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Reply to: Virginia

May 8, 2018

Via Email Only

Buck Crouch, School Board President
Sunnyside Unified School District
2238 E Ginter Rd
Tucson, AZ 85706
BuckC@susd12.org

RE: Illegal, obscene and harmful-to-minors “3Rs” sex-ed curriculum

Dear Board President Crouch:

By way of brief introduction, Liberty Counsel is a non-profit litigation, education, and policy organization with an emphasis on constitutional law, with offices in Florida, Virginia, and Washington, D.C. Liberty Counsel provides *pro bono* legal representation, with a particular focus on religious liberty and other First Amendment issues.

Concerned parents and residents within the Sunnyside Unified School District (“the District”) have requested Liberty Counsel’s review of the “Rights, Respect, Responsibility” Curriculum or “3Rs” “comprehensive sex education” (“CSE”) curriculum proffered by “Advocates for Youth.” This curriculum is currently under consideration for adoption by the Sunnyside USD School Board. An attached 15-point CSE matrix sets forth in further detail the problems with this 3Rs Curriculum. Liberty Counsel stands ready to take additional action, should the Board adopt the Curriculum despite its blatant illegality.

A brief bit of connect-the-dots is in order, to understand the insular relationships behind the promotion of the 3Rs curriculum. The “[National Sexuality Education Standards: Core Content and Skills, K–12](#)” (“Standards”) are [promoted by Planned Parenthood](#), and were created by the “[Future of Sex Education \(FoSE\) Initiative](#)” “a partnership between [Advocates for Youth](#), [Answer](#) and the Sexuality Information and Education Council of the U.S. ([SIECUS](#)).” The FoSE Initiative by means of its “Standards” seeks to change “the future of sex education and to **promote the institutionalization of comprehensive sexuality education in public schools.**”¹ (Emphasis and hyperlinks added). The Standards is based upon the sex data of Alfred Kinsey, which included timed-with-a-

¹ <http://www.futureofsexed.org/documents/josh-fose-standards-web.pdf>

stopwatch "orgasms" for infants as young as two months old, in the infamous "Table 34" of Kinsey's *Sexuality in the Human Male*.

Thus, "Advocates for Youth" ("Advocates") was a drafter of the "Standards," which its 3Rs Curriculum conveniently meets. Advocates is featured prominently throughout the 3Rs material as a "resource." Advocates' presence as a resource in the Curriculum (as well as the Curriculum itself) violates A.R.S. § 15-115(A)-(B) by **giving preference, encouragement and support to abortion, over childbirth and adoption.** "Advocates" takes the following position on the access of minor girls (or "young women") to "[Abortion](#):"

Young women need the right to safe and legal abortion. But many states **place barriers on young women's access by requiring parental notification or even consent**...United States policies contribute to an anti-choice climate and limit young women's access to abortion.

No young woman, anywhere, should be **forced** to seek out an illegal, dangerous procedure or **carry a pregnancy she didn't want to term**. (Emphasis added).

For these reasons and numerous others, including those set forth below, the Board should reject the "3Rs" Curriculum, which has nothing to do with "reading, 'riting, and 'rithmetic," the traditional "3Rs." More aptly, it should be known as the "3Vs," for the Curriculum violates **Arizona law**; violates **parental rights**; and violates **childhood innocence**. The Curriculum imposes radical, unscientific, political ideas about gender and sexuality on impressionable children, and promotes abortion over childbirth and adoption.

1. Violation of Arizona Law

Not Age Appropriate; Not Medically Accurate; Does Not Promote Abstinence

The 3Rs Curriculum violates Arizona law on age-appropriateness, medical accuracy, and the promotion of Abstinence, and it violates the Arizona law on the non-promotion of homosexuality and abortion. 3Rs provides instruction on HIV/AIDS prevention, thus triggering Ariz. Rev. Stat. § 15-716(B) and (C). ARS § 15-716(B) requires that all such curricula must:

1. **"Be appropriate** to the grade level in which it is offered." Yet numerous examples of impropriety, lewdness, or obscenity are in the material, or provided in the form of hyperlinks or referrals within the material. For Kindergartners, the PowerPoint provides slides with spread-legged anatomy lessons. The male slide (depicting a pre-pubescent boy) has an erect penis. See attached. The 3Rs Curriculum is full of other overt or covert references to age-inappropriate material. An 8th grade lesson instructs the teacher to obtain a **"Wooden penis model** (available for purchase from Total Access Group...)," which the website describes as "[easy to clean and maintain](#)" and "Approximately 7 1/4" long," or a banana, for the purpose of

demonstrating condoms.² This is inappropriate. K-2nd graders are shown full gynecological exam illustration pictures of female prepubescent children; while the illustration of a male prepubescent child shows an erect penis. Fifth Graders are likewise shown a full-color illustration of female genitalia, complete with pubic hair. See attached illustrations. Planned Parenthood-specific examples of additional impropriety are set forth below.

