

# The Blumenfeld Education Letter

"My people are destroyed for lack of knowledge." HOSEA 4:6

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The purpose of this newsletter is to provide knowledge for parents and educators who want to save the children of America from the destructive forces that endanger them. Our children in the public schools are at grave risk in 4 ways: academically, spiritually, morally, and physically — and only a well-informed public will be able to reduce those risks.  
"Without vision, the people perish."

## The Rivera Case: Why Is the State of Iowa Determined to Bring a Christian Home-Schooling Father to His Knees?

The following is from the Cedar Rapids Gazette of May 13, 1990:

Boxes of possessions line a hallway in the southwestside home of Aaron and Theresa Rivera. That's because the family is prepared to flee the state with their four children rather than submit to the authority of courts, the state or the Cedar Rapids Community School District. The Riveras, who cite religious reasons for educating their children at home, were found guilty April 19 in Linn District Court of violating Iowa's compulsory education statutes. They are to be sentenced Wednesday on charges filed in connection with their two oldest children, Elisha, 9, and Stephen, 7. The crime is a simple misdemeanor. Records for proceedings in this case are kept by the clerk of traffic court. But the Riveras say they'll attend the sentencing Wednesday morning under threat of having their children taken away. The

Riveras were floored several weeks ago when they received Judge Michael Newmeister's court order a few days after their trial. The order, which finds them guilty, closes with the suggestion that the county attorney "consider the presentation of a petition to determine whether these children are in need of assistance." What Newmeister suggested is commonly known as a CHINA petition.

CHINA or CINA stands for children in need of assistance. Both Newmeister and Kathy Collins, an attorney for the Iowa Department of Education, told The Gazette last week a CHINA petition is not always the precursor to terminating parental rights people commonly believe it to be.

Said Collins, "You as a parent can file a CHINA petition on your own kid. It does not terminate parental rights."

CHINA petitions can be used to seek a variety of remedies, Collins said. It can be used to get a social worker into a home to

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persuade parents to change their behavior. Said Aaron, "I didn't even finish reading it. . . I crumpled the paper and threw it down. I just couldn't believe it. Other people in the home-schooling movement tried to warn me about this." Aaron said, "She's telling you that home-schooling parents — that parents who are home-schooling for religious reasons — that we need some sort of counseling? Is our problem intellectual?"

"For me, it's a spiritual issue," Rivera continued. "God is going to be pre-eminent in my children's education, not a secular authority that is required by law to discriminate against my faith," he said, citing legal proscriptions against discussing God, the Bible or the Ten Commandments in public schools.

### **Judge Wanted Stronger Punishment**

Newmeister, meanwhile, said CHINA allows taking the matter into juvenile court, which has powers he does not have to fashion remedies and options. Newmeister said he suggested a CHINA petition out of frustration, because the Legislature changed penalties in the law two years ago to prevent jail terms or fines for parents who violate the compulsory education law. Now the only penalty he can give is up to 40 hours of community service, Newmeister said, which he feels is inadequate to deter parents from continuing to violate the statute.

Newmeister said he suggested CHINA to keep the Riveras from being brought back into his courtroom in another year. But Collins and Newmeister conceded that ultimately, CHINA can result in terminating parental custody. And the Riveras pointed out that's exactly what happened in the state Supreme Court case a year ago that opened the door to using CHINA in compulsory-education cases. That case involved a Tama County special education student who had

been home-schooled. (See *B.E.L.*, April 1990.) Last May's ruling led to his being placed in foster care. This March, however, the state Supreme Court ruled the state had no jurisdiction because the boy was a resident of an Indian reservation.

### **Judge Has Second Thoughts**

Meanwhile, Newmeister said he doubts the county attorney will file a CHINA petition in the Rivera case, based on his conversation with the assistant county attorney in charge of juvenile court matters. And Newmeister said he won't compel anyone else to file one in the case, either. So CHINA may not even come up Wednesday. It shouldn't have come up in the Riveras' case at all, according to John Holtkamp, program manager for child protective services at the Iowa Department of Human Services (DHS) in Des Moines.

In a Dec. 20, 1989, memo to child abuse investigation units, Holtkamp said the Tama County decision hinged on the fact that the student in question was retarded but educable, that the boy had a special need to be in school, and that there had been "extremely prolonged failure on the part of the parents to send the child to school." "This (Tama County) was not your typical truancy case," Holtkamp said. "School truancy alone would not constitute grounds for a child abuse investigation nor filing a petition to determine if a child is in need of assistance." The Riveras' case dates back just over three years, according to a sheaf of correspondence between the school district and the couple. The state's compulsory-attendance law changed over that time, Aaron Rivera pointed out, but he is following the unchanging word of God laid out in the Bible.

