

Free To Be's Instruction Violates the California Education Code

California's *Education Code* requires that information taught in sexual health education classes be medically accurate, objective, free of bias and appropriate for students of all genders and sexual orientations. Instruction in grades 7-12 must also present medically accurate information about all FDA-approved methods of contraception and STD prevention (*Education Code* 51930-51939). *Life Choice One*, Free To Be's curriculum for grades 7-12, fails to meet these legal requirements.

Recipients of federal abstinence-only-until-marriage grants are prohibited from California public schools

Free To Be receives a grant from the federal government to provide abstinence-only-until-marriage education. It received a five-year grant of \$540,000 per year in 2007.¹ Prior to that, it received federal abstinence funding through Catholic Charities of the Diocese of Santa Rosa.²

The California Department of Education has clearly stated that recipients of federal abstinence funding may not teach in California public schools. According to the CDE:

*All [guest] speakers shall meet requirements of Education Code (EC) 51930 through 51939. Some organizations accept federal funds (Section 510(b)(2) of Title V of the Social Security Act) to promote abstinence-only education. The federal guidelines for abstinence-only education are inconsistent with California EC. EC Section 51933 prohibits "abstinence-only" education, in which information about preventing pregnancy and STDs is limited to instruction on abstinence from sexual activity.*³

Medical inaccuracies and biased information about condoms and contraception

Pertinent *Education Code* requirements:

- *All factual information presented shall be medically accurate and objective (EC 51933(b)(2))*
- *Commencing in grade 7, instruction and materials shall provide information about the safety and effectiveness of all federal FDA-approved methods of reducing the risk of contracting sexually transmitted diseases (EC 51933(b)(9))*
- *Commencing in grade 7, instruction and materials shall provide information about the safety and effectiveness of all federal FDA-approved contraceptive methods in preventing pregnancy (EC 51933(b)(10))*

¹ 2007 Grant Awards, Abstinence Education Division, Federal Health and Human Services Agency, http://www.acf.hhs.gov/programs/fysb/content/docs/07_grantawards.htm

² http://www.siecus.org/policy/states/2006/mandates/CA.html#_edn1

³ "Checklist for Guest Speakers - Comprehensive Sexual Health Education and HIV/AIDS Instruction" <http://www.cde.ca.gov/ls/he/se/guestspeakercheck.asp>.

- As a condition for receiving federal abstinence-only funds, Free To Be is restricted to teaching about abstinence in its presentations and materials—it is not allowed to discuss condoms or contraception except to refer to their failure rates. This is in direct contradiction to California law. The California Department of Education states that not only is abstinence-only education prohibited, but “instruction that emphasizes the benefits of abstinence while focusing exclusively on the failure rates or perceived disadvantages of condoms and other contraceptives is also prohibited by law. This would violate legal requirements that the instruction cover the effectiveness and safety (not solely the ineffectiveness) of condoms and other contraceptive methods and would also violate requirements that the instruction be medically accurate and objective.”⁴

- Free To Be exaggerates the failure rate of condoms and only mentions condoms and contraception in an effort to dissuade students from using them. Examples include:
 - The curriculum likens condoms to a safety net and then asks students to observe *"the holes in the net."* It goes on to say: *"Condoms only protect the physical. And they still aren't 100% safe!"*(p. 28)
 - The teacher is instructed to: *"Ask the class why they think the barrier methods [of contraception] fail so often"* The response given by the curriculum is: *"They slip and break, they aren't used correctly, the latex deteriorates when kept in a hot place, or they may be defective."* (p 41)
 - In a discussion of HIV/AIDS, the only mention of condoms is a question on a quiz: *"Are condoms 100% effective in preventing against HIV infection?" "No."* (p. 52)

In fact, male condoms are 98% effective in preventing pregnancy in perfect use and 85% effective in typical use.⁵ Several studies clearly show that condom breakage rates in this country are less than two percent. Most of the breakage and slippage is likely due to incorrect use rather than to the condoms' quality.⁶ Finally, the federal Centers for Disease Control has said that condoms are highly effective in preventing the transmission of HIV,⁷ and a meta-analysis of 25 studies showed a condom effectiveness rate of 87%-96% in preventing HIV transmission.⁸

- The curriculum states: “Remember, a woman can only get pregnant a few days a month, but she can contract a STD any day. Therefore, the possibility for contracting a STD using a condom is greater than the possibility of becoming

⁴ “Frequently Asked Questions - Comprehensive Sexual Health Education and HIV/AIDS Instruction” <http://www.cde.ca.gov/ls/he/se/faq.asp>

⁵ Hatcher RA *et al.* *Contraceptive Technology*. 18th rev. edition. New York, NY: Ardent Media, 2004.

