



November 24, 2008

By Facsimile

Office of Management and Budget
Paperwork Reduction Project
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Re: Comments to Community-Based Abstinence
Education Performance Progress Report, OMB No.
0970-0272

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To Whom It May Concern:

The American Civil Liberties Union (“ACLU”) submits these comments in response to the Administration for Children and Families’ (“ACF”) and Office of Management and Budget’s (“OMB”) proposal to review the progress and performance of the Community-Based Abstinence Education (“CBAE”) program. While we commend the federal government for reviewing the effectiveness of its funded programs, various researchers, including those contracted by the federal government, have already undertaken such an evaluation of abstinence-only-until-marriage programs. These researchers have unanimously concluded that abstinence-only-until-marriage programs simply do not work.

In addition to the ineffectiveness of the programs, ACF and OMB should consider other problems that affect their quality. For example, some of these programs provide medically inaccurate information. Moreover, these programs fail to reach a large number of youth because – by definition – they discriminate against gay and lesbian students, and they also stigmatize teens whose parents are unmarried, including those in single parent families. Additionally, some programs promote negative gender stereotypes. Accordingly, we ask that you ensure that the progress and performance report reflects these fundamental deficiencies in the CBAE program.

The ACLU is a nationwide, nonpartisan public interest organization of almost 600,000 members dedicated to protecting the principles of freedom and equality set forth in the Constitution and in our nation’s civil rights laws. The ACLU has a long, proud history of vigorously defending religious liberty, reproductive freedom, and principles of non-discrimination. The ACLU is particularly committed to ensuring that

individuals' access to reproductive health services is not compromised because of their race, youth, or economic status; we are a leader in the fight against discrimination against those segments of the American population that have traditionally been denied their rights, including people of color, lesbians, gay men, bisexuals and transgender people, women, mental-health patients, prisoners, people with disabilities, and the poor.

Abstinence-only-until-marriage programs are ineffective. A rigorous, multi-year, scientific evaluation authorized by Congress presents clear evidence that abstinence-only-until-marriage programs don't work.¹ The study, which looked at four federally funded programs and studied more than 2000 students, found that abstinence-only program participants were just as likely to have sex before marriage as teens who did not participate.² Furthermore, program participants had first intercourse at the same mean age and the same number of sexual partners as teens who did not participate in the federally funded programs.

Similarly, the National Campaign to Prevent Teen Pregnancy, working with Dr. Douglas Kirby, found that "there is strong evidence from multiple randomized trials demonstrating that some abstinence programs chosen for evaluation because they were believed to be promising actually had no impact on teen sexual behavior."³ In other words, "they did not delay the initiation of sex, increase the return to abstinence, or decrease the number of sexual partners."⁴ Dr. Kirby's research is particularly relevant to the evaluation proposed by ACF and OMB. The proposed evaluation focuses on, *inter alia*, sexual values and behavioral intentions. But as Dr. Kirby notes in his research, programs that improved these values or intentions "did not always endure and often did not translate into changes in behavior."⁵ Dr. Kirby has concluded that "studies of abstinence only programs have not produced sufficient evidence to justify their widespread dissemination."⁶

On the other hand, strong evidence suggests that programs with information about postponing sexual activity and effective contraceptive use can help delay sex and reduce sexual risk-taking among teens. Many of these programs have been shown to significantly delay the initiation of sex, reduce the frequency of sex and the number of sexual partners, and increase condom or contraceptive use among sexually active teens.⁷ Similarly, a nationwide study of 15-19 year olds found that teens who participated in sexuality education programs that discuss the importance of delaying sex and provide information about contraceptives were significantly less likely to report teen pregnancies than were those who received either no sex education or attended abstinence-only-until-marriage programs.⁸ Moreover, the Centers for Disease Control & Prevention note that "research has clearly shown that the most effective programs [to prevent the spread of HIV/AIDS] are comprehensive ones that include a focus on delaying sexual

¹ Christopher Trenholm et al., *Impacts of Four Title V, Section 510 Abstinence Education Programs*, Princeton: Mathematica Policy Research, Inc., April 2007.

² Though the study evaluated programs funded through Title V, the results are equally relevant to CBAE programs given that both programs must abide by the federal definition of abstinence in Title V, Section 510 of the Social Security Act (42 U.S.C. § 710).

³ Douglas Kirby, Ph.D., *Emerging Answers 2007: Research Findings on Programs to Reduce Teen Pregnancy and Sexually Transmitted Diseases*, National Campaign to Prevent Teen Pregnancy at 15 (Nov. 2007).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 15-16.

