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17 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
18 COUNTY OF FRESNO

19 American Academy of Pediatrics, California  
20 District IX, Gay-Straight Alliance Network,  
Aubree Smith, and Mica Ghimenti,

21 Plaintiffs and  
22 Petitioners,

23 vs.

24 Clovis Unified School District,

25 Defendant and  
26 Respondent.

Case No. 12CECG02608 DSB  
Assigned to: Hon. Donald S. Black  
Dept.: 502

**VERIFIED FIRST AMENDED  
COMPLAINT FOR INJUNCTIVE  
AND DECLARATORY RELIEF AND  
PETITION FOR WRIT OF  
MANDATE**

1 **INTRODUCTION**

2 1. This case challenges the failure of the Clovis Unified School District (“Respondent  
3 District”) to provide comprehensive, medically accurate, objective and bias-free HIV/AIDS  
4 prevention instruction and sexual health education. In violation of California law, Respondent  
5 District provides medically inaccurate, incomplete and biased HIV/AIDS prevention and sexual  
6 health education to its intermediate and high school students, jeopardizing the health of these  
7 students.

8 2. Many teenagers are sexually active but do not practice safer sex. Often this is  
9 because teenagers do not have access to the information and resources, or are not taught the skills,  
10 they need to make informed, healthy decisions about relationships, their bodies, or sexual activity.  
11 Adolescents in Respondent District live in California’s Central Valley, a region with limited  
12 access to reproductive health care and information and with high rates of teen pregnancy. Since at  
13 least 2000, Fresno County—the county in which Respondent District is located—has had one of  
14 the highest teenage birth rates in California. The Central Valley also has one of the highest rates  
15 of sexually transmitted diseases (“STDs”) among teenagers in California. STDs, including HIV,  
16 may pose potentially serious, and sometimes life-threatening, health consequences. Early  
17 detection, diagnosis and treatment are critical.

18 3. Comprehensive sexual health education, which includes information about  
19 condoms and other contraception in addition to information about abstinence, has been proven  
20 effective in delaying the onset of sexual activity and in increasing contraceptive use among those  
21 who do become sexually active. Medically accurate, objective, and science-based information  
22 about sexuality, contraception, and STD prevention is vital for dispelling myths held by young  
23 people and protecting adolescent health. For example, research shows that a significant  
24 percentage of teen mothers who had unintended pregnancies thought they could not get pregnant.

25 4. To ensure that students obtain science-based information on human sexuality in  
26 school—which may be adolescents’ only source of accurate information—the Legislature enacted  
27 the California Comprehensive Sexual Health and HIV/AIDS Prevention Education Act (the “Act”)  
28 in 2003. The Act requires public schools to provide medically accurate, comprehensive

1 HIV/AIDS prevention instruction in middle or intermediate school and in high school. If public  
2 schools elect to provide additional sexual health education, the instruction must satisfy specific  
3 statutory criteria: facts must be medically accurate, current, and objective; classes must include  
4 information about all FDA-approved methods of preventing pregnancy and sexually transmitted  
5 diseases; and materials and instruction must be appropriate for all students, regardless of gender,  
6 race or sexual orientation. The Legislature passed the Act to provide California's young people  
7 with the knowledge and skills they need to maintain their sexual health and to encourage students  
8 to develop healthy perspectives on body image, gender roles, adolescent development, sexual  
9 orientation, dating, marriage and family.

10 5. Concerned parents in Respondent District have asked for years that the District  
11 implement intermediate and high school sexual health and HIV/AIDS prevention curricula that  
12 provide all students in the District with the medically accurate information they need and are  
13 entitled to receive under California law to make informed decisions about relationships, body and  
14 health. Respondent District initially ignored and rebuffed many of the parents' numerous requests  
15 to improve its sexual health and HIV/AIDS prevention education, which presented abstinence  
16 until marriage as the only means of preventing pregnancy and sexually transmitted diseases,  
17 thereby not only omitting required information but also falsely depicting a world in which  
18 condoms and contraception do not even exist.

19 6. In the summer and fall of 2011, in response to a formal letter from petitioners in  
20 this action, Respondent District finally undertook a review of its intermediate school sexual health  
21 and HIV/AIDS prevention curriculum and made significant revisions to it on October 12, 2011. In  
22 addition, in June 2013, almost a year after this action was filed, Respondent District finally revised  
23 its sexual health and HIV/AIDS prevention education curriculum for its high school students.  
24 Although the changes Respondent District made to its intermediate and high school sexual health  
25 and HIV/AIDS prevention curricula improve those curricula, Respondent District failed to adopt  
26 curricula that are medically accurate, comprehensive, objective and bias-free—despite such  
27 curricula being widely available. Instead, Respondent District retained inaccurate, biased  
28 materials as the core of its new curricula. While supplemental materials do provide some

1 information that was previously lacking, no amount of additional material can cure the inherent  
2 defects at the heart of the curricula. Further, some of the new supplemental material is itself  
3 medically inaccurate and biased. As a result, neither Respondent District’s intermediate nor its  
4 high school sexual health or HIV/AIDS prevention curricula comply with the California Education  
5 Code.

6 7. This action is brought to compel Respondent District to bring its sexual health and  
7 HIV/AIDS prevention education instruction and materials into compliance with the California  
8 Education Code.

9 **PARTIES**

10 8. Petitioner and Plaintiff American Academy of Pediatrics, California District IX  
11 (“AAP”) is a nonprofit organization of more than 5,000 board-certified pediatricians living and/or  
12 practicing in California. Its mission is to attain optimal physical, mental and social health and  
13 well-being for all infants, children, adolescents and young adults. AAP brings this suit on behalf  
14 of itself and its member physicians, who treat California adolescents who need sexual health care  
15 and counseling.

16 9. Petitioner and Plaintiff Gay-Straight Alliance Network (“GSA Network”) is a non-  
17 profit organization with over 850 school-based Gay-Straight Alliance clubs. GSA Network exists  
18 to support, strengthen and sustain school-based Gay-Straight Alliances and their fight to end  
19 intolerance, discrimination, harassment and violence in schools, particularly towards lesbian, gay,  
20 bisexual and transgender (“LGBT”) individuals. Five high schools within Respondent District  
21 (Buchanan High School, Clovis High School, Clovis East High School, Clovis North High School  
22 and Clovis West High School) have Gay-Straight Alliance clubs, whose members have taken or  
23 will take sexual health education and HIV/AIDS prevention instruction. GSA Network brings this  
24 suit on behalf of itself and its members.

25 10. Petitioner and Plaintiff Mica Ghimenti is the mother of children who attend  
26 Respondent District schools and who will take sexual health and HIV/AIDS prevention education  
27 classes. Ms. Ghimenti is a reproductive health educator and has a degree in nursing. Ms.  
28

1 Ghimenti has been assessed, is liable to pay and has paid taxes on real property within the  
2 geographical boundaries of the Respondent District within the past year.

3 11. Petitioner and Plaintiff Aubree Smith is the mother of a child who attended a  
4 Respondent District school and who took sexual health and HIV/AIDS prevention education  
5 classes. Ms. Smith is a registered nurse who provides care to women in labor and delivery. Ms.  
6 Smith has been assessed, is liable to pay and has paid taxes on real property within the  
7 geographical boundaries of the Respondent District within the past year. Together, Ms. Ghimenti  
8 and Ms. Smith are “Parent Petitioners.” Together, AAP, GSA Network and Parent Petitioners are  
9 “Petitioners.”

10 12. Respondent and Defendant Clovis Unified School District is a K–12 public school  
11 system that serves the cities of Clovis and Fresno and portions of the surrounding area.  
12 Respondent District, which covers almost 200 square miles, has a student population of almost  
13 38,000 in five intermediate schools and five high schools. As a California public school system,  
14 Respondent District is subject to the statutory requirements of the California Education Code,  
15 including Sections 51930–51939.

16 **JURISDICTION AND VENUE**

17 13. This Court has subject matter jurisdiction pursuant to Code of Civil Procedure  
18 section 410.10.

19 14. Venue is proper in Fresno County pursuant to Code of Civil Procedure section 395.

20 **BRIEF STATEMENT OF FACTS**

21 **Background**

22 ***Adolescents’ Need for Sexual Health Information.***

23 15. Approximately 70% of American teenagers have had sexual intercourse by their  
24 19th birthday.<sup>1</sup> A 2009 study conducted by the California Department of Health Care Services  
25 and Department of Public Health found that in 2003 and 2005, 10.6% of 12- to 17-year-old survey  
26

27  
28 <sup>1</sup> Guttmacher Inst., *Facts on American Teens’ Sexual and Reproductive Health*, In Brief, 1 (Jun. 2013) [hereinafter Guttmacher In Brief 2013].

1 respondents reported having had sexual intercourse at an age younger than 15.<sup>2</sup> In another study  
2 conducted between 2006 and 2008, approximately 11% of never-married females aged 15-19 and  
3 14% of never-married males aged 15-19 reported having had sexual intercourse before age 15.<sup>3</sup>

4 16. A sexually active teenager who does not use any method of contraception has a  
5 90% chance of becoming pregnant within one year.<sup>4</sup> In the United States, almost 750,000 15- to  
6 19-year-old girls become pregnant annually.<sup>5</sup> Eighty-two percent of teenage pregnancies are  
7 unplanned.<sup>6</sup> The national teen pregnancy rate is one of the highest in the developed world.<sup>7</sup>

8 17. In 2011, there were 38,325 births among California's 15- to 19-year-old female  
9 residents.<sup>8</sup> Teen birth rates are particularly high in rural areas of California, such as the Central  
10 Valley.<sup>9</sup> According to the most recent available statistics, between 2001 and 2011, Fresno  
11 County, where Respondent District is located, has ranked among the top eight counties in  
12 California for 15- to 19-year-old birth rates.<sup>10</sup> In 2010, the Central Valley had the highest teen  
13 birth rate of any California region, at 41.6 births per thousand.<sup>11</sup> In 2011, Fresno County had the  
14 seventh highest teen birth rate of any county in California, at 45.2 births per thousand, costing  
15 taxpayers an estimated \$40 million annually.<sup>12</sup>

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18 <sup>2</sup> Cal. Dept. of Pub. Health, Office of Women's Health, *California Adolescent Health 2009*, 98  
19 (2009), <http://www.cdph.ca.gov/pubsforms/Pubs/OWH-AdolHealthReport09.pdf>.

