

The Right to Play: Homeschoolers and High School Athletic Teams

Homeschooling is legal in every state, and in many areas, school districts allow homeschoolers to take classes and participate in music, drama, and other extracurricular activities. With some exceptions, homeschoolers' access to school sports teams has been restricted, however, which has led to a new round of grass-roots political activity for families around the country. Below is the tale of Massachusetts' homeschoolers successful efforts to gain eligibility for high school-age students to play on sports teams.

Nicky Hardenbergh (MA) writes:

I wish I could properly set the scene for you. Picture a huge ballroom filled with large round tables in a suburban Sheraton Hotel. Place about 200 men and a handful of women around these tables. Amid this sea of dark-suited men, imagine that at one table sit six women and three of their high school-age children. I'm at that table with my fellow homeschoolers. We are attending the annual meeting of the Massachusetts Interscholastic Athletic Association (MIAA), anticipating the meeting's discussion of whether to reverse its previous prohibition and make homeschoolers eligible for high school athletic teams. As the Executive Director makes his opening remarks, we are amazed and pleased to hear him state that he does not think the Association's mission requires them to "exhaust themselves holding back homeschoolers." With a more positive outlook, we await the discussion itself. The moderator proceeds to inform the meeting, as he had warned us he would, of his displeasure with our groups's pre-meeting mailing. (More about that later.) Nonetheless, he still supports granting homeschoolers eligibility, mainly because of litigation costs; four injunctions have already been issued against the Association,

prohibiting it from enforcing its rules. He does not see sufficient reason to continue fighting the inclusion of homeschoolers.

About twelve members then speak. Only one is outspoken in favor of the proposal, but that one principal is so eloquent that silence reigns in the room as he speaks. He tells of his personal experience as a principal who upheld the MIAA prohibition all the way to court. In court, he found himself "hanging alone" while the MIAA legal support was "lukewarm." At the judges' urging, his Town Counsel settled the case with the parents, getting assurances of accountability which the parents had been willing to give before the suit. What really changed his mind, he said, was seeing the "harm done to a young man" who simply wanted to wrestle.

When the straw vote is counted, we find the Association has voted 171-18 to grant eligibility to home educated young people!

We do not quite have a happy ending to this story. The guidelines that the meeting voted to approve contain some very troublesome points which, if not removed through revision, might be used to prevent homeschoolers from playing. No time table for the change was set, though September '95 seems to be assumed.

Nonetheless, we are cautiously optimistic that revisions will be made and more equitable Guidelines will be instituted next fall. We feel very satisfied that, after two years of work, we seem to have reached our goal: to remove the MIAA's prohibition of athletic eligibility for homeschoolers in Massachusetts.

The homeschoolers who make up our Task Force found each other through our mutual desire to have our high school-age kids be eligible to play on the local schools' athletic teams. Through our political activity, we were able to bring our concerns before the members of the MIAA and to stay informed about the actions of that Association. One of our members was invited to sit on the MIAA's Ad Hoc committee formed to consider the inclusion of homeschoolers. It was a revised version of this Committee's Guidelines which were adopted at the Annual Meeting. (Note the two bodies: the Task Force is our name for ourselves, while the Ad Hoc Committee is the MIAA Committee that included our representative.)

The Litigation

Since the looming litigation played a definite role in this drama, I will report first on that aspect. The legal avenue does not involve the work of our Task Force, though naturally we followed events closely. We were apprehensive about the effect the suits would have on all our political work. The four suits were brought by individual parents who, though they knew of our Task Force's political work, did not want to wait for an uncertain result at an unspecified time. The first parents to bring suit had an eleventh grade son who hoped to win a basketball scholarship to college. He had been noticed by pro scouts in summer camp, already. Time was running out for his high school athletic career, so the parents decided to take legal action. They retained an attorney, Robert Waldo, who successfully sought an injunction from the Worcester Superior Court. (The MIAA is based in Worcester County.) Thus, until the case is decided through a trial, the student cannot be denied an opportunity to try out for the team. Three more cases, which Mr. Waldo also

brought, followed. Three different judges granted injunctions in all three actions. In one, the judge wrote a memorandum saying, in part, that the MIAA's position "creates varying treatment of students based on in-school and homeschool status and the classification and varying treatment are not rationally related to a legitimate State Purpose." All four students' education plans were already approved by the school system, as required by Massachusetts home education policy. One took a school

biology course and got A's. Another took a Latin correspondence course at the University of Massachusetts. All were good students. As one judge commented, "It's just common sense [that these kids be allowed to play]."

I attended the hearing for the last injunction, bringing my daughter for her civics lesson. Many aspects of the judge's comments were heartening, particularly his remark that he knew, from following educational controversies, that letter grades were not considered the only valid way to evaluate

students. In his injunction, he further enjoined the MIAA from denying waivers to all Massachusetts "home-schooled children if they are otherwise academically qualified."