Eventually, the Riveras were charged with failing to report the name of their children's teacher (a provision designed to di-

rect the use of a certified teacher), failing to outline the course of study and the texts used, and failing to submit lesson plans.

### **The Issue Is Control**

Aaron Rivera said the authorities are more interested in control than in his children's education. Newmeister refused the test scores Rivera offered in court, Rivera said.

"The tolerance level this state has for home-schoolers is nil," Rivera charged. But school officials say otherwise. They claim the state makes it very easy for home-schoolers to comply with its laws. For instance, the Cedar Rapids Community Schools offers a home-schooling program that gives home-schooling parents access to other materials and resources — and to each other. Also, participation means parents can file weekly lesson plans rather than the year's worth of lesson plans called for in the compulsory education statute, said Joan Mosel, the district attendance officer who took the Riveras' case to the County Attorney's Office.

Use of Christian curriculum isn't even at issue, confirmed Kim O'Meara Anderson, a teacher who works with families in that home-schooling program. Although she cannot work directly with the Christian teaching materials used by some families in the program, Anderson said, she can review them and make suggestions to parents. But that doesn't prevent parents from using them, she said.

### **Statists Defend State Control**

The school system sees its home-schooling program as meeting home-schooling families partway. But Rivera sees it as the first step to asserting control over home-schoolers. And though the Riveras question

whether the state has any authority over their children's education, Newmeister, Collins, and Mosel all insist that courts have decided repeatedly that it does.

Said Collins, "The U.S. Supreme Court has said parents have the right to direct their children's educational upbringing within guidelines set by the state . . . there are seven different ways you can educate a child in Iowa. These parents just want an eighth. The Legislature does not agree, and neither do the courts."

Said Mosel, echoing an argument also offered by Collins, "I might think it's silly to drive down Bever Avenue at 30 miles per hour. I might like to go 45. But, hey, I've got to obey the law." But Rivera said that line of reasoning is "attributing this as something trivial when they put it on that kind of plane." Educating children is different, he said.

Besides, the law under which he was convicted would have been changed had the Legislature passed Gov. Terry Branstad's home-schooling legislation this year, Rivera continued. He even sought to delay his court case while that legislation was pending "We have no guarantee what their law is going to do. All I have is God's guarantee that His law is not going to change."

### **Judge Distrusts Parents**

Newmeister said that although Rivera may have the best of intentions and may in fact be educating his children, "I'm not going to take it on their trust and faith that they really are." No one else would, either, Newmeister continued. He needs the proof outlined in Iowa law. Rivera said this is a matter of conscience, which he feels is protected by the First Amendment to the U.S. Constitution. "Isn't that what people came to America for? For freedom of conscience, and not to have government tell you how to believe?" (Cedar Rapids Gazette, 5/13/90)

## The Sentencing

On May 16, 1990, Aaron and his wife Theresa were sentenced each to 20 hours of community service under the supervision of the Cedar Rapids Community School District. Meanwhile, the Riveras had sent their children to Illinois in fear that a CHINA petition would be filed against them.

More than 150 spectators jammed the courtroom during the sentencing. Many of them were children who wore slips of paper that read "Home Schooling." On leaving the courthouse, the Riveras were applauded by a crowd on the front steps.

"If we can be threatened with having our children taken away, something's wrong," Rivera told the crowd.

Newmeister denied that he wanted to separate the Rivera children from their parents. He said he recommended the CHINA procedure merely as a way of getting someone into the Rivera home "to see what was going on in your classroom," or to test the children to see if their education was progressing satisfactorily.

## Children Scored Well On Tests

Aaron Rivera had offered to provide the court with a record of the scores his children had made on the California Achievement Test administered by Christian Liberty Academy Satellite Schools (CLASS). Elisha Rivera, a fourth grader, had achieved the 6.8 grade level in vocabulary and the 7.1 level in comprehension. In language usage and structure she had achieved at the 8.2 grade level. Stephen Rivera, a second grader, achieved a 4.8 level in vocabulary and a 4.8 level in comprehension. In short, both children had achieved scores significantly above their grade level in all subjects tested. But the

judge refused to receive or look at the test records.

The judge said that the issue that drew the Riveras into court was not one of education, but whether the couple had complied with the law that requires them to report to school authorities their children's course of study, textbooks, time spent on study, weekly lesson plans and the name of their certified teacher.

