



915 L Street, Suite C-259
Sacramento, CA 95814
(916) 446-2956

October 22, 2008

Hon. Jack O'Connell
Superintendent of Public Instruction
1430 N Street
Sacramento, CA 95814

President Ted Mitchell
California State Board of Education
1430 N Street, Suite #5111
Sacramento, CA 95814

Re: Marriage Curriculum in Public Schools

Dear Superintendent O'Connell and Board President Mitchell:

This letter will draw to your attention the state education laws and curriculum standards with which you appear to be unfamiliar. This is in response to your comments to the media yesterday claiming that marriage is not a topic taught in California public schools. We request that you retract your comments and inform voters that you were mistaken.

Specifically, Superintendent Jack O'Connell stated to the media:

"Our public schools are not required to teach about marriage. And, in fact, curriculum involving health issues is chosen by local school governing boards."

Also, Board President Ted Mitchell stated to the media:

"There is nothing in California state law that would require the teaching of marriage in any of its forms."

First, according to a study posted on the California Department of Education's (CDE's) website, **96%** of California school districts voluntarily provide classroom instruction under the California Comprehensive Sexual Health and HIV/AIDS Prevention Act (Educ. Code, §§ 51930 *et seq.*, hereafter the "Act".) That study states:

HIV/AIDS prevention education and sex education are **nearly universally taught in California today**. Ninety-four percent of surveyed schools provide HIV/AIDS prevention education, as is mandated by law, and **an even larger number, 96%, provide sex education despite having no requirement to do so**.

*(Sex Education in California Public Schools (PB Consulting and ACLU Northern California, 2003).)*ⁱ

Second, the CDE website correctly describes the legal significance of school districts choosing to provide this education:

Education Code (EC) 51933 specifies that school districts are not required to provide comprehensive sexual health education, **but if they choose to do so, they shall comply with all of the requirements listed below.**

... Instruction shall encourage communication between students and their families and shall **teach respect for marriage** and committed relationships.

(<http://www.cde.ca.gov/ls/he/se/sexeducation.asp>). A copy is attached to this letter as Exhibit A.

Third, the CDE's *Checklist for Comprehensive Sexual Health Education*, described in the document as a tool for school districts "to help guide your review of material for compliance with Education Code (EC) 51933," also states that to be in legal compliance the school must ensure that "Instruction and materials teach respect for marriage and committed relationships." (A copy of the CDE's compliance checklist is attached to this letter as Exhibit B.)ⁱⁱ

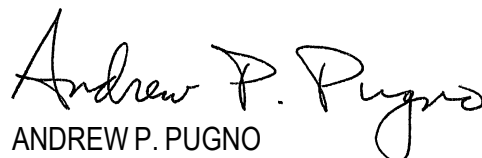
In short, your own public website admits that:

1. 96% of public schools voluntarily provide instruction under the Act.
2. Every school electing to provide instruction under the Act must provide children instruction and materials that teach respect for marriage.
3. The CDE's checklist for instruction under the Act confirms that instruction about marriage is required for the school district to be in compliance with the law.

Therefore, there is no foundation for your untruthful statements to the media that nothing in California state law would require "the teaching of marriage in any of its forms."

The voters deserve to hear the truth. While you and others in the education establishment may personally favor the legalization of gay marriage, as public officials it is your duty to be truthful in your statements about California education law. Thank you for your attention.

Very truly yours,



ANDREW P. PUGNO
General Counsel
ProtectMarriage.com – Yes on 8

ⁱ See http://www.aclunc.org/docs/reproductive_rights/sex_ed_in_ca_public_schools_2003_full_report.pdf?ht=

ⁱⁱ See <http://www.cde.ca.gov/ls/he/se/documents/sexhealtheducheck.doc>

Exhibit A

California Department of Education (<http://www.cde.ca.gov/ls/he/se/sexeducation.asp>)
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Comprehensive Sexual Health Education

Provides information concerning authorized comprehensive sexual health education.

Education Code (EC) 51933 (Outside Source) specifies that school districts are not required to provide comprehensive sexual health education, but if they choose to do so, they shall comply with all of the requirements listed below.

Comprehensive sexual health education instruction shall be age-appropriate and bias-free, and all factual information shall be medically accurate and objective. Instruction shall be appropriate for students of all genders, sexual orientations, and ethnic and cultural backgrounds, and it shall be accessible for English language learner students and students with disabilities. Instruction shall encourage communication between students and their families and shall teach respect for marriage and committed relationships.

In addition, in grades seven to twelve, instruction shall include all of the following: information about the value of abstinence; information about sexually transmitted diseases (STDs), including all Federal Drug Administration (FDA)-approved methods of reducing the risk of contracting STDs; information about all FDA-approved methods of contraception, including emergency contraception; information about California's newborn abandonment law (Safe Surrender Law *EC 51933 [12]*) (Outside Source) and *Penal Code 271.5* (Outside Source) and skills for making responsible decisions about sexuality.

Questions: School Health Connections | Schoolhealth@cde.ca.gov | 916-319-0914

Last Reviewed: Tuesday, September 16, 2008

Exhibit B

California Department of Education
Checklist: Comprehensive Sexual Health Education

This is a tool to help guide your review of material for compliance with *Education Code (EC) 51933*

DOES YOUR CURRICULUM COMPLY WITH THE *EDUCATION CODE*?

| Comprehensive Sexual Health Education (EC 51933) | Yes | No |
|---|-----|----|
| Instruction and materials are age appropriate. | | |
| Factual information is medically accurate and objective. | | |
| Instruction is available to English learners. | | |
| Instruction and materials are appropriate for use with pupils of all races, genders, sexual orientation, ethnic and cultural backgrounds, and pupils with disabilities. | | |
| Instruction and materials are accessible to pupils with disabilities. | | |
| Instruction and materials encourage pupils to communicate with parents or guardians about human sexuality. | | |
| Instruction and materials teach respect for marriage and committed relationships. | | |
| Commencing in seventh grade, instruction and materials teach that abstinence is the only certain way to prevent unintended pregnancy and STDs, and provide information about the value of abstinence while also providing medically accurate information on other methods of preventing pregnancy and STDs. | | |
| Commencing in seventh grade, instruction and materials provide information about STDs including: <ul style="list-style-type: none"> • how they are and are not transmitted; • the effectiveness and safety of all FDA-approved methods of reducing risk of contracting STDs; • and information on local resources for testing and medical care for STDs. | | |
| Commencing in seventh grade, instruction and materials provide information about the effectiveness and safety of all FDA-approved contraceptive methods in preventing pregnancy, including emergency contraception. | | |
| Commencing in seventh grade, instruction and materials provide skills for making and implementing responsible decisions about sexuality. | | |
| Commencing in seventh grade, instruction and materials provide information on the law on safely surrendering physical custody of a child 72 hours or younger (Safe Surrender Law <i>EC 51933 [12]</i>). See also <i>Health and Safety Code 1255.7</i> and <i>Penal Code 271.5</i> . | | |
| Instruction and materials do not teach or promote religious doctrine. | | |
| Instruction and materials do not reflect or promote bias against any person on the basis of sex, ethnic group, race, national origin, religion, color, mental or physical disability, ancestry, gender, or sexual orientation. | | |

Adapted from the Healthy Kids Resource Center, <http://www.californiahealthykids.org> (Outside Source), 2008.