The trials are on the docket for later this year, but may yet be settled, if the MIAA grants eligibility to homeschoolers in the fall of 1995. The issues raised by the suits, however, would have to be fully resolved.

Seeking to Change the Rules

The famed "Guidelines" were generated by the MIAA in response to our political action and, undoubtedly, in response to internal dynamics within the Association. Over the two-year period of negotiations, the MIAA moved away from its blanket rejection and began to entertain the idea of participation by homeschoolers.

The political action began in 1993 when Sandra Lovelace, a veteran homeschooler with a high school-age daughter wishing to play field hockey, submitted a rules change petition to the MIAA. The rules change proposal stated in essence that a student taught at home, with an approved education plan, was eligible for high school athletics. Sandra followed the regulations for such a change outlined in the MIAA Blue Book. The Blue Book (which we came to know almost by heart) says nothing about homeschoolers, but provisions regulating school attendance and academic requirements, drafted to prevent athletes from ignoring their academic responsibilities, had been used to bar homeschoolers. The rules change petition was signed by about 100 members of the Massachusetts homeschool community.

Also in 1993, I was seeking ways to bring about a rules change in the MIAA because my eighth grade son wished to play high school soccer and I knew that he was ineligible because of the state organization's prohibition. When I discovered that an upcoming regional conference would have a panel of New England state officials who oversee homeschooling in their states, I attended for the specific purpose of asking them about the issue of high school athletics and of gathering names of interested parents.

In August 1993, Sandra received

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an official response to her petition. Mr. Richard Neal, the Executive Director, said he would ask the membership to consider the proposals. As far as the Board was concerned, however, homeschoolers "cannot be eligible for MIAA programs inasmuch as the rules cannot be applied evenly to these young people." The letter went on to say:

"When parents elect to opt out of the public school system they must do so with consistency. There is a lack of jurisdiction and supervision over homeschoolers which is evident for students of member schools. Homeschoolers should not displace student-athletes who are following all rules and regulations of the Association. There seems to be a sufficient number of homeschoolers to develop their own organization and programs. MIAA provides for students enrolled in member schools; the homeschoolers' organization should provide for students who are studying at home."

A similarly discouraging short article appeared in the MIAA newsletter that fall. When I saw the article and realized that the rules change was probably a dead end, I telephoned Sandra Lovelace, whom I did not know at the time, and we discussed possible next actions. We decided to start meeting together as a Task Force with other motivated parents with the goal of bringing about a change in the MIAA's rules. A core group of four of us continued to meet several times over the next 18 months. The other two members of our Task Force were also veteran homeschoolers with high school-age children. Marcia Garzia had been responsible for disseminating Sandra's petition to many homeschoolers in 1993; now her older son is out of high school, but her younger son still hopes to be able to play hockey on the school team. Lucia Jenkins, an active homeschool support group leader, had been following the MIAA issue closely and was also eager to remedy the situation.

As we shared our information, we discovered much to be encouraged about. We all had experience with homeschoolers being successfully integrated into non-athletic extracurricular activities such as band and

dramatics at the discretion of the school principal. Also at the discretion of the principal, homeschoolers sometimes took academic courses. We found there were many school districts who said they would allow homeschoolers to play if only the MIAA prohibition were lifted. We discovered several districts in which officials simply allowed homeschoolers to play without consulting the MIAA. Many people in various positions shared our frustrations in dealing with the MIAA. Often, our fellow townspeople, with kids in the system, were incredulous that our kids were not allowed to play high school sports. We did not feel alone in our quest.

"These kids have rejected the school program, so why should they be allowed to be part of the athletic program? Why should they get the gravy?" Our position was that these students had education plans that were approved by the school, they lived in the town, their parents were taxpayers...

We first considered what action to take in regard to the negative response to Sandra's petition. We observed that the official reply revealed much misunderstanding about the nature of homeschooling in Massachusetts. We felt frustrated in our ability to make our position known, and we discussed how we might gain a hearing of some kind.

Our initial assignments to ourselves focused on gathering information about the situation as it existed in Massachusetts and other states. We investigated the policies in New Hampshire, promulgated by that state's athletic organization, and in Maine, where homeschoolers had successfully petitioned the legislature on the matter. We considered a legislative approach, but decided to reserve that avenue for exploration only if the political approach failed. In the process of unofficially polling

various support groups in the state, we also disseminated information about our efforts. Sandra Lovelace, because her name was on the rules change petition, became a "lightning rod" for interested parents.