In other words, the judge so much as admitted that the state's compelling interest in education is really a compelling interest in control — control over every detail of education that takes place in the home-school to the point where such intrusion becomes an onerous state entanglement in the affairs of the home-schooling family.

## God's Word Is Unchanging

Rivera told Newmeister he would live by his faith and God's word, "rather than by the transient, changing laws of man." But Newmeister said religious freedom does not include "freedom to pick and choose what laws you are going to obey or not obey. To do so is only to invite anarchy, to invite everyone in the name of their god to pick and choose the laws they will obey."

In other words there is no such thing as religious freedom in Iowa. There is only religious tolerance. The humanist state can pass all sorts of laws limiting religious freedom, and one must obey them, because not to do so is to "invite anarchy."

But God commands parents to educate their children in a Godly manner. And so, what are conscientious Christian parents to do? They have a choice: obey God's commandments, or obey laws that require them to accept the state's authority over God's.

For Aaron Rivera, the choice was quite simple. A Biblical commandment supercedes

the "authority" of state bureaucrats whose goal it is to make every Christian parent in Iowa bend the knee to state power. And the state has the power to punish those who will not bend the knee.

Nevertheless, Rivera said that he and his wife would comply with the judge's sentence. Joan Mosel, the district's attendance officer who spent 2 years and 7 months pursuing the Riveras, said the couple would not have to serve in a public school but could do service work for a church or some other activity. Perhaps she feared that the Riveras in a public school might infect the children with Biblical teachings, or perhaps she feared the Riveras might find out how bad the public schools are in Cedar Rapids.

### **Home-Schoolers Demonstrate**

Outside the courthouse, other home-schoolers called for changes in state law to protect them. Only Michigan and Iowa require that home-schooling take place under a certified teacher, said Greg Nichols of Marshalltown, chairman of the Iowa Home Educators Association. He said his group estimates about 2,000 Iowa families are teaching their children at home. Cathy Thomas of Vinton said she left a career in personnel to stay home with her children and she enjoys it. She said she and her husband, an engineer, are ready to leave the state if they are prosecuted as the Riveras were.

"Iowa will be losing professionals if the state continues to do this," she said.

On May 18, the Riveras submitted a motion, drawn up by their attorney, requesting that everything dealing with a CHINA petition be stricken from the judge's order. As of June 3, the judge had not acted.

### **Raising a Christian Family**

Aaron Rivera was born and raised in Cedar Rapids. He and his wife Theresa ac-

cepted Jesus Christ as their personal savior and were baptized the day before their marriage in 1978. They were committed to raising a Christian family.

Their trouble with the State started in October 1987 when they received a letter from the board secretary of the Cedar Rapids Community Schools as follows:

It has been brought to my attention that your child/children have been receiving private instruction not in a regularly conducted school. . . . (I)t is the responsibility of the local public school board to evaluate equivalency of instruction for District pupils receiving private instruction outside of the traditional school setting

I am, therefore, enclosing a questionnaire which I would like you to complete and return by October 20, 1987. . . .

The Riveras replied on Oct. 19, 1987:

This letter is in response to the one sent from your office dated 10/8. During our telephone conversation today, I attempted to explain why I am unable to return your questionnaire by October 20th. The reason for my delay is that your questionnaire is more than just answering a few questions as you stated. As I understand it, it's actually an application asking the school board to determine whether equivalent instruction is provided. Before I agreed to the premise of your application, I wanted experienced counseling from the administrative staff at Christian Liberty Academy where my daughter Elisha is enrolled. . . .

Please understand, my purpose is not to put off your request for information. I'm sure this is all very routine for you, but for my wife and I it's all new and very complex. We just want to be very sure, as I'm certain you would want us to be, that we understand exactly what we're asked to sign and its implications.

On receipt of the information from Christian Liberty Academy, the Riveras sent to the school board a notarized "Statement of Assurance of Proper & Adequate Private School Education," plus a list of subjects and textbooks being used. Subsequently, they received the following letter from Joan Mosel, District Attendance Officer, dated 11/5/87:

I received a statement from you on October 28, 1987 regarding home schooling for your daughter, Elisha. That information did not give the teacher's name and Iowa Certificate number as is prescribed by the law of Iowa. Will you please provide that information to me no later than November 13, 1987.

In December the Riveras received a certified letter from Ms. Mosel stating:

I have not yet received a reply from you regarding my letter dated November 5, 1987. . . . Failure to provide this information could result in the School District's asking the County Attorney to file a charge of violation of the Code of Iowa, Section 299.1.