20 <sup>3</sup> Guttmacher In Brief 2013, *supra* at 1.

21 <sup>4</sup> Guttmacher Inst., Facts on American Teens' Sexual and Reproductive Health, In Brief, 1 (Feb.  
22 2012).

23 <sup>5</sup> *Guttmacher In Brief 2013, supra* at 3.

24 <sup>6</sup> *Id.*

25 <sup>7</sup> *Id.*

26 <sup>8</sup> Cal. Dept. of Public Health, *California Teen Birth Rates, 1991-2011*, (July 2013),  
27 <http://www.cdph.ca.gov/programs/mcah/Documents/MO-MCAH-2011TBR-DataSlides.pdf>.

28 <sup>9</sup> *Id.*

<sup>10</sup> Cal. Dept. of Pub. Health, *Number and Percent of Live Births to Teen Mothers, California  
Counties, 2001-2010 (By Place of Residence)*,  
<http://www.cdph.ca.gov/data/statistics/Documents/VSC-2010-0221.pdf>; Cal. Dept. of Pub. Health,  
*California Teen Birth Rates by County, 2009-2011*,  
<http://www.cdph.ca.gov/programs/mcah/Documents/MO-MCAH-TBRbyCounty2009-2011.pdf>.

<sup>11</sup> Pub. Health Inst., Ctr. for Research on Adolescent Health & Dev., *No Time for Complacency:  
Teen Births in California, 2012 Spring update*, 2 (Spring 2012),  
[http://teenbirths.phi.org/2012TeenBirthsReport\(2010data\).pdf](http://teenbirths.phi.org/2012TeenBirthsReport(2010data).pdf).

<sup>12</sup> Pub. Health Inst., Ctr. for Research on Adolescent Health & Dev., *Teen Births & Costs by  
California Counties (2011 Data)*, <http://teenbirths.phi.org/countyTable2011Data.pdf>.

1           18.     While 15- to 24-year-olds account for approximately 25% of the sexually-active  
2 population, they account for, on average, nearly half of new cases of STD infection each year.<sup>13</sup>  
3 The rate of STD infection among California's 15- to 19-year-old population has increased from  
4 2000 to 2011.<sup>14</sup>

5           19.     In Fresno County, while 15- to 19-year-olds constituted only 8.3% of females and  
6 8.7% of males in the 2010 population, this age group accounted for 34.6% of chlamydia cases  
7 among females and 22.2% among males, and 29.5% of gonorrhea cases among females and 18.9%  
8 among males.<sup>15</sup> Those statistics remained similarly high in 2011.<sup>16</sup> Fresno also had the second  
9 highest chlamydia infection rate in California among 15- to 24-year olds in 2010 and the third  
10 highest in 2011, at 3,711.3 and 4,208.4 per 100,000 respectively.<sup>17</sup>

11           20.     Between 2007 and 2011, approximately 50,000 people in the United States were  
12 infected with HIV each year.<sup>18</sup> A Center for Disease Control analysis indicated that the rate of  
13 new HIV infections would significantly increase if current prevention efforts were not intensified  
14 due to the growing number of people already infected with HIV.<sup>19</sup> MSM (or men who have sex  
15 with men) accounted for nearly two-thirds of all new infections in 2010.<sup>20</sup> The number of new  
16 infections among young MSM, ages 13–24, increased 22 percent between 2008 and 2010, from  
17

18 <sup>13</sup> *Guttmacher In Brief 2013, supra* at 2.

19 <sup>14</sup> See Cal. Dept. of Pub. Health, STD Control Branch, *Sexually Transmitted Diseases in*  
20 *California, 2009* (Nov. 2010), <http://www.cdph.ca.gov/data/statistics/Documents/STD-Data-2009-Report.pdf>; Cal. Dept. of Pub. Health, STD Control Branch, *Sexually Transmitted Diseases in*  
21 *California, 2011* (Oct. 2012), <http://www.cdph.ca.gov/data/statistics/Documents/STD-Data-2011-Report.pdf>.

22 <sup>15</sup> Cal. Dept. of Pub. Health, *California Local Health Jurisdiction STD Data Summaries, 2010*  
23 *Provisional Data – Fresno County – Chlamydia, Gonorrhea, and Early Syphilis Cases and Rates*  
24 *Tables for 2010* (July 2011), <http://www.cdph.ca.gov/data/statistics/Documents/STD-Data-LHJ-Fresno.pdf> [hereinafter California Local Health Jurisdiction STD Data Summaries 2010].

25 <sup>16</sup> Cal. Dept. of Pub. Health, *California Local Health Jurisdiction STD Data Summaries, 2011*  
26 *Provisional Data – Fresno County – Chlamydia, Gonorrhea, and P&S Syphilis Rates by Age*  
27 *Group (2011), Race/Ethnicity (2011), and Year* (Aug. 2012),  
28 <http://www.cdph.ca.gov/data/statistics/Documents/STD-Data-LHJ-Fresno.pdf>.

<sup>17</sup> *Id.*; *California Local Health Jurisdiction STD Data Summaries 2010, supra*.

<sup>18</sup> Ctr. for Disease Control & Prevention, *CDC Fact Sheet: New HIV Infections in the United States*, 1 (Dec. 2012), [www.cdc.gov/nchhstp/newsroom/docs/2012/HIV-Infections-2007-2010.pdf](http://www.cdc.gov/nchhstp/newsroom/docs/2012/HIV-Infections-2007-2010.pdf) [hereinafter *CDC Fact Sheet Dec. 2012*].

<sup>19</sup> Ctr. for Disease Control & Prevention, *Estimates of New HIV Infections in the United States, 2006-2009*, 2 (Aug. 2011), <http://www.cdc.gov/nchhstp/newsroom/docs/HIV-Infections-2006-2009.pdf>.

<sup>20</sup> *CDC Fact Sheet Dec. 2012, supra* at 2.

1 7,200 infections to 8,800.<sup>21</sup> California has the second highest HIV/AIDS infection rate in the  
2 United States, with an estimated 185,000 people living with HIV (including those with and  
3 without AIDS) as of December 31, 2010.<sup>22</sup>

4 21. As of December 31, 2012, Fresno County had a total of 348 reported cases of HIV,  
5 88 of which occurred in individuals under 25 years old.<sup>23</sup> As of the same date, Fresno County had  
6 a total of 2,004 reported AIDS cases, 121 of which occurred in individuals under 25 years old.<sup>24</sup>

7 22. In past years, the state of California funded community-based sexual health  
8 education programs in the state's teen birth and STD "hot spots," including the Central Valley.  
9 However, these programs have been eliminated indefinitely until the state's budget picture  
10 improves. Thus, school-based HIV/AIDS prevention and sexual health education is the only  
11 source of formal information on STD infections, birth control and pregnancy now available to  
12 many students in Clovis.

13 ***Effective Sex Education Is Comprehensive, Medically Accurate, Objective and Bias-Free.***

14 23. The California Department of Public Health recently announced that California's  
15 teen birth rate has continued to decline this year, and that such decline is attributable in large part  
16 to the state's "comprehensive, medically accurate, and age- and culturally-appropriate" sexuality  
17 education.<sup>25</sup> Research shows that medically accurate, comprehensive sexual health education is  
18 effective at reducing adolescent sexual risk behaviors and improving the overall health and well-  
19 being of young adults. An extensive 2008 analysis found that more than two-thirds of the  
20 comprehensive sexual health education programs studied had a significant impact on one or more  
21 desired sexual behaviors, such as delaying the initiation of sex, increasing condom use, and

22  
23  
24 <sup>21</sup> *Id.*

25 <sup>22</sup> Ctr. for Disease Control & Prevention, *HIV Surveillance Report: Diagnoses of HIV Infection in  
the United States and Dependent Areas, 2011*, 71, 73,  
[www.cdc.gov/hiv/pdf/statistics\\_2011\\_HIV\\_Surveillance\\_Report\\_vol\\_23.pdf](http://www.cdc.gov/hiv/pdf/statistics_2011_HIV_Surveillance_Report_vol_23.pdf).

26 <sup>23</sup> Dept. of Pub. Health, Cnty. Health Div., *Cumulative Reported HIV Cases April 1, 2006 to  
December 31, 2012*.

27 <sup>24</sup> Dept. of Pub. Health, Cnty. Health Div., *Cumulative Reported AIDS Cases February 1983 to  
December 31, 2012*.

28 <sup>25</sup> Cal. Dept. of Pub. Health, *California's Teen Birth Rate Continues Drop*, (July 16, 2013),  
<http://www.cdph.ca.gov/Pages/NR13-030.aspx> (last visited Aug. 8, 2013).