Through our investigations, we found out that at their annual meetings, the MIAA members have "cracker barrel sessions" in which small groups discuss various topics. In our first official communication with the MIAA in February 1994, we asked to be included on a "cracker barrel" agenda at the upcoming meeting. We cited our knowledge that many athletic directors in the state were inclined to allow homeschooled students to participate. We stated that we would like an opportunity to field questions and present our perspective. We signed the letter with three names, representing the three state-based home education organizations. (Items in parentheses were not on our official letter but are there to help you know the players.): Sandra Lovelace, representing Mass HOPE (a predominantly Christian group with annual conferences and a bi-monthly newsletter); Nicky Hardenbergh, representing Massachusetts Home Learning Association (a non-sectarian group with a quarterly newsletter); Pat Farenga, President, Holt Associates (needs no introduction for GWS readers; Pat's national perspective and strong support were greatly appreciated).

Generating Publicity

Our letter to the MIAA was rewarded with an invitation for Sandra Lovelace to participate in a panel discussion at a "cracker barrel" session at the upcoming annual meeting, April 1994. Apparently, the MIAA was willing to consider the issue. Shortly after our letter was sent, a newspaper article reported on two homeschool teenagers in Springfield who wished to play basketball. In that article, Richard Neal of the MIAA was quoted as saying that the Board was going to examine the issue with an aim toward making a decision in Spring '95.

Since I just mentioned publicity, this is as good a time as any to emphasize that our cause received much favorable publicity. *The Boston Herald* devoted almost a full back page in the

“school sports” section to the issue in October ‘94, featuring a photo of Marcia Garzia’s son. After the court cases, even more articles appeared, including a front page article in *The Massachusetts Lawyer*. Lucia Jenkins and her family were featured in a February *Boston Globe* article when her son was granted one of the four injunctions so that he could compete on the wrestling team.

At the Meeting

Returning to the “cracker barrel” session, I’ll emphasize that we prepared carefully for that session by trying to anticipate all the possible objections that would be raised. We also drafted a fact sheet about homeschooling in Massachusetts to pass out to the attendees.

About 20 principals and athletic directors attended the session. Some were hostile, but most were seeking guidance on the issue for their own schools. Over the summer, the MIAA Board set up an Ad Hoc committee to study the question of homeschoolers and athletics. Sandra Lovelace, who had indicated her interest in being involved, was invited to sit on the Committee.

At the first Ad Hoc Committee meeting in the fall, Sandra found that the Assistant Director, Virginia Anderson, had prepared packets for the Committee members that included information from other states. Within the packet were some materials very favorable to the inclusion of homeschoolers. Yet, in spite of such favorable materials, the three Board members present had the same concerns we had heard often before.

One persistent issue was that of “displacement.” Their worry was that homeschoolers’ inclusion would necessarily mean that they were taking the place of school-attending students. As an MIAA member, not on the committee, was quoted as saying, “These kids have rejected the school program, so why should they be allowed to be part of the athletic program? Why should they get the gravy?” Our position was that these students had education plans that were approved by the school, they lived in the town, their parents were taxpayers, and therefore the students should be con-

sidered members of the school for the purpose of athletics as with other curricular and extracurricular activities.

Another major concern was the matter of school attendance. We saw the attendance requirement and minimal academic level (a passing grade in four major subjects) for athletes as simply being a way of assuring that athletes were actually students and were not neglecting their academics. We maintained that the local principal could determine if our kids were properly attending to their studies.

One issue that we were especially concerned about was the “candidate for diploma” requirement. In the Blue Book, the only mention of the athlete’s needing to be a candidate for a diploma came in the section that discussed “students in vocational, trade, or alternative schools.” Again, we saw that requirement as one drafted to ensure that the athletes were bona fide students. We felt we could easily demonstrate that our children were attending to their academic studies, even though they would perhaps not receive a diploma.

All along, our position has been that the eligibility criteria need not be used to exclude homeschooled students. Homeschoolers could meet the MIAA standards with minor adjustments. Our request of the MIAA was that it lift its prohibition and create a positive climate for the eligibility of homeschoolers.

Sandra Lovelace accomplished much in the Ad Hoc committee through her thorough preparation (with the help of our Task Force) and her calm, reasonable discussion of the issues. By the end of December, the Committee had reached agreement on the Guidelines that it intended to present to the Board for approval. While the Guidelines were not perfect from our point of view, we were realistic; we could live with them as written. Further, there was one more Ad Hoc Committee meeting scheduled before the Guidelines were to be presented to the Board in January 1995. Sandra felt that any rough spots could be smoothed out then. Unfortunately, this final Ad Hoc Committee meeting had to be cancelled on short notice.

When Sandra saw the Guidelines

that were to be submitted to the Board in January, there were some very troublesome changes. With no time to meet with the Committee before the January Board Meeting, Sandra felt it necessary to submit a Minority Report to the Board, detailing her concerns. Three of us from the Task Force attended that Board Meeting. While we were not particularly welcome, we were allowed because the meetings are open to the public. We were surprised to find that the Committee members reporting to the Board took offense at Sandra’s letter and chose to ignore the Minority Report.