⁸ Pamela K. Kohler, RN, et al., *Abstinence-Only and Comprehensive Sex Education and the Initiation of Sexual Activity and Teen Pregnancy*, *Journal of Adolescent Health*, Spring 2008.

behavior and provide information on how sexually active young people can protect themselves.”⁹ Research also shows that sex education curricula that discuss contraception – by presenting accurate information about contraceptive options, effectiveness, and use – do not increase sexual activity.¹⁰

ACF and OMB should not just consider the ineffectiveness of these programs, but should also evaluate the quality of these programs. For example, a number of programs continue to provide teens with *misinformation* about contraceptives. The ACLU, along with Advocates for Youth and Sexuality Information Education Council of the United States, filed a formal complaint about medical inaccuracies in federally funded abstinence-only programs in violation of Section 317P(c)(2) of the Public Health Service Act. After much correspondence with ACF, including ACF’s assurances that it would require these programs to be medically accurate, medical inaccuracies nevertheless remain. One of the programs we highlighted in our complaint was Why kNOw. As of March 2008, that program contained inaccurate information about the risk of HIV transmission when using a condom and about the effectiveness of condoms in the prevention of gonorrhea and Chlamydia transmission.¹¹ Providing inaccurate information of this nature is not only dangerous, but irresponsible as well, and it puts our teens in jeopardy.

Even if these inaccuracies and the ineffectiveness of these programs were somehow resolved, these programs by their nature are discriminatory and exclusionary and therefore for that reason alone they should not be funded by the federal government, nor should they be taught in our schools. For example, OMB and ACF should be concerned that federally funded abstinence-only-until-marriage programs do not reach all youth. Quite the opposite: gay and lesbian students – by definition – are discriminated against in these programs. The federal statutory definition of abstinence, to which all federally funded programs must adhere, states that these programs must teach that a “mutually faithful monogamous relationship in [the] context of marriage is the expected standard of human sexual activity.”¹² Similarly, these programs must teach that there will be “harmful consequences” for children, families, and society if a child has parents who are not in a heterosexual marriage.¹³ In a society that generally prohibits gays and lesbians from marrying, such a message rejects the idea of sexual intimacy and healthy families for lesbians and gays, and ignores their need for critical information about protecting themselves from STDs in same-sex relationships. A federal court in Florida recently found that federally funded abstinence-only-until marriage programs provide no information that helps lesbian and gay students.¹⁴ Moreover, the messages about heterosexual marriage and the burdens and harmful consequences of “out-of-wedlock” children stigmatize those families that aren’t headed by married heterosexual parents, including those in single parent homes. Thus, these programs fail to reach – and in fact discriminate and stigmatize – a large number of students who come from diverse families.

⁹ Centers for Disease Control & Prevention, *Fact Sheet: Young People at Risk: HIV/AIDS Among America’s Youth, National Center for HIV, STD and TB Prevention*, March 2002.

¹⁰ Kirby, *supra* note 3, at 16.

¹¹ Kris Frainie, *Why kNOw Abstinence Education Programs, Public School Curriculum Grades 6-High School, Teacher’s Manual*, at 331-32, 315, 317 (2d Ed 2006).

¹² 42 U.S.C. § 710 (b)(2)(D).

¹³ *Id.* at § 710 (b)(2)(F).

¹⁴ *Gonzalez v. Sch. Bd. of Okeechobee County*, 571 F. Supp. 2d 1257 (S.D. Fla. 2008).

Similarly, the quality of the programs should be reviewed for negative stereotypes and false information about gender, which are often disseminated through these programs. Teaching stereotypes undermines women's equality and promotes a discredited view of women's and men's roles and abilities. For example, the Why kNOW program promotes the idea that men and boys are aggressive and goal-oriented, while women and girls focus on relationships: "Men typically count on their own abilities to win and achieve the goal; women usually count on the team effort. . . . Females gauge happiness and success according to their relationships, while males' happiness and success hinge on their accomplishments."¹⁵ It is inappropriate and harmful to teach such dichotomous and outmoded stereotypes to teens.

Accordingly, we urge ACF and OMB to consider these issues and concerns when evaluating the performance of the CBAE program. Our own examination, combined with the other evaluations referenced above, should lead to but a single conclusion: this program is fundamentally flawed and should be eliminated.

Thank you for your time and attention to this matter. Should you have any questions, please contact Vania Leveille at 202 715-0806.

Sincerely,



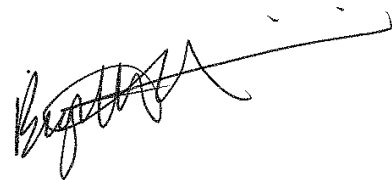
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¹⁵ Frainie, *supra* note 11, at 276.