The Riveras responded on 12/18/87 by certified mail:

If you will review the last material we sent, notice the page entitled "Statement of Assurance of Proper and Adequate Private School Education." Item number six is the reason we educate our daughter Elisha at home. My wife, Theresa, teaches approximately 85-90% of the lessons and I teach the remainder. Our motive is a sincere religious conviction which is indeed paramount and compelling. My wife and I are both Christians and believe the Bible to be the very words of God as defined in I Thessalonians 2:13, "For this cause also thank we God without ceasing, because when ye received the word of God which ye heard of us, ye received it not as the word of men, but as it is in truth, the word of God . . . ."

The Bible, therefore, is our highest authority and wholly sufficient to judge all matters. We believe and are confident that God does not require or allow us to apply to a secular authority for permission to educate our daughter. The Lord has already given us that command and duty in His word. Consequently, our faith in God is what compels us to obey those commands and principles found in the Bible.

God says in Psalm 127:3, "Lo, children are an heritage (or inheritance) of the Lord . . . ." Therefore, they are not a product or possession of the state, but rather the parents to whom they are given. As parents, we are given the responsibility of training our children. "Train up a child in the way he should go; and when he is old, he will not depart from it." Proverbs 22:6.

We believe this training encompasses all areas of growth: socially, physically, and educationally as well as spiritually. We also are convinced that "the way he should go" means that our daughter should

be under the control and supervision of a God centered authority, not one that rigorously excludes Him. Again, in Deuteronomy 6:6-7, the Lord says, "And these words which I command thee this day, shalt 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," It's obvious here, the Lord intends to be included in all daily activities, especially in teaching the children.

In Ephesians 6:4, God says, "And ye fathers, provoke not your children to wrath; but bring them up in the nurture and admonition of the Lord." Notice the phrase "bring them up." We understand it to include all areas of growth as defined under Proverbs 22:6 above. There are, of course, many more verses that demonstrate the pre-eminence God is to have when raising children.

That is the issue here, pre-eminence! No man can serve two masters, ". . . for either he will hate the one, and love the other; or else he will hold to the one, and despise the other. Ye cannot serve God and mammon." Matthew 6:24. Mammon is worldly interests. They are mutually exclusive and cannot both be master.

Unfortunately, for our nation, God's pre-eminence in education has not only been ignored, but has been forceably removed from our public school system. Working within that system, you must be more aware of that than we. Please don't misunderstand us, we have nothing against you or your colleagues personally. However, we're convinced that the course you are pursuing with regards to our daughter Elisha's education is motivated by control rather than concern.

From your first visit to our home in the early spring of this year to your last letter of 12/4/87, neither you nor your office has expressed any interest or concern in Elisha's actual school progress or level of achievement. Why is that? As a representative of this community's school board, isn't the educational progress of children in this district your primary and most important responsibility?

Our own Governor, Terry Branstad, has said, "Quality of education ought to be what drives decision-making by local school districts." Certification was only intended as a means to that goal and not the goal itself. The original intent of compulsory school laws was to insure that every child should be educated.

Our daughter Elisha is indeed being educated, therefore she is not truant. The real proof of an equivalent education (achievement) could be demonstrated, but you never asked. The requirement of certification

which we sense you relish to enforce on us, has nothing to do with truancy or equivalent education, but rather obviously with control. Do you really have the data to prove an equivalent education cannot be achieved without certification? Further, do you believe the issue of certification is so strong as to override, without exception, our rights provided in the first, ninth and fourteenth amendments in our constitution? I hope not.

Finally, we noted the implied threat of possible charges being brought against us. Let me remind you that our religious conviction determines our educational practice, therefore, any charges, convictions or penalties imposed on us could not change God's clear commands or our duty to obey them!

Please be convinced, we do not accept the implied claim of control and authority over our daughter, to the extent we must apply for permission to educate her according to our faith. Applying for such permission would violate everything we believe God has already given us. In fact, for us, denial of God's pre-eminence in this matter would be gross sin. Peter said it well in Acts 5:29, "We ought to obey God rather than men." This is exactly what we will do, and by the grace of God we will stand (Gal. 5:1), and be found faithful (Daniel 3:8-18).

### **The Bureaucrat Responds**

One would have thought that the above letter would have settled the matter. But Ms. Mosel was determined to bring the Riveras under state jurisdiction. In March 1988 she sent the Riveras, by certified mail, an Affidavit of Equivalent Instruction to sign. Aaron Rivera signed the Affidavit, but added the following above his signature: "My signature on this form should not be construed as an attempt to seek state approval or as an attempt to place my child's education under the jurisdiction of the state."