2. **“Be medically accurate.”** Anal sex is promoted heavily throughout the Curriculum, despite the fact that the rectum is not designed for receptive intercourse. The 3Rs material promotes condoms for anal sex, despite the fact that there is no condom approved by the FDA as being suitable for anal sex.³ In the older grades, the 3Rs material fails to discuss CDC statistics showing the extraordinarily high risk for same-sex behavior of “men who have sex with men.”
3. **“Promote abstinence.”** In most lessons where “abstinence” is mentioned, it is only mentioned in passing, such as an alignment with NCSE standards: “Explain the health benefits, risks and effectiveness rates of various methods of contraception, including abstinence and condoms.”⁴ 3Rs contains numerous other instances of abstinence briefly mentioned alongside various sexual activities, and always carefully describes those activities in lurid detail.

With 6th Graders (11 and 12 year olds), 3Rs instructs the teacher to “[t]ell the students that for this next activity you are going to focus on abstinence from sexual behaviors. That means waiting to have vaginal, oral or anal sex.”⁵ The lesson continues, comparing “vaginal, oral or anal sex” to eating sugary foods; a discussion of “everything in moderation,” and includes an admonishment for the teacher to reject any student’s categorical statement that sex between minors is “wrong:”

***Note to the Teacher:** Some students may say “because it’s wrong” or “because it’s a sin.” Although **these are valid reasons for some students, it is important to avoid shaming those who do have sex.** Simply adding the word “some” – “some people have been taught that it’s a sin, although not everyone is religious or belongs to the same religion” can ensure that that student is heard while **minimizing the judgment** placed on those who may end up having a different experience. Grade 6, Lesson 4, pg. 3, “Communicating About A Sensitive Topic.”*

In another example, 8th Graders are told, “Abstaining from vaginal sex is the only 100% effective way to prevent pregnancy when done consistently and correctly. In fact, **it is the method used by most 8th graders.** Ask students what you mean by ‘when done

² Grade 8, Lesson 9, “Using Condoms Effectively.”

³ Reisman, Judith, Condoms never FDA-approved for sodomy, *available at* http://www.drjudithreisman.com/archives/2014/03/condoms_never_f.html

⁴ Grade 8, Lesson 8, “Birth Control Basics”

⁵ Grade 6, Lesson 4, pg. 3, “Communicating About A Sensitive Topic.”

consistently and correctly.' Affirm or correct their statements until you feel satisfied that that they understand that **abstinence only works when people use it every time. This means a penis not going inside another person's vagina.** Tell them that most people are not abstinent forever but choosing to delay having sex until you are **a bit older** can be a very healthy choice."⁶

2. Violation of Arizona Law:

Promotes & Portrays Homosexuality - ARS § 15-716(C) mandates that no school "district shall include in its course of study instruction which:"

1. "Promotes a homosexual life-style."
2. "Portrays homosexuality as a positive alternative life-style."
3. "Suggests that some methods of sex are safe methods of homosexual sex."

However, numerous lessons promote homosexuality and portray it positively. In Fifth Grade (10 and 11 year olds), students are told they will experience "feelings of love and wanting to touch, kiss, etc.," and that "[s]ometimes, we will feel this way about people who are a different gender than we are. This is called being 'heterosexual.' You may also hear the word 'straight.'" The teacher is told to "[a]dvance to the second slide and then the third slide as you say, **'Sometimes, we will have these feelings for people who are our same gender. This is called being 'gay.' Some gay women will call themselves 'lesbians.' And sometimes we might have feelings for people of all genders. This is called being 'bisexual.'**"⁷

A lesson for 7th graders sets up a role-playing scenario between boys and girls, and instructs teachers to "Ask what they think these scenarios would look like in a same sex relationship – what would they have expected had Partners A and B been two guys or two girls?"⁸ There are too many instances to list here, where 3Rs promotes or portrays homosexuality, in violation of the statute.

3. Violation of Arizona Law:

Promotes Abortion over Childbirth and Adoption

In recent years, Planned Parenthood has been exposed for offering to sell baby body parts, in [numerous unedited videos obtained in multiple locations across the nation](#). Inclusion of Planned Parenthood referrals and pro-abortion anecdotes in the 3Rs curriculum violates Ariz. Rev. Stat. § 15-115(A)-(B), requiring **preference, encouragement and support** of childbirth and adoption.