1 reducing sexual risk-taking.<sup>26</sup> Research also shows that female students who receive  
2 comprehensive sexual health education are more likely to use condoms during their first sexual  
3 encounter.<sup>27</sup> Comprehensive sexual health education is also associated with increased condom use  
4 among male students, as well as a decreased likelihood of a sex partner becoming pregnant and a  
5 decreased likelihood of recent treatment for STDs.<sup>28</sup> As the authors of a recent study conclude,  
6 “[t]he protective influence of sex education is not limited to the questions of if or when to have  
7 sex, but extend to issues of partner selection, contraception use, and reproductive health  
8 outcomes.”<sup>29</sup>

9       24. Teens encounter problems such as harassment and bullying based on actual or  
10 perceived sexual orientation and gender. LGBT students endure disproportionately high rates of  
11 school bullying and harassment, with more than 80% reporting being harassed at school, and 64%  
12 reporting feeling unsafe at school.<sup>30</sup> Nearly 75% of LGBT students reported hearing sexist  
13 remarks at school, and 60% reported hearing negative remarks about not conforming to sex  
14 stereotypes.<sup>31</sup> The rates of sexual orientation and gender-based harassment reported by California  
15 students were even higher than those nationwide.<sup>32</sup> Providing inclusive and respectful instruction  
16 is a way to combat these statistics; inclusive sexual health and HIV/AIDS prevention education  
17 has been shown to improve LGBT student health outcomes and to reduce bullying and harassment  
18 in schools.<sup>33</sup>

21 <sup>26</sup> Douglas Kirby, *The Impact of Abstinence and Comprehensive Sex and STD/HIV Education*  
22 *Programs on Adolescent Sexual Behavior*, Sexuality Research & Social Policy, 18, 24, Sept. 2008.

23 <sup>27</sup> Laura Duberstein Lindberg & Isaac Maddow-Zimet, Guttmacher Inst., *Consequences of Sex*  
24 *Education on Teen and Young Adult Sexual Behaviors and Outcomes*, 1, 11 (Oct. 2012),  
25 [www.guttmacher.org/pubs/journals/j.jadohealth.2011.12.028.pdf](http://www.guttmacher.org/pubs/journals/j.jadohealth.2011.12.028.pdf).

26 <sup>28</sup> *Id.* at 13.

27 <sup>29</sup> *Id.* at 16.

28 <sup>30</sup> Joseph G. Kosciw et al, Gay, Lesbian, Straight Educ. Network, *The 2011 School Climate*  
29 *Survey*, xiv (Sept 14, 2010), [www.glsen.org/download/file/MzIxOQ==](http://www.glsen.org/download/file/MzIxOQ==) .

30 <sup>31</sup> *Id.* at 15-16.

31 <sup>32</sup> Gay, Lesbian, Straight Educ. Network, *School Climate in California, 2011 State Snapshot*  
32 (2013), [www.glsen.org/download/file/MzE5MQ==](http://www.glsen.org/download/file/MzE5MQ==).

33 <sup>33</sup> See Kosciw, *supra*, at xvi (reporting positive effects of LGBT-inclusive curriculum on bullying  
and harassment rates); Gay, Lesbian, Straight Educ. Network, *Research Brief: Teaching Respect:*  
*LGBT Inclusive Curriculum and School Climate* (2001),  
<http://glsen.org/sites/default/files/Teaching%20Respect.pdf>.

1           25.     Research shows that for sexual health education to be effective, it must have  
2 internal integrity and be taught with fidelity. The federal Centers for Disease Control and  
3 Prevention issued guidelines on how to adapt sexual health education curricula without losing  
4 fidelity, defined as “faithfulness with which a curriculum or program is implemented; that is, how  
5 well the program is implemented without compromising its core content, pedagogical, and  
6 implementation components which are essential for the program’s effectiveness.” The CDC’s  
7 guidelines state that the following adaptations of a sexual health education curriculum should be  
8 avoided because they compromise the fidelity of the curriculum: those that shorten the program;  
9 reduce or eliminate opportunities for skill practice; remove condom activities; or contradict,  
10 compete with, or dilute the program’s focus.<sup>34</sup>

11           26.     In contrast to comprehensive sexual health education, non-comprehensive  
12 instruction that denies students medically accurate information about condoms and contraception  
13 has been shown to be ineffective and to leave students with misinformation that can harm their  
14 health. For example, a 2007 Congressionally-mandated evaluation of the federal abstinence  
15 program found that abstinence-only sexual health education did nothing to (a) reduce the rate of  
16 sexual activity among teenagers or (b) increase knowledge and awareness of STDs.<sup>35</sup> Most  
17 troublingly, students who participated in abstinence-only education programs were more likely to  
18 report that condoms were *never* effective at preventing STDs than those who had received no  
19 sexual health education at all.<sup>36</sup>

## 20 **California Law**

21           27.     California’s public policies reflect the empirical conclusion that comprehensive  
22 sexual health education benefits students. First, California is the only state in the country that has  
23 never accepted federal funding to promote abstinence-only sexual health education. Further, in  
24 1995, after an extensive evaluation demonstrated that California’s then abstinence-only program,

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25  
26 <sup>34</sup> Ctr. for Disease Control & Prevention, *Promoting Science-Based Approaches: Adaptation  
Guidelines*, (Apr. 1, 2010), [www.cdc.gov/TeenPregnancy/Docs/AdaptationGuidelines.docx](http://www.cdc.gov/TeenPregnancy/Docs/AdaptationGuidelines.docx).

27 <sup>35</sup> See generally Christopher Trenholm et al., Mathematica Policy Research, Inc., *Impacts of Four  
Title V, Section 510 Abstinence Education Programs* (April 2007), [www.mathematica-  
mpr.com/publications/pdfs/impactabstinence.pdf](http://www.mathematica-mpr.com/publications/pdfs/impactabstinence.pdf).

28 <sup>36</sup> *Id.* at xx.

1 entitled Education Now and Babies Later (ENABL), was ineffective, Governor Wilson canceled  
2 that program. In its place, he initiated state support for more comprehensive sexual health  
3 education, teaching about both abstinence and contraception through the state’s Teen Pregnancy  
4 Prevention programs. The comprehensive approach had and continues to have substantial support  
5 from medical and educational organizations, service providers and parents.

6 28. In 2003, the California Legislature passed the Act, amending the Education Code to  
7 require that all sexual health instruction in public schools be medically accurate, objective, free of  
8 bias and comprehensive. The Act repealed a number of conflicting provisions on HIV/AIDS  
9 prevention and sexual health education and replaced them with a uniform, clear set of standards  
10 and procedures for California public schools.

11 29. The Act requires public schools to teach HIV/AIDS prevention at least once in  
12 middle or intermediate school and once in high school. (Ed. Code, § 51934(a).) Sexual health  
13 education is not required, but if public schools elect to teach it, they must comply with all criteria  
14 established by the Act. ((Ed. Code, § 51933(b).)

15 30. For both HIV/AIDS prevention and sexual health education, the Act requires that  
16 factual information be medically accurate, current and objective. The Act defines medically  
17 accurate as “verified or supported by research conducted in compliance with scientific methods  
18 and published in peer-reviewed journals, where appropriate, and recognized as accurate and  
19 objective by professional organizations and agencies with expertise in the relevant field, such as  
20 the federal Centers for Disease Control and Prevention, the American Public Health Association,  
21 the American Academy of Pediatrics, and the American College of Obstetricians and  
22 Gynecologists.” ((Ed. Code, § 51931(f).)

23 31. As provided in the Act, instruction and materials must be appropriate for use with  
24 pupils of all sexual orientations and genders and may not reflect or promote bias based on  
25 perceived or actual sexual orientation or gender. (Ed. Code, §§ 51933(b)(4), 51933(d)(2).) In  
26 addition, schools “shall teach respect for marriage and committed relationships.” (Ed. Code, §  
27 51933(b)(7).)

28

1           32.     Sexual health education and HIV/AIDS prevention education must be accessible to  
2 and appropriate for students with disabilities and available on an equal basis to English Learner  
3 pupils. (Ed. Code, §§ 51933(b)(4), 51933(b)(5), 51933(b)(3).)

4           33.     HIV/AIDS prevention instruction must “accurately reflect the latest information  
5 and recommendation from the United States Surgeon General, the federal Centers for Disease  
6 Control and Prevention and the National Academy of Sciences” and must include, among other  
7 things, “statistics based on the latest medical information citing the success and failure rates of  
8 condoms and other contraceptives in preventing sexually transmitted HIV infection” and local  
9 resources for the testing and treatment of STDs. (Ed. Code, § 51934(b).)

10          34.     Starting in grade 7, sexual health education must provide comprehensive  
11 information about preventing unintended pregnancy and sexually transmitted diseases. This  
12 includes instruction about both abstinence and the “effectiveness and safety” of all FDA-approved  
13 methods of reducing the risk of STD transmission and pregnancy, “including emergency  
14 contraception.” (Ed. Code, § 51933(b)(10).) While the benefits of abstaining from sexual activity  
15 must be covered, they may not be addressed in a vacuum: the Act states that instruction and  
16 material shall “provide information about the value of abstinence while also providing medically  
17 accurate information on other methods of preventing pregnancy and sexually transmitted  
18 diseases.” (Ed. Code, § 51933(b)(8).)

19          35.     Sexual health education and HIV/AIDS prevention education must be taught by  
20 teachers “with knowledge of the most recent medically accurate research on human sexuality,  
21 pregnancy and sexually transmitted diseases.” (Ed. Code, §§ 51933(a), 51931(e).) If outside  
22 consultants are used, they must have expertise in comprehensive sexual health education or  
23 HIV/AIDS prevention education. (Ed. Code, § 51936.)

24          36.     The Act establishes a specific “streamlined” procedure for parental excusal of  
25 students from HIV/AIDS prevention and sexual health education classes. (Ed. Code, § 51937.)  
26 School authorities must make sexual health and HIV/AIDS prevention education materials  
27 available for parents to review and may excuse students from these classes (and give them  
28 alternate instruction) only if parents submit written forms requesting that their children be

1 excused. (Ed. Code, § 51938–39.) In the absence of written excusal requests, students are entitled  
2 to—and must be provided with—HIV/AIDS prevention education and sexual health education,  
3 assuming the latter is offered by the district. (Ed. Code, § 51938.)