Nothing further was heard from Ms. Mosel until August 8, 1988, when the Riveras received a letter sent to home-schooling parents announcing the start of a Home Instruction Program sponsored by the Cedar Rapids Community School District. "This program," said the letter, "will provide the services of a certified teacher and the use of

School District curriculum." With the letter came a "Mission Statement" and an outline of their "Future-Oriented Curriculum."

Since the purpose of home-schooling is to get away from the public-school curriculum, the Riveras politely turned down the offer, explaining, "we already have a superior home instruction program from Christian Liberty Academy. . . . We're extremely happy with C.L.A, as our daughter Elisha is above average academically and also well adjusted socially and spiritually." The Riveras also reiterated their objections to state control over their daughter's education

### **Lesson Plans in Duplicate**

Ms. Mosel's reply of 9/19/88 was curtly bureaucratic. "Since you are choosing to use the Christian Liberty Academy program for your children, I want you to be aware of the need to comply with the Iowa Code. . . . We have not yet received this report from you. Could you please send the report in duplicate by September 28th. I realize sending weekly lesson plans in duplicate can be difficult, but the District must ask you to comply with the laws of the state."

The Riveras replied on 9/27/88, stating: "We are being asked to surrender control of our daughter's education to a secular authority that continually places new demands on us. This we will not do! The information we've already supplied voluntarily on the 'Statement of Assurance of Proper and Adequate Private School Instruction,' as well as our letter to you dated 12/18/87 should leave no doubt that our daughter, Elisha, is indeed being educated or that our resolve to succeed under a God-ordained authority is real."

Ms. Mosel replied on 10/31/88: "I have received your letter dated September 27, 1988. This information is being forwarded to the Linn County Attorney, Mr. Denver Dil-

lard, as you are in violation of Section 299.4 of the Code of Iowa."

Meanwhile the Governor of Iowa had issued a moratorium on home-school prosecutions beginning in July 1988 and ending on July 1, 1989. So nothing was done against the Riveras. With the end of the moratorium, Ms. Mosel got busy again. She wrote the Riveras on July 24, 1989, asking them for the same information they had declined to provide the year before. When the information was still not forthcoming, she wrote a second letter, and then a third on October 11, 1989:

"The School District has not yet received the weekly lesson plans and names of teachers for your children, as well as other requested materials. If we do not receive this information by October 18, we are required to notify the Linn County Attorney of your actions."

### **Ms. Mosel's Metamorphosis**

Whereas previously Ms. Mosel had signed her name as "Attendance Officer," this time she signed it as "District Social Worker." The metamorphosis probably had something to do with bringing the threat of CHINA into the picture.

By now the Riveras had grown weary of Ms. Mosel's stunted bureaucratic mind. They replied:

Since our initial contact with you we've noted the many changes in state requirements from teacher certification, to certified supervision, to standardized test scores and now the weekly lesson plan. Don't you feel it's a lot to expect of parents to submit to an ever changing standard of what education is or how to achieve it? . . . .

The issue, of course, is pre-eminence in education which we've answered fully in our letter of 12/18/87. We invite you to review it because it represents our final position concerning our children's education. . . .

Finally, in answer to your latest letter, we've already demonstrated our willingness to provide you information. Doesn't a legally notarized statement assure you that our children's education is not being neglected? To insist on weekly lesson plans requires parents to acquiesce to state approval and therefore control. Why else would you want them?

If you recognize, as we do, that the information we voluntarily offer can satisfy state needs – without trampling over our religious convictions and constitutional rights, we will be happy to provide it.

Ms. Mosel replied that the Riveras could submit their notarized statement if they wished, but that it would be up to the County Attorney to decide if it would meet the requirements of the law.

On December 6, 1989, the State of Iowa filed charges against Aaron and Theresa Rivera for "the crime of violation of school attendance requirement" by failing "to furnish the report, concerning private instruction required by the Iowa Code."

On April 19, 1990, the Riveras were found guilty of violating Iowa's compulsory education statutes, and on May 16, 1990, they were each sentenced to 20 hours of community service.

## **PURE Conference Postponed Till October 1990**

In order to allow time for more people to plan to attend, the third annual conference of Parents for Unalienable Rights in Education (PURE), originally planned for July 6 and 7, has been rescheduled for October 19 and 20, 1990 in Boise, Idaho. Location will be forthcoming.

For additional information call The Montgomery Institute at (208) 888-2315 or The Blumenfeld Education Letter at (208) 322-4440.