In numerous lessons, perversely, 3Rs presents a strong preference for abortion over childbirth and adoption. This is because "Advocates for Youth" is a Planned Parenthood affiliate and promoter, and all 3Rs curriculum contains this inherent bias. Numerous

⁶ Grade 8, Lesson 8, "Birth Control Basics"

⁷ Grade 5, Lesson 4, pg. 3, "What Is Love, Anyway?"

⁸ Grade 7, Lesson 9, "Let's Talk About Sex."

referrals to Planned Parenthood are throughout the curriculum.⁹ Examples of abortion advocacy include the following: **“She doesn’t want to place the baby for adoption and besides she knows that if she continues the pregnancy, Victor will never let her place the baby for adoption. And how can she live knowing she has a child who’s being raised without her?”**¹⁰ Teachers are instructed to say, **“There are also two other choices someone who is pregnant has the right to consider – what are they?”** Probe for and write on the board, ‘Place the baby for adoption’ and ‘**Have an abortion**.’¹¹ The 3Rs curriculum goes into great detail to ensure minor females know how to work around parents, boyfriends, pro-life advocates, and others who might deter them from obtaining an abortion.

The state of Arizona has a “strong interest in **promoting childbirth and adoption** over elective abortion,” and therefore “no school district ... may endorse or provide financial or instructional program support to any program that does not present childbirth and adoption as **preferred** options to elective abortion.” (Emphasis added). In addition, “no school district ... in this state may allow **any presentation during instructional time** or **furnish any materials to pupils** as part of any instruction **that does not give preference, encouragement and support to childbirth and adoption as preferred options to elective abortion.**” See Ariz. Rev. Stat. § 15-115(A)-(B). In contrast, the 3Rs curriculum provides numerous instances, including role-playing exercises, designed to convince teens the only “responsible” decision is abortion.¹² Arizona law is violated by “equal treatment” of abortion with adoption. The 3Rs curriculum does not show the statutorily required “preference, encouragement and support” of adoption over abortion.

4. Violation of Arizona Law:

Obscene terms within Planned Parenthood “Glossary” unacceptable for school - Beginning in the Sixth Grade with 11 and 12 year olds, the 3Rs curriculum mentions or refers students to Planned Parenthood or its website more than 24 times. Numerous lessons involve virtual classroom excursions to Planned Parenthood’s website, some involving small groups of self-supervised children. Located at the top of Planned Parenthood’s website, under “Learn,” (a word fraught with meaning for school-age children) the very first term is “Abortion,” with no mention of “Adoption,” thus violating ARS § 15-115(A)-(B).

On that same drop-down, Planned Parenthood’s website [“Glossary A-Z”](#) also does not contain the word “adoption,” or “pro-life,” but contains “anti-choice” and “pro-choice.” Planned Parenthood’s glossary also contains many other words and definitions, which Advocates for Youth and 3Rs apparently consider suitable for children ages 11 and up, including “abortion,” “abortion pill,” “butt plug,” “coming out,” “cum,” “dildo,” “drag queen,” “exhibitionist,” “hand job,” “horny,” “lust,” “masturbation,” “mooning,” “morning wood,” “mutual masturbation,” and “three-way.”

⁹ “Locate the nearest Planned Parenthood health center,” Grade 10, Lesson 7, “Trust It or Trash It: Finding Accurate Sex Ed Info

¹⁰ Grade 10, Lesson 3, “We All Have Rights,” Worksheet, “Who Did the Right Thing.”

¹¹ Grade 10, Lesson 3, “We All Have Rights,” Worksheet, “Who Did the Right Thing.”

¹² Grade 9, Lesson 9, “What If...?” “

Planned Parenthood even includes "Necrophilia," defined as "[w]hen a person needs [sic] is sexually aroused by dead bodies;" "Pearl Necklace" defined as "[s]lang for ejaculate (cum) [sic] spilled onto a person's neck or chest;" and "Pitching a tent," defined as "[s]lang for having an erection. It comes from the way pants or bed sheets look when the erect penis, like a tent pole, pushes them up and out."

Also at this same "Learn" link, Planned Parenthood informs children following 3Rs research directions that the term "Prostitute" is "[o]ften considered offensive and outdated. The preferred term is 'sex worker'."

"Sadomasochism (S&M)" receives its own entry, as do "Strap-on," "Swinging," "Tribadism" ("Sex that involves 2 people rubbing their vulvas/clitorises together"); "Vibrator," and "Voyeurism." Planned Parenthood's obscene alphabet is rounded out by made-up "gender-neutral" pronouns like "Xe (xe, xem, xyr, xyrs, xemself)" and "Ze (ze, zir, zirs, zirsself)," which Planned Parenthood defines as being used "to replace" "he," "she," or "they." Many more could be added, including numerous terms for various forms of gender confusion and the normalization of transgenderism.