4 37. Pursuant to its obligations under Education Code, the California State Board of  
5 Education has adopted Health Education Content Standards for California Public Schools (the  
6 “Health Standards”) that “provide a framework for instruction that a school may offer in the  
7 curriculum area of health.” (Ed. Code, § 51938.) While a school is not required to follow them,  
8 the Health Standards nevertheless provide codification of essential concepts and skills for both  
9 intermediate and high school students on the subjects of “Growth, Development, and Sexual  
10 Health.” Further, the individual standards listed under this subject make explicit reference to the  
11 requirements of the Act.

#### 12 **The District’s Sexual Health and HIV/AIDS Prevention Education**

13 38. Although the Act has been in effect for almost ten years, Respondent District’s  
14 sexual health and HIV/AIDS prevention education still does not comply with its requirements.

15 39. Indeed, Respondent District’s initial willingness to even acknowledge the Act came  
16 in 2011—over seven years after the law’s January 2004 effective date. At the time the Act  
17 became effective, Respondent District’s relevant Board Policy and Administrative Regulation still  
18 referred to sections of the Education Code that no longer existed and called for abstinence-only  
19 instruction and active parental permission in direct violation of the law. Respondent District did  
20 not bother reviewing these key policy documents for compliance until February 2007, over three  
21 years later. The review led Respondent District to decide *not* to change its Policy or  
22 Administrative Regulation. Further reviews took place in June 2008 and February 2009, during  
23 which Respondent District again refused to make any changes to its illegal and outdated policies.  
24 It was not until 2011, and after advocacy by parents including the Parent Petitioners, that  
25 Respondent District first updated its Board Policy and Administrative Regulation to even  
26 recognize the existence of the Act.

27 40. Unsurprisingly, Respondent District’s recent recognition of the existence of the Act  
28 has not produced sexual health and HIV/AIDS prevention education that actually complies with

1 the Act. Respondent District has reacted to repeated requests and efforts to improve its sexual  
2 health and HIV/AIDS prevention instruction from concerned and knowledgeable parents and  
3 expert organizations—including Petitioners here—with a combination of delay, obstruction and  
4 dismissive rejection. *See* paras. 96-104, *infra*. Further, the modifications that Respondent District  
5 has made to its sexual health and HIV/AIDS prevention curricula are insufficient for purposes of  
6 Education Code compliance.

7 41. Despite Respondent District’s references to the State Health Standards in its  
8 curricula guides, the sexual health and HIV/AIDS prevention instruction presented to its  
9 intermediate and high school students is medically inaccurate, incomplete, biased and outdated.

10 ***Intermediate School Curriculum***

11 42. Beginning in at least the 2006–2007 school year, Respondent District implemented  
12 sexual health and HIV/AIDS prevention curriculum from Teen Choices, Inc. and hired instructors  
13 from Teen Choices to teach the curriculum in its intermediate schools. The Teen Choices program  
14 was replete with inaccurate, biased and outdated information. Indeed, in 2009, Petitioner  
15 Ghimenti specifically informed Respondent District that the California Department of Education  
16 had twice found the Teen Choices program noncompliant with state law after auditing it in other  
17 Central Valley school districts (Selma and Dinuba). To no avail, Parent Petitioners repeatedly  
18 voiced their concerns with this curriculum to Respondent District officials in letters and emails  
19 and at public and private meetings.

20 43. Only after a formal demand letter sent in August 2011 by lawyers representing the  
21 Parent Petitioners and Petitioner AAP did Respondent District finally change the intermediate  
22 school curriculum by removing Teen Choices. Unfortunately, the intermediate school curriculum  
23 that Respondent District implemented to replace Teen Choices still fails to comply with the  
24 Education Code.

25 ***The Holt Intermediate Textbook & Intermediate School Guide.***

26 44. Respondent District’s current intermediate school curriculum, adopted in October  
27 2011, is encompassed in what it calls the Comprehensive Sexual Health Education & HIV/AIDS  
28 Prevention Education Grade 7 Science/Health Curriculum & Teacher Guide (the “Intermediate

1 School Guide”). The Intermediate School Guide includes lesson plans, accompanying California  
2 state standards for sexual health and HIV/AIDS prevention education, instructional materials, and  
3 classroom activities.

4 45. Under the Intermediate School Guide, instructional materials provided to students  
5 consist primarily of chapters from the 2004 edition of *Decisions for Health*, a textbook published  
6 by Holt, Rinehart and Winston for a national intermediate school population (the “Holt  
7 Intermediate Textbook”). The Holt Intermediate Textbook promotes the abstinence-only policy  
8 that many states—but not California—pursued a decade ago, when federal funding was offered for  
9 abstinence-only programs, and omits any information about condoms and other contraception.  
10 This textbook was published after the Act had already taken effect, and was first approved and  
11 purchased by Respondent District for use during the 2005-2006 school year, nearly two years after  
12 the Act was passed.

13 46. By relying on the Holt Intermediate textbook for instruction, the intermediate  
14 school curriculum provides information that is not medically accurate or objective. The Holt  
15 Intermediate Textbook does not simply fail to include condom and contraceptive information, it  
16 affirmatively presents a medically inaccurate, skewed picture of pregnancy- and HIV/AIDS-  
17 prevention in which contraception and condoms do not even exist. Indeed, the textbook presents  
18 abstinence as the sole way to avoid the possible negative consequences of sexual activity, telling  
19 students only, “To prevent STDs, do not have sex before marriage.” In a chart of “Female  
20 Reproductive Problems” that includes a section on STDs, the “treatment or prevention” text states  
21 only, “medical treatment required; prevented by abstaining from sexual activity.” This message is  
22 reinforced through the prevention worksheets students are required to fill out; one, for example,  
23 says students should agree with the statement that “I know that the only sure way to prevent the  
24 spread of STDs is to practice abstinence,” while never mentioning other possible prevention  
25 methods. Although the Act requires that instruction about abstinence be included, presenting this  
26 information in a vacuum without accompanying information about condoms and contraception  
27 creates a false picture that violates the validity of the curriculum and puts students’ health at risk.

28

1           47.     The medical inaccuracy of the Holt Intermediate Textbook is not alleviated by the  
2 inclusion of minimal information about contraception and condoms through supplementary  
3 materials. Although the Intermediate School Guide does include one lesson that calls upon  
4 teachers to mention condoms and contraception, that one lesson is only one out of twenty distinct  
5 lessons devoted to sexual health, STDs, and HIV/AIDS prevention, and its information is  
6 undermined by the exclusive reliance on abstinence in the rest of the curriculum. Providing  
7 conflicting, contradictory information through different materials—including materials that  
8 contain medically inaccurate, nonobjective, and biased information—not only compromises the  
9 fidelity of the curriculum, but also fails to meet the requirements of the Act. Moreover, the sole  
10 instructional material on contraception included in the Intermediate School Guide, a single-page  
11 chart of FDA-approved birth control methods, is not even provided to students. It is instead  
12 provided and designated exclusively “For Teacher Use.” with no significant guidance to teachers  
13 as to how to communicate the chart’s information to students.

14           48.     The Intermediate School Guide omits critical and required information on FDA-  
15 approved methods for preventing STDs. Although the “HIV, AIDS, Other STDs and Pregnancy  
16 Prevention” unit in the Curriculum Guide purports to cover California Content Standard 1.7.g,  
17 “Identify ways to prevent or reduce the risk of contracting HIV, AIDS and other STDs,” and states  
18 as a “key understanding” that students will understand STD prevention methods, no student  
19 instructional material contains this information. Instead, teachers are instructed to use the birth  
20 control chart to provide information to students about condoms as STD prevention. The chart,  
21 which is never made available to students, states only that “except for abstinence, latex condoms  
22 are the best protection against HIV/AIDS and other STIs.” This one brief reference is the only  
23 mention *in the entire curriculum* to condoms as a prevention method for STDs other than HIV. It  
24 contains no information about the effectiveness rates for condoms in preventing various STDs, nor  
25 information about the safety of condoms, as required. Further, the curriculum contains no mention  
26 of the HPV vaccine, which is FDA-approved for STD prevention. This dearth of information  
27 about required FDA-approved STD prevention methods stands in stark contrast to the many  
28 misleading references to abstinence as the sole method of STD prevention contained in the Holt

1 Intermediate Textbook. In addition, because information about condoms is provided (to teachers)  
2 exclusively through the above-referenced *birth control* guide, it necessarily limits the focus of  
3 HIV and STD prevention to heterosexual intercourse and ignores all other types of sexual activity,  
4 whether heterosexual or not.

5 49. Despite the fact that the Act explicitly requires instruction to include information  
6 on local resources for testing and medical care for HIV and other STDs, the Intermediate School  
7 Guide does not provide this information. Instead, the Intermediate School Guide instructs teachers  
8 to teach a section of the Red Cross curriculum *Positive Prevention* about “HIV/STD Testing and  
9 Community Resources,” which provides only generic information on testing, such as what to  
10 expect when getting tested for HIV and that testing is frequently anonymous. No specific  
11 information about any local testing site is provided. Teachers are simply instructed to explain that  
12 one “may call [their] local public health department (or AIDS service organization) for the  
13 location and business hours of a nearby clinic.” No contact information for the public health  
14 department, any private doctor, or any local clinic is provided.

15 50. The Intermediate School Guide also provides inaccurate information about AIDS  
16 by misidentifying it as an STD and describing it as a “deadly disease.” In fact, HIV is an STD but  
17 AIDS is not, and AIDS is properly classified as a chronic condition rather than a terminal disease.

