



May 13, 2014

Via Email and U.S. Mail

A. Dean Pickett, Esq.
Tempe Tri-District Legal Counsel
Tempe Union High School District
500 West Guadalupe Road
Tempe, AZ 85283-3599

RE: TUHSD Sex Education Proposal

Dear Mr. Pickett,

As you know, on May 7, 2014, the Tempe Union High School District (“TUHSD”) Sex Education Review Committee (“Committee”) recommended that the TUHSD Governing Board (“Board”) adopt the F.L.A.S.H. sex education curriculum for presentation to TUHSD students.¹ The Board’s published agenda indicated that the presentation was to be a recommendation only. Moreover, during the May 7 Board meeting, at least two Board members expressed the belief that there would be no vote at the meeting on any specific curriculum. Nevertheless, upon motion by Board member David Schapira, with Mr. Schapira casting the deciding vote, the Board voted 3 to 2 to adopt F.L.A.S.H. as the “framework” for the sex education program to be presented to TUHSD students.

Many of the parents attending the Board’s May 7 meeting, including our clients, left the meeting with the distinct impression that the Board’s decision had been predetermined, perhaps at an earlier executive session. Given the lack of transparency in this process from the beginning, coupled with assurances from you and others that the Board had made no decision as to whether a sex education program would even be offered to TUHSD students, the outcome of the May 7 Board meeting is very troubling to our clients, to us, and to others and we take this opportunity to review the background leading up to the Board’s May 7 decision, to state our objections to the Board’s decision and to fulfill our commitment to hold the District accountable for compliance with Arizona law and District policy.

¹ See www.azcentral.com/story/news/local/tempe/2014/05/08/tempe-union-high-school-district-sex-ed/8869901/.

As we are sure you will agree, it has been repeatedly contended that the Committee would merely make a curriculum *recommendation* to the Board and that, even *if* the Board ultimately determined to approve a sex education program, the Board would carefully analyze any recommended curriculum to assure compliance with Arizona law and District policy. However, by proceeding to a final vote of approval of F.L.A.S.H. at the first and only meeting at which the Board has considered the Committee's "recommendation," our clients and others perceived this vote as a "rush to judgment" and a subterfuge to cut off further public input.

Indeed, comments by some Board members at the May 7 meeting implied that there had been pre-meeting discussions, perhaps in executive session, during which the Board had decided to adopt F.L.A.S.H. District parents, including our clients, have appreciated the opportunity to present views to the Committee and, on this one occasion, to the Board, as they have sought to guide the elected Board members in making a decision that was in the best interests of their children, including whether a sex education program should be presented to District students at all, and, if so, which curriculum should be presented. We are sure you will agree that public participation to date has been substantial and valuable. However, the Board's apparent rubber stamp approval of the Committee's recommendation greatly troubles our clients. While this decision will no doubt be of pecuniary benefit to Planned Parenthood, it has undermined the democratic process the Board was elected to preserve and protect and is not in the best interests of either TUHSD children or their parents.

That there was a vote at the Board meeting, without the promised Board analysis of the Committee's recommendation or any real consideration of citizen input, lends credence to our clients' concern that the decision to adopt F.L.A.S.H. was the plan from the beginning and that the meetings from January to date, including the Board's May 7 meeting, have provided a façade of legitimacy to a fore-ordained decision. While we have appreciated your repeated assurances that TUHSD will comply with Arizona law and District policies, given the outcome of the Board's May 7 meeting, our clients have no reason to believe that will be so.

Our clients' concerns are, we believe, validated by the process of, as well as the presentations to, the Board. First, Ms. Zita Johnson, Committee chair, recommended the Board adopt F.L.A.S.H., one of the programs recommended to the Committee by Planned Parenthood on January 7. However, Ms. Johnson failed to inform the Board of the extensive public opposition to F.L.A.S.H. and to Planned Parenthood's involvement with it that the Committee had received from the hundreds of parents and others who had attended prior Committee meetings. The Board, if aware of this substantial public opposition, did not appear to give it serious consideration.

Ms. Johnson's presentation consisted of limited quotes attributed to various Committee members, all of which were supportive of F.L.A.S.H. Interestingly, Ms. Johnson attributed one quote favorable to F.L.A.S.H. to Committee Member Kennedy,

but failed to inform the Board that Ms. Kennedy had in fact advised the Committee that "Choosing the Best" was *more accurate medically* than F.L.A.S.H.