5. Violation of Arizona Law:

Displaying and advertising material that is obscene or harmful to minors is illegal under Ariz. Rev. Stat. § 13-3506. "It is unlawful for any person, with knowledge of the character of the item involved, to recklessly furnish, **present**, provide, make available, give, lend, **show, advertise** or distribute to minors any item that is harmful to minors." Yet 3Rs does exactly that, in 12th Grade, instructing the teacher to present, show, and advertise and discuss pornographic magazines such as Playboy, Playgirl, and Penthouse.¹³ The teacher is instructed to "Go to slide 5 and ask, **"What is the difference between these two pictures** – of Rihanna on the cover of GQ and of a contestant in a beauty pageant" – go to slide 6 – **"and these two covers of Playboy magazine?"** The teacher is told to go to slide 7 and ask, "What is the difference between these covers of Cosmopolitan and New York" – go to slide 8 – **"and these covers of Penthouse?"** Go to slide 9 and say, "Here are covers of **health and fitness magazines**" – go to slide 10 – **"and here are covers of sexually explicit magazines** [Playgirl and another homosexual male magazine]." The teacher is told to go to slide 11 and say, "The legal definition of porn is, 'the depiction of sexual behavior that is intended to arouse sexual excitement in its audience.' **So given what you just saw, how would you define the difference between what we just saw and what porn is?"** There is no serious scientific value to this "lesson," which is designed to place pornography before the students, entice them to view it later, and draw false moral equivalency between porn and "not porn." Under ARS § 13-3507, this is a Class 6 felony.

6. Violation of Parental and Student Rights

3RS Promotion of Gender Confusion - 3Rs seeks to confuse children that there are more than two genders; and that gender may be inconsistent with biological sex, male and

¹³ Grade 12, Lesson 5, "Fantasy or Reality? How Sexually Explicit Media Affects How We See Relationships IRL"

female, thus prescribing a radical transgender orthodoxy, and enforcing it through use of language. Yet, if "there is any fixed star in our constitutional constellation, it is that **no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.**" *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943). This includes the right of students to be free from a prescribed "sexual orthodoxy" by radical organizations like the ones described above. 3Rs encourages teachers to take an activist position with the use of "intentional" language, beyond even the positions openly advocated in the curriculum:

A NOTE ABOUT LANGUAGE:

Language is really important and we've intentionally been very careful about our language throughout this curriculum. You may notice language throughout the curriculum that seems less familiar - using the pronoun "they" instead of "her" or "him", using gender neutral names in scenarios and role-plays and referring to "someone with a vulva" vs. a girl or woman. This is intended to make the curriculum inclusive of all genders [sic] and gender identities. **You will need to determine for yourself how much and how often you can do this in your own school and classroom, and should make adjustments accordingly.**(Emphasis added).

There are too many instances in the 3Rs curriculum to provide an effective opt-out, if the 3Rs curriculum were compliant with Arizona law, which it is not. The law is clear that **parents**, not agents of the state like teachers, and not outside radical groups like "Advocates for Youth," **have the right to direct the upbringing and associations of their children.** The law presumes that **parents** possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions, not activist school employees. "The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children. . . **The child is not the mere creature of the State;**" *Pierce v. Society of Sisters*, 268 U.S. 510 (1925). (Emphasis added). "The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. **This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.**" *Wisconsin v. Yoder*, 406 U.S. 205 (1972). (Emphasis added).

The Sunnyside Unified School District is hereby on notice of the many legal violations contained in the 3Rs Curriculum. The Board should reject the 3Rs Curriculum in its entirety, and adopt true Abstinence-based curricula which provides accurate information, and respects student and parent rights, consistent with Arizona state standards. There are many such.

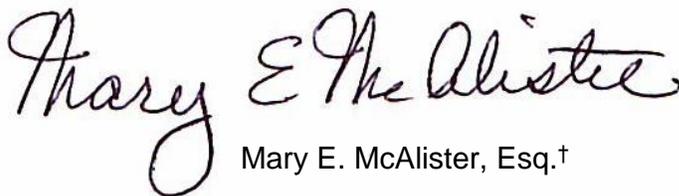
However, if the District nonetheless illegally adopts the Curriculum **in violation of the current, applicable, binding Arizona statutes set forth above**, Liberty Counsel is

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prepared to take additional action to prevent irreparable harm to the rights of our numerous local constituents.

Be guided accordingly.

Sincerely,

A handwritten signature in black ink that reads "Mary E. McAlister". The signature is written in a cursive style with a large, looped initial "M".

Mary E. McAlister, Esq.[†]

Attachments

CC:
Via Email

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