18 51. The Intermediate School Guide promotes and reinforces bias based on sexual  
19 orientation. It does not mention any committed relationships other than marriage, for example.  
20 None of the discussions or depictions of couples, family relationships, or sexual behavior in the  
21 entire curriculum include same-sex couples. The lesson on families describes different types of  
22 families but only by reference to families with a mom and a dad, not two adults of the same  
23 gender. There is no information about sexual orientation—or that people have different sexual  
24 orientations—in the instructional material provided to students. The sole reference to gay  
25 people—a statement that “HIV/AIDS has been typically associated with gay men, or men who  
26 have sex with men”—in fact creates through its context an aura of negativity surrounding the  
27 concept of this sexual orientation. Although the curriculum claims to meet the California Health  
28 Standards relating to sexual orientation, review of the instructional materials reveals that this is not

1 the case. For example, the content identified by the Intermediate School Guide as ostensibly  
2 meeting California Content Standard 5.3.G, “Use a decision-making process to evaluate  
3 differences in growth and development, physical appearance, gender roles, and sexual  
4 orientation,” is simply generic text about how family, peers, and other sources like the media may  
5 influence the decisions that one makes. The text does not refer to individual differences, gender  
6 roles, or sexual orientation at all.

7 52. There is also no indication in the Intermediate School Guide that Respondent  
8 District has taken steps to make the instruction and materials accessible to and appropriate for  
9 students with disabilities or English Learner students.

10 *Implementation of the Intermediate School Curriculum.*

11 53. Respondent District does not ensure that the sexual health and HIV/AIDS  
12 prevention education being taught in its classrooms complies with state law. According to  
13 Respondent District, its teachers are responsible for ensuring state law compliance. Yet after  
14 adopting the Intermediate School Guide in October 2011, Respondent District provided its  
15 teachers with just a single morning of training regarding the Intermediate School Guide.

16 54. This lack of meaningful guidance has produced intermediate school instruction that  
17 is even more deficient under California law than the curriculum on which it is based. Depositions  
18 in this action have revealed that instead of a unified push by Respondent District to have each  
19 teacher teach with consistent fidelity to the Intermediate School Guide, there is widespread  
20 misunderstanding as to which portions of the mandatory materials actually need to be taught and  
21 whether teachers are allowed to utilize materials and activities not appearing in the Intermediate  
22 School Guide. The result is inconsistent instruction on sexual health and HIV/AIDS prevention  
23 that differs greatly classroom to classroom.

24 55. In fact, Respondent District is itself not clear about which instructional materials  
25 are mandatory and which are optional. The individual designated by Respondent District as the  
26 person most knowledgeable about the intermediate school instruction provided confused and  
27 contradictory testimony regarding teacher discretion to skip lessons in the Intermediate School  
28 Guide, initially stating that certain lessons were optional, then testifying that all lessons were

1 mandatory, then ultimately reversing himself again. Further, Respondent District has admitted  
2 that the half-day training session was all that was offered despite the fact that certain teachers  
3 expressed concern regarding insufficient time to cover the new curriculum, and despite the fact  
4 that certain teachers requested – but were not provided with – a review session after the  
5 curriculum was taught for the first time to help ensure its successful implementation.

6 56. Respondent District’s failure to communicate how to implement the Intermediate  
7 School Guide has produced seventh grade instruction that, despite the adoption of a single  
8 teachers’ guide, varies dramatically from classroom to classroom and offers no guarantee that all  
9 intermediate students in Clovis receive the intended and mandated education. According to  
10 intermediate school teachers’ own testimony, some teachers spend ten hours over the course of  
11 two weeks on the Intermediate School Guide, while others spend just five hours in one week.  
12 While one teacher believed that all lessons were mandatory unless explicitly marked as optional,  
13 and thus taught all listed lessons, another did not remember a specific policy regarding optional  
14 lessons and thus declined to teach almost two entire units that were not marked optional.

15 57. Because Respondent District has not given teachers adequate training, and has  
16 supplied a curriculum that contains inaccurate information and is fundamentally flawed, teachers  
17 have unintentionally exacerbated the compliance problems inherent in the Intermediate School  
18 Guide. For example, one teacher initially testified that she showed the birth control chart to her  
19 classes through an overhead projector but later admitted that in reality all she did was hold up the  
20 piece of paper showing the birth control guide chart, and tell her students that “there are many  
21 HIV/AIDS birth control contraceptive methods,” and that “there’s lots of them, but we’re not  
22 going to talk about them.” Another teacher testified that he does not instruct his class on the  
23 effectiveness rates of condoms in reducing STD transmission, instead providing the medically  
24 inaccurate “generalization that they’re not very safe in terms of protecting you against STDs.”

25 ***High School Curriculum***

26 58. In June 2013, nearly ten months after Petitioners first filed a complaint in this  
27 action, Respondent District adopted the current high school sexual health and HIV/AIDS  
28 prevention curriculum. As it has since 2005, the high school sexual health and HIV/AIDS

1 prevention curriculum centers on the 2004 edition of *Lifetime Health*, a textbook published by  
2 Holt, Rinehart and Winston for a national high school population (the “Holt High School  
3 Textbook”), using it for each of the three units of the curriculum (Human Reproductive System  
4 and Stages of Development; Successful Healthy Relationships, Decision-Making and Refusal  
5 Skills; and HIV/STDs/Pregnancy Prevention). Like the Holt Intermediate Textbook, the Holt  
6 High School Textbook promotes an abstinence-only policy, presenting students with a false and  
7 misleading portrait of how to prevent STDs and unintended pregnancy by positing abstinence as  
8 the sole prevention method, and further suggesting that any sexual activity outside of marriage is  
9 harmful. Parent Petitioners have expressed concerns about Respondent District’s high school  
10 curriculum since December 2009 and have specifically called on Respondent District to stop using  
11 the noncompliant Holt High School Textbook since June 2011.

12           59.       Similar to the Intermediate School Guide, the binder containing the newly-adopted  
13 high school curriculum (the “High School Guide”) instructs Respondent District high school  
14 teachers to supplement the Holt High School Textbook with certain specified materials, such as  
15 sections from the Red Cross curricula *Positive Prevention* and *Positive Prevention Plus*, videos,  
16 and slides. The supplements, however, do not render the Holt High School Textbook acceptable  
17 under law. Moreover, several of the videos that the District Board approved on June 12, 2013, as  
18 well as the District-approved guest speaker, independently violate the Education Code by  
19 themselves presenting inaccurate and biased information.

20           *The Holt High School Textbook and High School Guide.*

21           60.       The Holt High School Textbook provides medically inaccurate, non-objective  
22 information about preventing pregnancy, HIV and other STDs by promoting abstinence as if it  
23 were the only prevention method and entirely omitting any mention of condoms and  
24 contraception. For example, while the Holt High School Textbook describes the symptoms and  
25 treatment of bacterial, viral and parasitic STDs, it does not ever mention condoms, which are  
26 FDA-approved for STD prevention. Instead, the section entitled “Preventing STDs” is silent with  
27 respect to *any* FDA-approved STD prevention methods, relying exclusively on abstinence and  
28 suggestions that students “Respect Yourself,” “Get plenty of rest” and “Go out as a group.” A list

1 under the heading “Preventing HIV and AIDS” similarly avoids mention of condoms, telling  
2 students, among other things, to practice abstinence and stating that “when a couple is ready for  
3 marriage, both partners should maintain a monogamous relationship.” Additionally, while “Teen  
4 Pregnancy” is discussed in the chapter addressing “Risks of Adolescent Sexual Activity,” in which  
5 teens are advised that “Abstinence Eliminates the Risks of Teen Sexual Activity,” there is no  
6 information about any methods of contraception whatsoever.

7           61. The Holt High School Textbook teaches students non-objective, unsubstantiated  
8 information about abstinence and the risks of sexual activity outside of heterosexual marriage.  
9 The Holt High School Textbook suggests to students that any relationship that involves sex before  
10 heterosexual marriage will be unhealthy or immoral, repeatedly making statements such as  
11 “[r]efraining from sexual activity is one of the most important ways to create and sustain healthy  
12 relationships”; that one of the benefits of abstinence until heterosexual marriage is to “avoid[ ]  
13 being manipulated or used by others”; and “staying true to your personal values, such as respect,  
14 honesty, and morality”; and that abstinence “will allow you to achieve the goals you have set for  
15 yourself.” There is no scientific basis for these assertions. Many factors influence whether young  
16 people achieve their goals and stay true to their values, and there is no evidence that abstinence  
17 until marriage protects against unhealthy, manipulative relationships.

18           62. The Holt High School Textbook provides inaccurate, outdated information about  
19 HIV. Statistics provided in the textbook about HIV are out of date and the textbook includes  
20 inaccurate information about HIV testing and treatment, including teaching students that the FDA  
21 has not approved home tests for HIV when, in fact, it has.

22           63. The Holt High School Textbook reflects bias against gay, lesbian, and bisexual  
23 people. For example, the Holt High School Textbook defines incest as “sexual activity between  
24 family members who are not husband and wife.” This suggests to students that if their parents are  
25 unmarried or are a same-sex couple they are committing incest, one of society’s most reviled (and  
26 illegal) transgressions. The Holt High School Textbook also lists a number of types of families,  
27 but does not include same-sex households in its list, and none of the discussions of sexual  
28 behavior or relationships discuss same-sex couples. Moreover, “marriage” is defined in the Holt

1 High School Textbook glossary as “a lifelong union between a husband and a wife, who develop  
2 an intimate relationship.”

3 64. Respondent District high school teachers have acknowledged that the Holt High  
4 School Textbook is outdated and contains inaccuracies.

5 65. Respondent District created the curriculum with the Holt High School Textbook as  
6 its anchor despite being told that the California Department of Education has stated that the Holt  
7 High School Textbook does not meet the legal requirements of the Education Code and that the  
8 sections of this textbook that relate to sexual and reproductive health “may not be taught, even if  
9 supplemented with other material,” due to being inherently medically inaccurate and biased.

