



December 4, 2015

*Via electronic mail, U.S. mail, and facsimile*

Mr. Brian N. Winstead  
Superintendent  
Enterprise Elementary School District  
1155 Mistletoe Ln.  
Redding, CA 96002-0749  
bwinstead@eesd.net

Dear Superintendent Winstead:

It has come to our attention that Boulder Creek Elementary School in your district is planning to use Elevate Campus Connect ("Elevate") to provide sexual health education instruction, starting next week. Based on a letter sent to parents and Elevate's website, it appears that the planned instruction will violate the requirements of California Education Code sections 51930-51939, which were enacted to ensure the health of California students.

We therefore urge you to act immediately to suspend the planned instruction by Elevate Campus Connect at Boulder Creek and any other schools in your district, and to adopt instead a plan for sexual health instruction that complies with California law. Although we hope by this letter to avoid unnecessary legal action, if you do not confirm your planned compliance with California law by December 8, 2015, we will have to consider all options for ensuring compliance, including litigation.

#### **Elevate Campus Connect's Sexual Health Instruction Violates California Law**

It is our understanding the Elevate Campus Connect will be providing sexual health education to students in your district from December 7-9, 2015. We have been provided with a copy of a letter that was sent to parents describing Elevate's planned instruction and asking parents to provide active consent to their student's participation ("Elevate letter"). A copy of this letter has been enclosed for your reference. Based on the information in this letter as well as the information on Elevate's website,<sup>1</sup> it appears that Elevate's sexual health instruction will violate numerous provisions of California law.

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<sup>1</sup> Elevate Camps, "Elevate Campus Connect," <http://www.elevatecamps.org/campus.html>.

The California Education Code sets out comprehensive and specific requirements for schools regarding sexual health and HIV prevention education. See Cal. Ed. Code §§ 51930-51939. Unfortunately, Elevate’s sexual health instruction does not appear to meet these requirements in a variety of ways, including:

1. **“Abstinence-only” instruction.** It appears from both the Elevate letter and Elevate’s website that Elevate’s planned sexual health instruction teaches only about abstinence, and does not provide any information about other forms of contraception. The Elevate letter states that the Elevate program is based on the definition of abstinence education provided by the U.S. Congress regarding the use of Title V Section 510 funding. This definition explicitly excludes instruction about contraception and states that the education “has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity.”<sup>2</sup> The Education Code, however, requires that all California public schools choosing to provide sexual health education *must* include instruction on all FDA-approved methods of contraception.<sup>3</sup> A May 4, 2006 guidance letter from the California Department of Education (CDE) explicitly states that sexual health education may not be abstinence-only.<sup>4</sup> The California Department of Education also states that “The federal guidelines for abstinence-only education are inconsistent with California Education Code.”<sup>5</sup>
2. **Medically inaccurate information.** It appears from the Elevate letter that Elevate’s planned sexual health instruction will cover the “definition of abstinence,” the “consequences of sex outside of marriage,” and “secondary virginity.” The federal definition of abstinence on which the Elevate program is based includes statements such as “sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects.”<sup>6</sup> This claim is not supported by data, which means it does not comply with the Education Code’s requirement that sexual health education in California public schools be “medically accurate and objective.”<sup>7</sup> Similarly, “secondary virginity” is a term that is not grounded in public health

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<sup>2</sup> Social Security Act § 510(b)(2)(A) (codified at 42 U.S.C. § 710 (2015)).

<sup>3</sup> CAL. EDUC. CODE § 51933(b)(10).

<sup>4</sup> California Department of Education (CDE), “Letter from Jack O’Connell, State Superintendent of Public Education” (May 4, 2006), <http://www.cde.ca.gov/ls/he/se/preveducationltr.asp>.

<sup>5</sup> CDE, “Checklist for Guest Speakers-Comprehensive Sexual Health Education and HIV/AIDS Instruction,” <http://www.cde.ca.gov/ls/he/se/guestspeakercheck.asp>.

<sup>6</sup> Social Security Act § 510(b)(2)(E) (codified at 42 U.S.C. § 710(b)(2)(E) (2015)).

<sup>7</sup> CAL. EDUC. CODE § 51933(b)(2). For purposes of sexual health education, “medically accurate” is defined as “verified or supported by research conducted in compliance with scientific methods and published in peer-reviewed journals, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the federal Centers for Disease Control and Prevention, the American Public Health Association, the American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists.” CAL. EDUC. CODE § 51931(f).

science, is not objective or fact-based, and is shaming of students who may have engaged in sexual activity—particularly those who have been sexually abused.

3. **Reflects or promotes bias against same-sex relationships.** In several places, the Elevate letter’s description of its planned sexual health instruction refers to relationships only in the context of heterosexual couples (e.g., the “perfect boyfriend/girlfriend vs. husband/wife” activity). Under the Education Code, however, sexual health education instruction and materials used in California public schools may not reflect or promote bias against any person on the basis of sexual orientation and must be appropriate for use with students of all sexual orientations.<sup>8</sup> Even references to marriage in the district’s parental notification letter as well as in the definition of “abstinence education” on Elevate’s website are clearly references to heterosexual marriage only.
4. **Fails to include instruction on other topics required by the Education Code.** As reflected in the Elevate letter, Elevate’s planned sexual health instruction fails to include instruction or materials on the following topics required by California law in all California public schools that choose to provide sexual health education:
  - Promoting communication with parents or guardians about human sexuality;<sup>9</sup> and
  - California's safe surrender law.<sup>10</sup>
5. **Requires active parental opt-in consent for sexual health education.** The Elevate letter includes a form for parents to sign and return, indicating permission for students to participate in the district’s sexual health education. The Education Code prohibits California public schools from requiring affirmative parental consent for sexual health education.<sup>11</sup>