It is also important to note that this observation by Ms. Kennedy was consistent with the observation made at the Board's May 7 meeting by Board member Moses Sanchez who informed the Board that his wife, Dr. Maria Manriquez-Sanchez, an Ob/Gyn and thus an expert on the topic of sex education, had reviewed both F.L.A.S.H. and Choosing the Best and had concluded that Choosing the Best was *more medically accurate* than F.L.A.S.H. Mr. Sanchez further informed the Board that information he had learned at a recent Ob/Gyn conference he had attended with his wife confirmed this position.

Importantly, even after hearing presentations about five different programs, including F.L.A.S.H. and Choosing the Best, some Committee members had expressed concern that they did not know much about other curricula that was available and asked to examine other curricula. There is no evidence any curriculum, other than those presented to the Committee by Planned Parenthood on January 7 and the two presented to the Committee on February 4, was ever presented to or considered by either the Committee or the Board at any time during this process.

Our clients and the hundreds of parents and concerned citizens who have attended these meetings over the last several months are also disappointed that the Committee's presentation to the Board of Choosing the Best and F.L.A.S.H. was misleading. One slide entitled "analysis" displayed to the Board by Ms. Johnson asserted, without factual support or further explanation, that Choosing the Best was completely or partially lacking in certain areas.

A second slide entitled "Financial Analysis" displayed to the Board by Ms. Johnson represented that the Choosing the Best would cost the District \$18,700. **This representation is false.**

As was made clear by Ms. Leonard during her February 4, 2014, Committee presentation, regardless of who was the program administrator or instructor, **there would be no cost to the District if it selected Choosing the Best**, provided the District taught Choosing the Best with fidelity. Ms. Leonard has verified to us the accuracy of this fact. This misleading representation to the Board by the Committee is particularly concerning given that Board member Sanchez expressed that his "hesitation" with selecting Choosing the Best was based on its reported cost to the District.

Ms. Johnson further informed the Board, without factual support, that the District would have to pay \$16,500 for 3,300 student manuals if it elected to use Choosing the Best. In fact, student manuals are not now required in other Arizona school districts that utilize Choosing the Best; thus, this is neither a required nor necessary expense and only served to inflate the apparent cost of Choosing the Best in comparison to the cost the Committee represented to the Board for F.L.A.S.H.

Indeed, the “grand total” cost of F.L.A.S.H. was represented by the Committee to the Board to be \$1,102. Notably, this did not include any costs associated with lessons “to be copied by the teacher,” i.e., the 3,300 copies the Committee asserted, though inaccurately, were required for Choosing the Best. Additionally, the Committee failed to inform the Board that there will be costs to the District, presumably to be paid to Planned Parenthood, for training TUHSD teachers to present F.L.A.S.H. to students (unless, as our clients suspect will be the case, Planned Parenthood actually presents F.L.A.S.H.). The enclosed F.L.A.S.H. summary, presented by Planned Parenthood’s representative Vicki Hadd-Wissler to the Committee on January 7, 2014, relates that Planned Parenthood’s charges for such training were “negotiable,” a fact not presented by the Committee to the Board at its May 7 meeting.

We are informed that, during the Board’s public comment period on May 7, Board member David Schapira seemed to designate that a particular individual be called as the next speaker. The individual who spoke next suggested that the District’s sex education curriculum should be “values” free; that 95% of people engaged in sexual intercourse outside of marriage; and that, in view of these “facts,” our clients’ children should be taught accordingly.

This view is, of course, at the heart of the problem that was generated by the Committee’s initial determination to consider (and ultimately recommend to the Board) that a Planned Parenthood-endorsed program be selected as the sex education curriculum to be presented to our clients’ children. Our clients, as do most of the hundreds of parents who have attended Committee meetings and the May 7 Board meeting over the last several months, strongly believe that values required by Arizona law, including abstinence, should be taught to their children; not values promoted by Planned Parenthood or by F.L.A.S.H.