10 66. Although the Act requires instruction to include information on local resources for  
11 testing and medical care for HIV and other sexually transmitted diseases, the High School Guide  
12 does not provide this information directly to, or in an accessible format for, students. The High  
13 School Guide, which is provided to teachers only, simply contains a link to a California  
14 Department of Education web page which, in turn, links to a page listing sexual health resources  
15 in Fresno County. While the High School Guide instructs teachers to “[p]rovide local resources  
16 and clinic information for STD testing” and to “[e]xplain that HIV antibody tests are available  
17 from private doctors and local health clinics,” no specific information about any local testing  
18 resource is provided. Although the text mentions that a list of local clinics may be found through  
19 Family PACT or the local health department, nowhere are teachers instructed to use those sources  
20 or the California Department of Education web page to provide students with contact information  
21 for local testing sites.

22 67. Teachers are directed, through a part of the *Positive Prevention Plus* curriculum the  
23 District has chosen to use in the High School Guide, to teach something about gender roles, but  
24 there is little to no guidance for teachers about the content they are supposed to teach or how to  
25 structure the discussion. While the goal may be to have teachers acknowledge and debunk gender  
26 roles and other gender stereotypes, the materials do not give teachers tools for doing so. Without  
27 sufficient guidance or training about how to teach about sex stereotypes, and with instructional  
28 content from the videos actually promoting gender bias (see paras. 70, 73, 76, *infra*), teachers may

1 unintentionally reinforce rather than break down stereotypes. As shown in depositions, one  
2 Respondent District high school teacher, for example, does cover gender issues in his class, but he  
3 does so by teaching about the stereotypical differences between men and women, including “the  
4 general differences between the needs in males and females in a relationship.” He teaches his  
5 students that females are looking for “emotional support and being treated with gifts” and  
6 “compliments” while males need to be “respected,” and their views on “physical intimacy” are  
7 different. Another District high school teacher provides his students with a scientifically  
8 unsubstantiated and biased chart entitled “Sexual Arousal,” which he hands out as a message of  
9 caution – particularly for female students – about going too far in a relationship where a boy might  
10 only be interested in sex. The “timeline” of sexual arousal not only equates “sexual intercourse”  
11 with the “end of relationship” but also shows male arousal occurring long before female arousal,  
12 suggesting that girls are aroused at different times and under different circumstances than boys. A  
13 third District high school teacher uses a “Family & Marriage Pre-Survey” to get to know her  
14 students. The survey includes questions such as: “Females, have you ever thought about being a  
15 ‘stay at home’ mom?”; and “Males, have you ever thought about their impact on kids?” Nowhere  
16 in the surveys is being a stay at home dad mentioned as a viable option for males.

17 *The District-Approved Supplementary Videos.*

18 68. The High School Guide specifically lists certain videos that ninth grade teachers  
19 are permitted to use to supplement sexual health instruction.

20 69. Even if those supplementary materials were used, they do not, and could not, cure  
21 the defects of the Holt High School Textbook. Indeed, the majority of the approved  
22 supplementary materials independently violate the California Education Code.

23 70. For example, the 2006 video *Sex Still Has a Price Tag*, which the District Board  
24 approved in June 2013 as a recommended supplementary resource in Unit 2, teaches the medically  
25 inaccurate information that condoms provide no protection from the transmission of STDs, that  
26 hormonal birth control makes women ten times more likely to contract an STD, and that the only  
27 legitimate relationship is a monogamous, heterosexual marriage. It also reinforces gender  
28 stereotypes and promotes bias against LGBT students by cautioning that women interested in sex

1 should be avoided and are unfit mothers, conveying that the way a woman dresses indicates her  
2 sexual availability, and suggesting that a woman who is critical of men will be derided as a  
3 “feminazi” or a lesbian. The creator of the video, Pam Stenzel, has recently been the subject of  
4 intense media criticism for her live school presentations that include scare tactics and  
5 misinformation about STDs and contraception. The video teaches students that there will *always*  
6 be negative consequences to having sex before heterosexual marriage or having more than one  
7 sexual partner, stating that “No one has ever had more than one partner and not paid.” There is no  
8 scientific basis for this non-objective assertion. The video also gives wildly inaccurate statistics,  
9 including about the number of people under 30 who are sexually active, the number of STDs that  
10 are common in the United States, the number of people infected by and the effects of STDs, and  
11 provides factually incorrect information for the purpose of scaring students away from sexual  
12 activity. Students are told, for instance, the following:

13       Welcome to 2006 students. We now have over 30 STDs, 30% of them absolutely  
14       incurable. That means you get one of these diseases and you’ve got it for life,  
15       which is a lovely thing, boys, when you’re getting ready to get married, found this  
16       girl you love, . . . pull out that diamond, look her in the eyes, . . . you say, “Marry  
17       me. By the way, I’ve got genital warts. You’ll get it too and we’ll both be treated  
18       for the rest of our lives. In fact, you’ll probably end up with a radical  
19       hysterectomy, cervical cancer, and possibly death, but marry me.”

20 This statement is replete with inaccuracies and misleading information. For example, it states that  
21 genital warts likely lead to cancer, despite the fact that genital warts and cancer result from two  
22 different strains of HPV; it vastly inflates the number of STDs that are common in the United  
23 States; and it also overstates the number of STDs that are “absolutely incurable.”

24       71.       The video goes on to tell students that “HPV is the number 1 causal agent of  
25       cervical cancer in women. We now have girls as young as 18, 19, and 20 undergoing radical  
26       hysterectomies who will never have children because of invasive cervical cancer.” This statement  
27       is misleading at best because most HPV infections do not lead to cervical cancer, and cervical  
28       cancer is exceptionally rare in 18, 19, and 20 year old women. The video also contains numerous

1 statements without any scientific basis whatsoever, such as “Ladies, you contract chlamydia one  
2 time in your lifetime, cured or not, and there’s about a 25% chance that you’ll be sterile for the  
3 rest of your life. Get it twice, it jumps to about 50%” (even though there is little valid evidence  
4 linking chlamydia to infertility) and “You have a 4x greater risk of contracting a disease today  
5 than you ever have of being pregnant” (which has no scientific support). The video incorrectly  
6 treats HIV as a death sentence, stating that HIV causes AIDS and is a virus that will “kill you.”

7 72. The video reinforces the Holt High School Textbook’s bias against LGBT students  
8 by stating, “Boys, the respect and integrity you show every girl you date right here is the trust you  
9 will hand your wife someday. And if you cannot be respectful of women now, what in the world  
10 makes you think a wedding ring is going to fix that? Girls, the respect and integrity you show  
11 yourself and every boy you date is the trust you will hand your husband someday.” LGBT  
12 students likely walk away from these lessons feeling excluded from the subject matter.

13 73. Reinforcing gender stereotypes, the *Sex Still Has a Price Tag Video* also warns  
14 boys to stay away from any girl who dresses in a certain way or seems interested in sexual activity  
15 because there is something fundamentally wrong with her: “Boys, hear me now, if there is a girl  
16 throwing herself at you, if this girl is pressuring you for sex, if this is one of those girls dressing in  
17 that manner, and you know what I’m talking about – saying you and every other boy in the  
18 country take me now – little advice for you boys: RUN! Run for the hills. I know this girl. I’ve  
19 had her in my office for 15 years. . . . In order to feel good about herself she has to be able to turn  
20 your head and yours [pointing into the audience] . . . It’s a life-long problem. Who do you want to  
21 be the mother of your children?”

22 74. Petitioners voiced concern over the non-compliant *Sex Still Has a Price Tag* video.  
23 Despite these articulated concerns, Respondent District decided to include the video as a  
24 supplementary resource in the High School Guide, which guide the District Board approved in  
25 June 2013. In August 2013, Respondent District advised Petitioners that although the video was  
26 listed as an optional supplement in the High School Guide, only portions of the video were  
27 approved for use. After Petitioners sought clarification as to which portions were approved (given  
28

1 the fact that the High School Guide listed the entirety of the video as approved), Respondent  
2 District stated that the video was no longer approved.

3 75. In addition, the video *No Apologies: The Truth About Life, Love, and Sex*, a  
4 recommended supplementary resource in Unit 2, provides medically inaccurate information about  
5 contraception and methods of STD prevention such as condoms, which are portrayed as almost  
6 always failing and providing little or no protection against many STDs. The outdated *No*  
7 *Apologies* video was made in 1998—the year in which most of this year’s ninth grade students  
8 were born. It inaccurately states that “We are seeing an increase in teens getting pregnant under  
9 the age of 15,” even though in the year the video was made, the U.S. teen pregnancy rate had been  
10 decreasing for nearly a decade and has only continued to decrease, not increase, since then. The  
11 video also promotes certain religious values, including references to God; characterizes abortion  
12 as murder; emphasizes heterosexual marriage over all other forms of relationships; and features  
13 vignettes where characters state that sex outside of marriage fails to comport with good Christian  
14 values.

15 76. The *No Apologies* video also includes gender bias by reinforcing gender  
16 stereotypes, such as that women use sex to get love, and it completely ignores differences in  
17 sexual orientation. The video teaches students that girls will be proud on their wedding day only  
18 if they are a virgin (“If I marry and I made sex already, I’m not going to feel that proud of me.  
19 But if I marry with my white dress and everything like that, and I know that I’m a virgin, I’m  
20 going to be so very proud of me.”), and that having sex ruins relationships and one’s self-respect  
21 (“Having sexual contact in some ways ruins the relationship. I think I lose respect for myself and  
22 my partner.”). The video goes on to say: “Between 60 and 80% of the time, a guy will lie to a girl  
23 in order to gain sexual favors, lying about having a sexually transmitted disease.” This statement  
24 not only lacks scientific basis, it perpetuates harmful stereotypes about boys. Similarly, the video  
25 tells students that: “A lot of girls think if they, you know, have sex with a guy, they’re going to  
26 get that love in return, cause that’s what they really want,” and that girls should try to remain  
27 virgins for their husbands so their future husbands can feel “proud” that “nobody touch her  
28 before.”