⁶ <http://www.thebody.com/cdc/factcond.html>

⁷ <http://www.thebody.com/cdc/factcond.html>

⁸ Davis, Karen R. & Susan C. Weller. “The Effectiveness of Condoms in Reducing Heterosexual Transmission of HIV.” *Family Planning Perspectives*, 1999, 31(6), 272-279.

pregnant.” (p. 42) In fact, it is inaccurate to state that women can only get pregnant a few days a month; this might mislead students into believing that they only need to use contraception a few days a month when they become sexually active. In addition, it is scientifically incorrect to suggest that one can make a comparison between rates of unintended pregnancy and rates of contracting STDs while using a condom. Whether someone contracts an STD from a partner depends on many factors, including whether the partner has an STD and what type of STD it is. Research has shown that condoms are highly effective in preventing STD transmission: they provide a consistent protective effect against non-viral STDs such as chlamydia, gonorrhea and trichomoniasis,⁹ their use results in a lower acquisition rate of herpes,¹⁰ and they effectively reduce the risk of male-to-female transmission of humanpapillomavirus (HPV).¹¹

Medically inaccurate information about marriage, abstinence, and abortion

Pertinent *Education Code* requirements:

- *All factual information presented shall be medically accurate and objective (EC 51933(b)(2))*
 - *Instruction and materials may not teach or promote religious doctrine (EC 51933(b)(1))*
 - *Commencing in grade 7, instruction and materials shall teach that abstinence from sexual intercourse is the only certain way to prevent unintended pregnancy, teach that abstinence from sexual activity is the only certain way to prevent sexually transmitted diseases, and provide information about the value of abstinence while also providing medically accurate information on other methods of preventing pregnancy and sexually transmitted diseases. (EC 51933(b)(8))(emphasis added)*
- Free To Be’s federal abstinence-only grant requires it to teach that “sexual activity outside the context of marriage is likely to have harmful psychological and physical effects.” It must also teach that “a mutually faithful monogamous relationship in the context of marriage is the expected standard of sexual activity.”¹² These statements are not based in scientific fact and are not objective, as required by California law.
- Experts agree that it is important to teach young people how and when to say no to sexual activity. However, Free To Be uses shame and fear to promote abstinence, by associating abstinence only with virtue and sexual activity only with negative consequences. This is both medically inaccurate and biased. Examples include:

⁹ Shlay, J., et al. (2004) Comparison of Sexually Transmitted Disease Prevalence by Reported Level of Condom Use Among Patients Attending an Urban Sexually Transmitted Disease Clinic. *Sexually Transmitted Diseases*. March 2004. Vol. 31, No. 3, 154-160.

¹⁰ Wald, A. et al (2005) The Relationship Between Condom Use and Herpes Simplex Virus Acquisition. *Annals of Internal Medicine*, 2005; 143: 707-713.

¹¹ Winer, R., et al. (2006) Condom Use and the Risk of Genital Humanpapillomavirus Infection in Young Women. *The New England Journal of Medicine* June 22, 2004. Vol 354, No. 25, 2645-2654.

¹² http://www.acf.hhs.gov/grants/open/HHS-2007-ACF-ACYF-AE-0099.html#part_2_1

- “*Freedoms of Abstinence: Freedom to be more in control of your future . . . Freedom to focus on establishing and realizing your goals . . . Freedom from exploitation by others . . . Freedom from guilt, doubt, disappointment, worry, and rejection.*” (p. 78)
- “*Please mark what group you were in before the presentation and what group you are now in after the presentations: Group A (Abstinent); Group B (Undecided); Group C (Yes to Sex)*” (student evaluation form). Earlier in the curriculum, the “C” group is called the “do it” group, “willing to risk consequences.” The “C” group is told: “moving from ‘Consequences’ to ‘Abstinent’ is called ‘secondary virginity.’” (p. 59)

Abstinence can protect young people from unintended pregnancy, but it is misleading and inaccurate to tell teens that as long as they are sexually abstinent their life goals will be realized, they will be free from worry and guilt, and they will not be exploited by others. In addition, it stigmatizes young people who are sexually active to suggest to them that they have made the wrong choice and that they will inevitably suffer from guilt and worry. Young sexual abuse survivors may be unintentionally re-traumatized by such a black-and-white presentation of the virtues of abstinence, as they may take on feelings of shame and guilt over sexual activity that was coerced.

- According to Free To Be: “*Abortion terminates a pregnancy, but not the emotions. Numerous studies have documented the emotional trauma endured by many women who have abortions. This is called Post Abortion Syndrome. It is also possible to become infertile as a result of having an abortion, especially multiple abortions.*” (p. 29) In fact: studies have proven that abortion is far safer than childbirth, particularly for teenagers;¹³ abortion poses no threat to psychological well-being;¹⁴ “post abortion syndrome” is a condition invented by anti-abortion groups that is not recognized by the American Psychiatric Association; and there is no evidence of childbearing problems among women who have had the most common type of abortion procedure.¹⁵

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¹³ Gerydanus & Railsback, *Abortion in Adolescence*, 1 Seminars in Adolescent Medicine 213 (1985).

¹⁴ Adler, et al., *Psychological Responses After Abortion*, 284 Science 41 (1990) (meta-analysis of scientific literature on psychological responses to abortion). The incidence of adverse psychiatric sequelae following childbirth is approximately four times higher than following abortion, Stodland, *Psychiatric Issues in Abortion*, in *Psychiatric Aspects of Abortion* (1991).

¹⁵ Alan Guttmacher Institute, *Abortion and Women's Health: A Turning Point for America?* New York: AGI, 1990, p. 30.