This episode reveals the type of tension and misunderstanding which sometimes damaged relations between our Task Force and the Ad Hoc Committee, in spite of the intentions of both parties to cooperate in drafting mutually acceptable Guidelines. I think it’s vitally important that such tensions, which are bound to arise in any political action, not be allowed to escalate.

Returning to the Board Meeting in question: we listened to a discussion of whether to adopt the Guidelines immediately on a trial basis in order to avoid further litigation. Though two members spoke coherently in favor of immediate adoption, the Board voted only to consider the issue at the upcoming Annual Meeting.

The Vote

We chose to attend the next Board Meeting in February because we anticipated that the Ad Hoc Committee would be officially dissolved, and we wanted to be present. It was at this meeting that we heard that the Guidelines were to be presented to the Annual Meeting in the morning for discussion and perhaps for a straw vote. We also heard that the original rules change petition would be voted on in the afternoon business session. When we subsequently asked for copies of both the Guidelines and the petition that would be presented to the Meeting, we first became aware of the overwhelmingly negative votes the petition received as it was circulated around the districts accompanied by a negative recommendation.

We were fearful that since the districts had voted so strongly against

the petition, the Meeting would also heartily reject the Guidelines. Wouldn't the members vote on the basis of the same misinformation that had been circulated? Meanwhile, we wondered if the members really knew about the four lawsuits: how the judges were ruling against the MIAA and on what basis. We certainly wanted to prevent, if at all possible, a negative vote on the Guidelines. Such a vote would effectively end our political action efforts and leave the judicial or legislative avenue as the only recourse. We decided that the matter was critical enough for us to approach the membership directly through a mailing to all 354 member high schools of the MIAA. Our mailing included a letter explaining concisely our concerns and a fact sheet about various points. With this letter, as with all our letters, we carefully drafted and redrafted our words, being especially vigilant about not characterizing the MIAA's actions in any way, but simply relating the facts and explaining our position.

We do not know the effects of our

letter on those who received it. We can only guess why the membership ultimately voted so resoundingly in our favor. I think it was probably a combination of many factors known and unknown to us: the official recommendation of the MIAA expressed through the Executive Director, the members' dedication to including homeschoolers, their wish to avoid litigation, and the eloquent speech on the floor of the meeting.

In reviewing my documents and notes from the past two years, hindsight makes the experience seem much smoother than it actually felt at the time. Even though we carefully examined our every move, we still took each step into the unknown. We were helped by the attitude, as expressed by one of our members, that we needed to "give up attachment to outcome." Thus we prepared as fully as we could for each step, then waited to see what happened.

Of all our experience, the aspect of our success that I think could most readily be emulated in other states,

and which was a key factor in our success, was our strong coalition of statewide organizations. When I hear about the discordant situations in other states, I am all the more amazed and grateful that we had such a harmonious Task Force representing a wide spectrum of religious and political perspectives in Massachusetts. Perhaps because of the limited nature of our endeavor – it only involved high school athletics – we did not engender much homeschoolers' opposition to our work.

We would be happy to help those in other states in their efforts. You may reach me via email at Naniha@aol.com or at PO Box 1514, Manchester MA 01944. You may reach Sandra Lovelace at PO Box 377, Groton MA 01450. We have prepared a small packet of materials which includes many of the documents I've mentioned here as well as the most recent Guidelines. If you would like to receive it, please send \$5.00 (in a check made out to Nicky Hardenbergh) for copying and mailing costs. ♦

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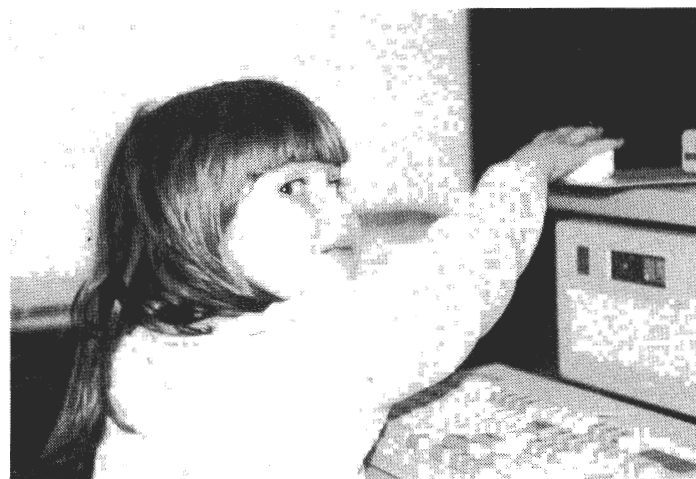
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