that now controls many of the other educational options in Ohio.

CONCLUSION

The Ohio Home Education Coalition believes that Ohio homeschoolers know our rules best. They are important to us because we are the ones who must live with them on a daily basis. We know the history. And we believe that homeschoolers can unite, with no other interests or agendas but the preservation

⁵ Home School Legal Defense Association “E-Alert”, July 17, 2008

of time-tested homeschooling rules as they currently exist. We can find that unity without alarm, without attacking education officials or other options in education, or by mixing other causes or education options into our discussion. By doing so, we can help preserve the freedom to home educate consistent with each family's convictions and beliefs, a right for all families, for all who choose homeschooling for the future.

Additionally, OHEC believes that homeschoolers may consider minimal compliance with the Rules for Excuses for Compulsory Attendance for Home Education. Several years ago, OHEC wrote a fact sheet on minimal compliance that we believe is still valid today. You may read that fact sheet at <http://www.homeschoolfreedom.org/ohec.shtml> (Scroll to Homeschooling Notification: Why Minimal Compliance is an Important Action to Protect Our Freedoms.)

This information was prepared by Ohio Home Education Coalition an open and inclusive coalition of interested homeschoolers who come together to raise awareness of issues facing homeschoolers in Ohio. Other than brief citations, the Ohio Home Education Coalition gives permission for this fact sheet to be forwarded only as written, in its entirety.

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SEVEN OPTIONS FOR COMPLIANCE WITH COMPULSORY EDUCATION LAWS IN OHIO

Chartered Public Schools or Public Schools: The traditional, neighborhood public school, funded by state tax money. Described in much of the law under Title 33 of Ohio Revised Code, and in many of the rules under the entire Chapter 3301 of Ohio Administrative Code.

Chartered nonpublic schools: Private and most religious-based schools. Standards for these schools are specifically described in OAC 3301-35-12 "Chartered nonpublic schools." These schools do receive some state funding as described in ORC 3317 "Foundation Program."

Nonchartered, nontax-supported schools: As described in OAC 3301-35-08, are organized based on "truly held religious beliefs." Often referred to as "08" schools because of the number in OAC which describes them. These schools are not state-funded and have much less in requirements than the chartered nonpublic schools described last, but more rules than home education. For example, teacher certification for these schools is covered in ORC 3301.071 "Standards for teacher certification in non nontax-supported or nonchartered, nontax-supported schools." Although many of these schools may enroll families who have homeschooled, they are governed by different rules, are referenced differently by the Ohio Department of Education, and are treated as a separate educational option legally.

Voucher schools: Previously referred to as "The Cleveland Scholarship Program" and now known as the Education Choice Scholarship Program, this was a pilot program that was established originally in 1995 for creating vouchers in Ohio. The program has expanded now across the state and provides funding and expansive requirements and rules to families who choose to enroll their children in private school by having some of the tuition supplemented by the state. These are covered extensively in ORC 3310 and in OAC 3301-11

Community schools: Public schools, which are often referred to as "charter schools" both in Ohio and around the country. These schools receive public funds, and, therefore, have many of the requirements of other publicly funded schools, including testing, special education law, audits, recording keeping, immunizations, etc. Of interest and concern to homeschoolers, many of the community schools known as "e-schools" or "cyber-schools" have marketed themselves to homeschoolers, confused the discussion on the differences between the options, and, in some cases, flat out called themselves "home education" or "homeschooling" when they are definitely governed by a different, more elaborate and more restrictive set of rules. These confusions may have been created to help boost their enrollments and, therefore, their state funding. Community Schools are defined in ORC 3314 and in multiple sections of OAC including sections 3301-29, 3301-102 and 3301-104. OHEC has written extensively in several fact sheets on the concerns of cyber- or e-schools. You can read these fact sheets at <http://www.homeschoolfreedom.org/ohec.shtml>

Post-secondary enrollment option: Provides for a high school student to have dual enrollment in college courses and is described in ORC 3365 and OAC 3301-44 "Post secondary enrollment options program." Although some homeschooling families have chosen PSOP during their time homeschooling, they understood that it required enrollment in a high school program, albeit often a limited enrollment for just a few, selected classes, in order to qualify for this financial benefit. Again, PSOP is governed by a different set of rules than home education.

Home education: Education "primarily directed and provided by the parent or guardian of a child." These rules specifically state in the purpose: "...to safeguard the primary right of parents to provide the education for their child(ren)." The rules are covered under OAC 3301-34 "Rules for Excuses From Compulsory Attendance for Home Education."