

June 21, 2005

6823 Mallory Road  
Holland Patent, NY 13354

Room 802  
Legislative Office Building  
Albany, NY 12247

Subject: An Open Letter to Senator Winner and the NY Senate and Assembly Education Committees Regarding Senate Bill S3641-A

Dear Senator Winner,

As you are the sponsor, I am writing to urge you to withdraw your support for Senate Bill S3641-A. I apologize that this letter is so long but do sincerely hope that you will read through to the end. There is simply no way to cover what I wish to say in a sound bite message.

Allow me to begin with a little history. As recorded (Revised record of the Constitutional Convention of the State of New York, May 8, 1894, to September 29, 1894), the public school system we now have, was birthed from the pre-existing schools established by families in local communities around the state.

*"These schools were not established by the State acting as such or in a formal manner, but by the people themselves, **each parent acting in his individual capacity**, and all the people co-operating heartily in the performance of the parental duty to educate his children; a duty which Chancellor Kent has called a sacred trust given to parents by their Creator, and a right which they have by the law of nature. The free public schools of this State have, therefore, become sacred to the people and to every home and to every heart. They are the schools of the people in the most intimate sense; because they sprung spontaneously from the people before the foundations of the government."*

Those desiring to make provision for all children to have access to education correctly understood that the moral right of parents to educate their children as they saw fit, belonged to parents, not the state.

In the debate surrounding the inclusion of the article which would formally establish a statewide system of public schools, a Mr. Campbell offered an amendment to guarantee that the right of parents to educate their children however they chose would not be infringed upon by the establishment of the public school system.

Mr. Campbell declared "**the right of parents to educate their children**" is "a right superior in the parents to that of any other person, **superior to any right that might be asserted by the State...**"

Mr Holls, author of the article on education considered the clarification unnecessary and in defending the article from further amendment, stated: "*It simply says that the State of New York, as a fundamental part of its policy toward all of its inhabitants, shall provide for a system of schools wherein **if required** --- for those words, in my opinion, are fairly implied --- all the children of the State **may be educated; and that, of course, means if required by the parent...** There is nothing here, and **there was nothing further from the mind of the committee than a denial of the rights of the family**, or of any imputation upon private schools of any character, and it is impossible for me to see by*

*what language it might be read into that amendment.” Mr Holls made it clear that the education clause of the NY Constitution as written “in no way interferes ... with the sacred right of the parent and the family first to educate their children if they wish to do so”.*

How far have we fallen? We now have before us S3641-A, a bill that: *“Provides for the **imposition** of certain procedures and standards regarding home instruction...”* Such a thing would have been inconceivable to those responsible for giving us the education system we now have. How long before we see a bill which *“Provides for the **imposition** of certain procedures and standards regarding home meal preparation...”* The liberty that this nation was blessed with at its founding, was not secured via incremental tweaking of regulations and laws by government bureaucrats micromanaging the minutiae of people’s lives. Sadly, it is being lost by such.

The public school system, an outgrowth of caring and responsible parents, was intended to provide for those whose education was not otherwise provided for. It has transformed into a monolithic monopoly, opposing all competition, and not unlike Frankenstein’s monster, has turned on the very ones who created it. For the state to dictate to parents how to educate their children violates the very intent of those who established “public education” in New York! **For the state to declare that home and other forms of private education are “legal”, while dictating content, is a façade of liberty! It is in fact, through force of law, the imposing of public education, in private settings.** The good intentions of those wanting to provide for those unprovided for, have become the means for policing those who today are exercising their **superior right** to direct the education of their children.

I am aware of no evidence that performance of home educated students is higher in states where home instruction is highly regulated. Bill S3641-A codifies the intrusion in the lives of families that came to a head in 1988 with the promulgation of Home Instruction Regulations CR100.10. It interferes with those caring and responsible parents who **are** “otherwise providing” for the education of their children. Senator Winner, I am confident that you must be acquainted with the much reported accomplishments of home educators in recent years. These accomplishments have come about, not because of state regulation and requirements, but because of caring, dedicated parents, who want the best for their children, and often sacrifice much to make it happen. These are they who are assuming responsibility, not abandoning it to others. These the state should be upholding as model parents and citizens!

As I’m sure you are also aware, the problems that public education must deal with are numerous. They are both systemic and societal. The resources and energies of the state should be invested in and focused on solving these issues, which falls well within the original mandate. They should not be invested in regulating non-public education.

Senator Winner, what you and your peers in Albany do affects real lives. The regulations and laws that issue forth have consequence far greater than may be evident to those who implement them. There is no such thing as a “typical” home educator, so I would not pretend to represent all others. But allow me to give you a very brief glimpse of my own household, as S3641-A affects me personally in ways it is unlikely to affect members of the education establishment, which will no doubt have far greater influence in your deliberations. My wife and I are both natives of New York State. We have been involved in home education for about 18 years, serving at various times both as support group chapter leaders and as regional representatives

in NYS Loving Education At Home. We have 10 children which we began home educating about the time the current regs were foisted upon NY's home educators. Our two oldest have graduated. One is working to establish a small e-commerce business and the other is working to establish a sustainable farming business. The remainder are still of school or preschool age. As you can imagine we are a busy household. It is disheartening at best, however, to be forced to contend with mandates from the state in a matter that has historically been both the responsibility and the right of parents. New York is our home and we have never desired to live elsewhere. However, like many others, our children must decide whether New York is the right place to raise their own one day. Policy and law, like proposed bill S3641-A, emanating from Albany will only continue to drive our talented youth to other states where liberty and opportunities are less inhibited by government intrusion.

Senator Winner, I urge you and the other members of the NYS Legislature to **act boldly** to restore the unhampered right of parents to direct the education of their children.

First: I urge you **begin by withdrawing your support for S3641-A.**

Second: I urge you to instead **introduce and fight for the passage of the following or similar amendment** to the education law.

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Section 1 of Section 3205 of Part I of Article 65 of the education law is amended to add an exception for a minor whose educational instruction is provided by a parent or legal guardian as follows:

2. Exceptions.

d. A minor whose educational instruction is otherwise provided by a parent or legal guardian or other person(s) designated by the parent or legal guardian shall not be subject to the provisions of part one of this article. No rule or regulation of the Commissioner of Education, State Education Department, Board of Regents, local school district or any other government officer shall interfere directly or by implication with this instruction.

Section 2. This act shall take effect immediately.

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If you would like to speak with me regarding this, I would be more than happy to meet with you.

Respectfully,

Steven W. Winters

CC: NY Senate Education Committee, NY Assembly Education Committee, Assemblyman Townsend