The comprehensive and specific requirements of California’s law regarding sexual health instruction have been in place for well over a decade, and school districts in California have found the costs of failing to follow the law’s requirements in this regard to be substantial. Earlier this year, a Fresno Superior Court awarded the ACLU and pro bono counsel over \$450,000 in attorneys’ fees for litigation against a school district for failure to comply with California’s sexual health instruction laws.<sup>12</sup>

We are writing now because we hope to avoid unnecessary legal action. Because Elevate’s planned sexual health instruction is scheduled to take place next week, please contact us no

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<sup>8</sup> CAL. EDUC. CODE §§ 51933(b)(4), (d)(2).

<sup>9</sup> CAL. EDUC. CODE § 51933(b)(6).

<sup>10</sup> CAL. EDUC. CODE § 51933(b)(12).

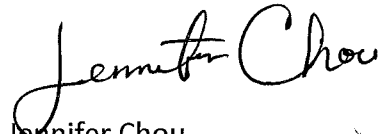
<sup>11</sup> CAL. EDUC. CODE § 51938.

<sup>12</sup> Notice of Entry of Order (May 4, 2015), *American Academy of Pediatrics v. Clovis Unified Sch. Dist.*, No. 12CECG02608, available at: [https://www.aclunc.org/sites/default/files/Clovis\\_Ruling\\_05\\_04\\_2015.pdf](https://www.aclunc.org/sites/default/files/Clovis_Ruling_05_04_2015.pdf)

later than Tuesday, December 8, 2015 to let us know what next steps the district plans to take to ensure that its sexual health instruction complies with California law. If you have any questions, please do not hesitate to reach me by phone or email at (559) 554-2994 and [jchou@aclunc.org](mailto:jchou@aclunc.org).

Attachments: 1. Elevate Campus Connect Parent Letter  
2. Informed Consent for Participation

Sincerely,

A handwritten signature in black ink that reads "Jennifer Chou". The signature is written in a cursive style with a large, prominent "C" at the end.

Jennifer Chou  
Reproductive Justice Attorney



Parents,

We are really encouraged that you are taking the time to review our abstinence curriculum. Elevate appreciates the opportunity to speak into your child's life about such a big decision. We also recognize that no one has as much influence on your child as you do and we would love to help you as parents in anyway possible. If you have any questions please contact one of us: Duane [REDACTED] or Dawn [REDACTED]

We will also be covering HIV awareness and prevention along with medical information about other sexually transmitted diseases (STDs). Below you will see a guideline showing what we typically cover in a weeks presentation, but it will vary according to each school's individual schedule.

Day1:

- Definition of Abstinence
- Consequences of sex outside of marriage
- Secondary Virginity
- Definition of the four types of sex: intercourse, mutual masturbation, anal sex, oral sex.
- Student Goals and Values
- The Marriage Union

Day2:

- "perfect boyfriend/girlfriend vs. perfect husband/wife" activity
- STD's (this goes into how you contract STD's and their side effects)
- Difference between Love, Lust and Infatuation
- Impact of Media: sexting, pornography, internet, sex trafficking

Day3:

- Pink water game (this game demonstrates how easy it is to contract and spread STD's)
- Pink and Blue card game (this helps students put their relationship steps into a healthy order)
- S.A.F.E. Plan- State boundaries, Avoid danger, Firmly say no, Exit

We value your input and would love to hear from you. Again, thank you for taking an active role in your child's life.

**Informed Consent for Participation**

**ABSTINENCE EDUCATION**

Your child's school and Heritage Elevate are working together on a project to educate students regarding the importance of abstaining from sexual activity outside of marriage, respect for self and others, and basic decision-making skills. This program is based on the definition of abstinence education provided by the U.S. Congress regarding the use of Title V Section 510 funding (available upon request). The curriculum is in compliance with the Comprehensive Health Education Law and has been approved by the school district. The teachers specialize in Character-based instruction.

Because of the sensitive nature of the material to be discussed, we encourage you to preview the curriculum materials which are available for viewing at the Boulder Creek office during the hours of 8:00 - 3:00, on the following days: Monday - Friday. You are welcome to schedule, through the school office, observation of any class at any time.

If you have any questions about the process, please call Duane Helle at this phone number .

**Family Life Education materials will be available for viewing November 30<sup>th</sup> to December 4<sup>th</sup> in the Main Office, from 7:45am-3pm. Please feel free to stop by and preview the materials. This permission slip is due to Mrs. Winters by December 4<sup>th</sup>. Our Family Life program will be taught December 7<sup>th</sup>-9<sup>th</sup>.**

Please email me if you have questions: lwinters@eesd.net

Students will participate in this program with a signed, positive, permission slip.

Students who do not have permission to participate in the program will be given an alternative assignment related to sexually transmitted diseases.

**Please check one box in each section below and sign.**

**Print Student's name:**

**Permission to participate in ABSTINENCE EDUCATION**

I give my permission for this student to participate in the Heritage Community Services Abstinence Education Program.

I do not give my permission for this student to participate in the Heritage Community Services Abstinence Education Program.