1           77.     The video *HIV/AIDS: Answers for Young People*, which the High School Guide  
2 approved by the District Board directs teachers to use in Lesson 1 of Unit 3, was made in 1989.  
3 This was nearly twenty-five years ago and less than a decade after AIDS was first diagnosed. The  
4 video’s age alone ensures that the video contains medically inaccurate and extremely outdated  
5 information. For example, in 1989, discrimination against individuals living with HIV/AIDS was  
6 not illegal. The first antiretroviral drug had only received FDA approval two years prior, and  
7 highly active antiretroviral therapy would not be approved for another six years. Non-blood-based  
8 antibody tests for AIDS were still five years away from receiving FDA approval. Now-disproved  
9 theories of HIV transmission—such as from a dentist to a patient—abounded. Given the dramatic  
10 advances in both treatment and understanding of HIV/AIDS that have occurred since 1989, this  
11 video could not possibly be considered medically accurate today.

12           78.     Petitioner Smith made several attempts to view *HIV/AIDS: Answers for Young*  
13 *People*, the video that was listed for use in the High School Guide, at the District office. Despite  
14 repeated attempts to do so, Petitioner Smith was unable to view this video. Respondent District  
15 indicated in August 2013 that the version of the High School Guide approved by the District  
16 Board in June 2013 is not the same as the version of the High School Guide that will be taught to  
17 Respondent District’s high school students with respect to this video. Respondent District advised  
18 that *HIV/AIDS: Answers for Young People*, about which Petitioners had previously lodged  
19 complaints, is not going to be a part of the high school sexual health and HIV/AIDS prevention  
20 curriculum.

21           79.     None of the supplementary videos provides medically accurate information about  
22 FDA-approved methods of contraception or STD prevention. None of the supplementary videos  
23 discusses same-sex relationships.

24           80.     Moreover, the videos provide medically inaccurate, non-objective information  
25 about abortion. The *No Apologies* video states: “When I think about my experience with abortion,  
26 the fact that there was a child growing inside of me, and I chose, because I was selfish and young  
27 and scared and stupid and worried about me and my best interests – that child died because of a  
28 decision I made. That little girl never got a chance to smile or to laugh, to hold my hand. She’s

1 gone.” The *Sex Still Has a Price Tag* video equates abortion with the death penalty (“My  
2 biological father is a rapist. I don’t even know what my ethnicity is. But my life isn’t worth any  
3 less than any of yours just because of the way I was conceived, and I did not deserve the death  
4 penalty because of the crime of my father.”), and provides scientifically inaccurate information  
5 about the risks of abortion and physical, psychological, and emotional consequences (“Abortion is  
6 painful. I’ve counseled hundreds of women 5, 10, 15 years after an abortion, and abortion still  
7 hurt. I’ve counseled teenage girls w/ anorexia, bulimia, depression, suicide because of an abortion  
8 they couldn’t take back. That’s not like going to the dentist and getting your tooth pulled. There  
9 are consequences life-long to that choice.”). This information is inaccurate: in fact, the  
10 Guttmacher Institute reports that, “[f]or two decades, the highest quality scientific evidence  
11 available has led to the conclusion that having an abortion does not cause mental health problems  
12 for most women. A woman’s mental health before she faces an unwanted pregnancy is the best  
13 indicator of her likely mental health after an abortion.”<sup>37</sup> Moreover, as reported by the World  
14 Health Organization, this misinformation is actively harmful, in addition to being non-objective  
15 and biased: “[Abortion s]tigma impairs health, both directly through harm to wellbeing and  
16 indirectly by hindering prompt access to medical care. Stigma related to abortion particularly  
17 affects adolescents and unmarried women because of their inexperience and few economic  
18 resources.”<sup>38</sup>

19 *District-Approved Guest Speaker.*

20 81. Respondent District permits and recommends as a supplementary resource the use  
21 of a guest speaker – Pregnancy Care Center in Fresno – that lacks the expertise on comprehensive  
22 sexual health or HIV/AIDS prevention required for guest speakers by the California Education  
23 Code. Pregnancy Care Center is “a Christ-centered, non-profit medical clinic” that describes its  
24 mission as offering “help and hope to women facing unplanned pregnancies, through education,  
25 compassionate counsel and resources; to present sexual abstinence as a positive lifestyle for  
26

27 <sup>37</sup> Guttmacher Inst., *Are You in the Know: Safety of Abortion*, <http://www.guttmacher.org/in-the-know/abortion-safety.html> (last visited Aug. 5, 2013).

28 <sup>38</sup> David Grimes et al., World Health Org., *Unsafe Abortion: The Preventable Pandemic*, 7 (2006), [http://www.who.int/reproductivehealth/topics/unsafe\\_abortion/article\\_unsafe\\_abortion.pdf](http://www.who.int/reproductivehealth/topics/unsafe_abortion/article_unsafe_abortion.pdf).

1 singles; to provide opportunity for healing and restoration to those who have been hurt by  
2 abortion; and to present Jesus Christ as Savior and Lord.” Pregnancy Care Center speakers  
3 provide students with presentations on pregnancy and STD prevention that contain medically  
4 inaccurate, manipulated and non-objective information about condoms and other topics. The  
5 presentation does not discuss any prevention methods beyond condom failure and preaches  
6 abstinence only until heterosexual marriage based on the assertion that sex outside marriage is  
7 harmful emotionally, physically, and ethically.

8 82. The guest presentation instructs students that each time they have sex with a new  
9 partner, they will be less able to bond with them because of a diminished release of oxytocin. This  
10 statement, although consistent with an abstinence-until-marriage philosophy, lacks any  
11 substantiated basis in fact. Moreover, the presentation promotes gender bias, teaching students  
12 that boys and girls are “driven differently . . . in sexual ways.”

13 83. Indeed, the Pregnancy Care Center presenter, who stated that she lacks knowledge  
14 of recent medically accurate information on birth control methods, recently admitted that the  
15 presentation she gives in Clovis schools does not comply with California law.

16 84. Because the High School Guide fails to provide any meaningful detail on local  
17 resources for testing and medical care for HIV and STDs, the only local resource to which  
18 students are specifically introduced by name is the Pregnancy Care Center.

19 *The Effect of the Overall High School Curriculum on Students.*

20 85. The high school curriculum relies primarily on the non-compliant abstinence-only  
21 Holt High School Textbook, whose inaccurate and biased content is further amplified and  
22 reinforced through the aforementioned videos and Pregnancy Care Center presentation. Due to  
23 Parent Petitioners’ repeated requests, Respondent District did finally include medically accurate  
24 information about condoms and contraception in the high school curriculum, using supplementary  
25 materials including a set of slides and a chart of contraceptive methods. As with the intermediate  
26 school curriculum, however, Respondent District cannot alleviate the inherent medical inaccuracy  
27 and bias of the core Holt High School Textbook and other materials simply by adding further  
28 materials that are medically accurate and bias-free.

1           86.     High school students can read the entire Holt High School Textbook and not know  
2 that condoms exist and are readily available without a prescription or age requirement, let alone  
3 that they can significantly help prevent STDs and HIV/AIDS, as well as pregnancy. The Holt  
4 High School Textbook and corresponding worksheets concerning HIV prevention never mention  
5 condoms; for example, the “Concept Review” worksheet titled “Protecting Yourself from HIV and  
6 AIDS” lists four protective actions, none of which are condoms. Similarly, the Holt High School  
7 Textbook chapter on “Reproduction, Pregnancy, and Development” addresses the medical aspects  
8 of pregnancy, but does not discuss any birth control options other than abstinence. While “Teen  
9 Pregnancy” is discussed in the chapter addressing “Risks of Adolescent Sexual Activity,” in which  
10 teens are advised that “Abstinence Eliminates the Risks of Teen Sexual Activity,” there is no  
11 information about any methods of contraception whatsoever. Indeed, the words “condom” and  
12 “contraception” are absent from both the index and glossary of the core textbook being used to  
13 teach sexual health and HIV/AIDS prevention. This is not just an omission of information, but a  
14 distortion that creates an inaccurate picture of protective behaviors, misleading students and  
15 putting their health at risk.

16           87.     The supplementary videos and Pregnancy Care Center presentation exacerbate the  
17 problem by mentioning condoms and other contraception only to exaggerate their failure rates and  
18 health risks. For example, the *No Apologies* video teaches students that “Contraception will let  
19 you down if that’s where you put your faith,” and a person says, “We always had protected sex. I  
20 always wore a condom, and she had a Norplant in her arm. One in a million. I hit that mark.”  
21 Rather than being taught medically accurate information that, when used consistently and  
22 correctly, condoms are highly effective in protecting against pregnancy and STDs, students are  
23 taught that these proven methods are unreliable. The *Sex Still Has a Price Tag* video similarly  
24 informs students that “condoms aren’t safe. Never have been, never will be.” The video goes on  
25 to scare students with inaccurate and unsubstantiated information about birth control pills and  
26 other contraception: “That pill, that hormone, that shot that girl is taking has just made her 10x  
27 more likely to contract a disease than if she were not taking that drug. This girl could end up  
28 sterile or dead.”

1           88.     The timing of the instruction further compromises the fidelity and integrity of the  
2 curriculum. According to the High School Guide, students spend the first two-thirds of the sexual  
3 health and HIV/AIDS prevention curriculum consistently learning through multiple sources (the  
4 Holt High School Textbook, videos, and guest presentation) that sex before heterosexual marriage  
5 is physically, psychologically, emotionally, and socially harmful, and that the risks and  
6 consequences of sex can be avoided only through abstinence. Students also hear inaccurate and  
7 misleading information about STDs, condoms and contraception. Then, towards the end of the  
8 High School Guide, when teachers turn to the comprehensive supplementary material, students are  
9 finally told that condoms and contraception are effective means to reduce the risk of unintended  
10 pregnancies and STDs. But the negative information about condoms and contraception that  
11 students learn first undermines the medically accurate information that is later presented.