In this regard, I am sure you will recall the outrage expressed by one parent at the February 4, 2014 Committee meeting which you attended over a graphic Planned Parenthood billboard near a Tempe-area junior high school that, as this parent described it, depicted a condom with the words “Get It On for Free.” This parent observed that this Planned Parenthood AZ billboard was hardly “age appropriate” as Planned Parenthood assured any program with which it was involved would be. In addition, we have previously advised the Board of Planned Parenthood’s pro-abortion agenda. *See* <http://www.adfmedia.org/files/TempeLetter.pdf>. Clearly, Planned Parenthood profits from its promotion of risky sexual behavior and promotes promiscuity, including by our children, in Arizona and around the country.

It is unacceptable to our clients and to most parents for the District to accept the representation that because “everyone” engages in irresponsible sexual activity, our schoolchildren should be taught that such conduct should be embraced as acceptable. Our clients, as do most parents, want their children to be taught responsible and positive values, including abstinence, not destructive values that emphasize unrestrained and

irresponsible sexual promiscuity and access to Planned Parenthood's abortion mills after the near-certain result of such sexual promiscuity – an unwanted pregnancy.

We also wish to object to the leadership role assumed by Board member David Schapira in the Board's May 7 vote and decision. As described above, it appeared to those present that Mr. Schapira orchestrated presentations to the Board as well as the result. He requested that a specific witness be called to testify when our clients and others opposed to F.L.A.S.H. greatly outnumbered proponents of F.L.A.S.H. He presented a lengthy defense to Alliance Defending Freedom's request that he be recused from Board consideration of sex education programs because of his close financial and pecuniary ties to Planned Parenthood. See <http://www.adfmedia.org/files/TUHSD-RecusalLetter.pdf>. While we appreciate that Mr. Schapira has now apparently disclosed his pecuniary interest to the Board, it was inappropriate for him to participate in the Board's May 7 decision. Nevertheless, Mr. Schapira made the motion for the Board to adopt F.L.A.S.H. and was the deciding vote in the Board's 3 to 2 decision, just as had been recommended by his ally Planned Parenthood.

While Mr. Schapira also defended Planned Parenthood and praised the "services" it provides to Arizonans, he neglected to inform the Board that Planned Parenthood has been recently criticized for "intentionally miscoding" the rape of a young girl so as to avoid compliance with Arizona's mandatory reporting law, and that at least 11 different young girls, ages 12 to 17, were raped by the same rapist. According to reports (see www.azcentral.com/story/news/local/pinal/2014/05/08/pinal-deputies-allege-planned-parenthood-report-assault/8837543/), at least four of the rapes could have been prevented if Planned Parenthood had complied with Arizona law.

Planned Parenthood's protection of the rapist and its refusal to comply with Arizona's mandatory reporting law is consistent with similar actions taken by other Planned Parenthood affiliates (see <http://www.adfmedia.org/News/PRDetail/4740>). In our and our clients' view, such disregard by Planned Parenthood of Arizona law and the need to protect the safety and rights of these young girls is "evidence" that Planned Parenthood will not comply with Arizona law or District's policy in the presentation of F.L.A.S.H. to our clients' children.

As we and our clients have previously advised the Board and the Committee, F.L.A.S.H. does not now comply with Arizona law or District policy. F.L.A.S.H. does not give preference to abstinence, childbirth and adoption. As represented by Board member Moses and others, F.L.A.S.H. is not as medically accurate as Choosing the Best. As presented by Planned Parenthood, F.L.A.S.H. will promote a homosexual lifestyle or portray it as a positive alternative to a heterosexual lifestyle, will suggest that some methods of sex are actually "safe," and will not stress that our children should abstain from sex until they are mature adults.

On behalf of our clients, we express our deep regret at the Board's May 7 decision. Moreover, in view of the foregoing, some of which facts may not have been

known by the Board, we respectfully request that the Board reconsider its May 7 decision and that, if and when it does so, the Board recuse Mr. Schapira from any involvement in the Board's decision.

No matter the Board's decision to our request, you may be sure that Alliance Defending Freedom will continue to monitor the District, Planned Parenthood, and the sex education program the District presents to our clients' children in the future and take appropriate action, including litigation, if necessary.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael J. Norton", with a long horizontal flourish extending to the right.

Jeremy Tedesco
Natalie L. Decker
Michael J. Norton
Alliance Defending Freedom