12           89.     Similarly, although the high school curriculum now includes fleeting instruction on  
13 sexual orientation, what is provided to students consists of a single definition on a slide. Other  
14 information from *Positive Prevention Plus* is designated as teacher background information only.  
15 While an acknowledgment of sexual orientation is certainly a step forward, brought about by the  
16 active advocacy of Petitioners, it does not mitigate the biased instructional content found  
17 elsewhere in the curriculum.

18           90.     In addition, there is no indication in the High School Guide that Respondent  
19 District has taken steps to make the instruction and materials accessible to and appropriate for  
20 students with disabilities and English Learner students. The Red Cross has produced “special  
21 populations” editions of the *Positive Prevention* curricula specifically for students with disabilities  
22 and also has materials in Spanish.

23 ***The Excusal Policies.***

24           91.     The Act established a uniform “opt-out” procedure for HIV/AIDS prevention and  
25 sexual health education to allow parents to excuse their children from instruction. Instead of  
26 following this procedure, however, Respondent District places the burden on parents to return  
27 written forms affirmatively requesting that students obtain sexual health education in order for  
28 their children to be permitted to access this education in both intermediate and high school.

1 Indeed, some students have been deprived of this education because their parents have failed to  
2 affirmatively opt them in to the instruction.

3 **Respondent District Could Easily Comply with the Education Code, But Has Affirmatively**  
4 **Chosen Not to Do So**

5 92. Respondent District cannot use financial constraints as an explanation for its non-  
6 compliant curriculum. First, curricular materials that comply with California law are free and  
7 widely available. Second, the California Department of Education provides funding and  
8 reimbursement of costs associated with providing the required HIV/AIDS prevention education.<sup>39</sup>  
9 Third, Respondent District already owns curricular materials that are fully compliant if used in  
10 their entirety, namely the Red Cross's *Positive Prevention* and *Positive Prevention Plus* curricula.  
11 Finally, Respondent District opted to purchase both noncompliant Holt textbooks *well after* the  
12 onset of its current legal obligations regarding compliance with the Act in providing sexual health  
13 and HIV/AIDS prevention education.

14 93. Given the ease with which Respondent District could have adopted intermediate  
15 and high school sexual health and HIV/AIDS prevention curricula fully compliant with the  
16 Education Code, the omission of critical elements from Respondent District's Intermediate School  
17 Guide and High School Guide appears to be intentional.

18 94. For example, the Intermediate School Guide assigns certain lessons and student  
19 instructional materials from *Positive Prevention* and *Positive Prevention Plus*. These curricula  
20 were developed by the American Red Cross specifically to meet California's Education Code  
21 requirements for sexual health and HIV/AIDS prevention education, and Respondent District's  
22 person most qualified to testify about the intermediate school curriculum described them as "the  
23 State of California's recommendation for teaching HIV, STDs, pregnancy prevention." Thus,  
24 although Respondent District could have provided a fully compliant intermediate school  
25 curriculum from these resources alone, without the need for any supplementation, it affirmatively  
26 chose not to do so. Respondent District's rationale justifying its choice to forgo adoption of the

27  
28 <sup>39</sup> See Cal. Dept. of Educ., *HIV/AIDS Funding & Reimbursement*,  
<http://www.cde.ca.gov/ls/he/se/hivreimburse.asp> (last visited Aug. 5, 2013).

1 comprehensive curricula developed by the Red Cross and recommended by the State of California  
2 as compliant is baffling in the face of these facts: Respondent District “felt it was not compliant.”  
3 Conveniently, however, Respondent District’s officials “could not locate” the evaluations that lead  
4 to this conclusion, nor could they provide additional detail regarding *how* Respondent District felt  
5 it was not compliant. Instead, while assigning certain lessons from the Red Cross materials,  
6 Respondent District selectively omitted the Red Cross content that would have satisfied what is  
7 most deficient in the intermediate school curriculum—medically accurate information about  
8 condoms and contraception. Moreover, Respondent District has admitted that, prior to the  
9 adoption of the Intermediate School Guide, information about contraception was considered for  
10 inclusion but then removed at the request of Respondent District’s Governing Board and over the  
11 objections of certain teachers and administrators who drafted the Intermediate School Guide.

12 95. Like the intermediate school curriculum, the high school curriculum requires  
13 teachers to supplement the Holt textbook with selected portions of the two American Red Cross  
14 curricula, *Positive Prevention* and *Positive Prevention Plus*. But, rather than adopt those  
15 comprehensive curricula in their entirety, Respondent District uses largely non-compliant  
16 materials and then picks selectively from the *Positive Prevention* curricula. Among the *Positive*  
17 *Prevention Plus* lessons that Respondent District has decided to omit are those that teach  
18 eradication of bias based on gender and sexual orientation.

19 **Parents’ Attempts To Bring Respondent District into Compliance.**

20 96. Respondent District has been well aware of—but largely ignored—parents’  
21 articulated concerns regarding the quality of its HIV/AIDS prevention and sexual health education  
22 curricula for *years*.

23 97. In December 2009, Petitioner Ghimenti contacted Respondent District’s Governing  
24 Board President regarding her concerns with the curriculum and instruction being provided at both  
25 the high school and intermediate school level. Among her concerns was the fact that funds were  
26 being wasted on legally deficient curriculum and instruction from Teen Choices, Inc., an outside  
27 minister consultant used in Respondent District’s schools since the 2006-2007 school year.  
28 Despite Ms. Ghimenti’s warning that the California Department of Education had already

1 instructed multiple Central Valley school districts to abandon the Teen Choices curriculum,  
2 Respondent District resisted not only a change to its curriculum, but also a dialogue with Ms.  
3 Ghimenti and other concerned parents for over one year.

4 98. From March 2011 through June 2011, Petitioner Ghimenti and/or Petitioner Smith  
5 sought meetings with Respondent District's then-Superintendent David Cash, met with Rick  
6 Watson, Respondent District's Administrator for Curriculum Services and Professional  
7 Development at that time, spoke at a public meeting of the Governing Board of Respondent  
8 District, and met with Respondent District's Family Life Advisory Committee to voice their  
9 concerns that Respondent District's HIV/AIDS prevention and sexual health education curricula  
10 did not comply with the Education Code. Parent Petitioners wrote Respondent District a letter  
11 with specific requests, including the removal of the Holt High School Textbook and the Teen  
12 Choices program and the revision of the relevant Board Policy and Administrative Regulation to  
13 address its noncompliant parental consent policy and negative approach to contraception; this  
14 letter was signed by a number of other concerned parents and community members. Respondent  
15 District officials rebuffed Parent Petitioners' requests, and even refused to allow parents to copy  
16 curricular materials so that they could evaluate them more fully.

17 99. Only following a formal demand letter sent in August 2011 by lawyers representing  
18 Petitioner AAP and concerned parents did Respondent District agree to replace Teen Choices with  
19 a new intermediate school curriculum and make the requested policy revisions. At that same time,  
20 however, Respondent District refused to make *any* improvements to its high school curriculum.

21 100. In October 2011, both by letter and in person at a Respondent District Governing  
22 Board meeting, the Parent Petitioners urged the rejection of the new intermediate school  
23 curriculum, which failed to achieve compliance with the Education Code. In these same  
24 communications, Petitioners Smith and Ghimenti once again urged Respondent District to cease  
25 its use of the Holt High School Textbook and to adopt a compliant curriculum at the high school  
26 level. Respondent District proceeded to adopt the new intermediate school curriculum despite the  
27 Parent Petitioners' objections and to ignore completely their calls for change at the high school  
28 level.





1 112. Petitioners seek an injunction prohibiting Respondent District from continuing to  
2 use a noncompliant curriculum to teach HIV/AIDS prevention and sexual health education in its  
3 intermediate schools and high schools.

4 113. Petitioners also seek a declaration that Respondent District's intermediate school  
5 and high school HIV/AIDS prevention and sexual health education curricula violate the Act. A  
6 judicial declaration is necessary and appropriate at this time so that Petitioners may ensure that  
7 Respondent District's HIV/AIDS prevention and sexual health education complies with state law  
8 so that intermediate school and high school students in Clovis obtain the education they are  
9 entitled to receive to protect their health.

10 **SECOND CAUSE OF ACTION**

11 *(Violation of Education Code Sections 51937–51939)*

12 114. Petitioners incorporate by reference the allegations of paragraphs 1 through 61 of  
13 this Complaint and Petition, as though set forth fully in this paragraph.

14 115. Respondent District requires affirmative written parental approval for students to  
15 attend sexual health education classes in its intermediate schools and high schools, in violation of  
16 Education Code Sections 51937–51939.

17 116. Petitioners seek an injunction prohibiting Respondent District from continuing to  
18 require affirmative written parental approval for students to attend sexual health education classes.

19 117. Petitioners also seek a declaration that Respondent District's excusal procedure for  
20 sexual health education violates the Act. A judicial declaration is necessary and appropriate at this  
21 time so that Petitioners may ensure that students may obtain sexual health education in the absence  
22 of affirmative parental objection.

23 **THIRD CAUSE OF ACTION**

24 *(Writ of Mandate)*

25 118. Petitioners incorporate by reference the allegations of paragraphs 1 through 61 of  
26 this Complaint and Petition, as though set forth fully in this paragraph.

27  
28



1 Dated: August 8, 2013

SIMPSON THACHER & BARTLETT LLP

2  
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**VERIFICATION**

I, Mica Ghimenti, declare:

I am a plaintiff and petitioner in this case. I have read the Verified First Amended Complaint for Injunctive and Declaratory Relief and Petition for Writ of Mandate (the "First Amended Complaint and Petition") filed with this Verification and know its contents. The matters stated in the First Amended Complaint and Petition are true of my own knowledge, except as to those matters which are alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Executed this 6<sup>th</sup> day of August, 2013, in Clovis, California.

  
\_\_\_\_\_  
Mica Ghimenti