



**The American Civil Liberties Union**

Written Statement  
For a Hearing on

**Domestic Abstinence-Only Programs: Assessing the Evidence**

Submitted to the House Committee on Oversight and Government Reform

Wednesday, April 23, 2008

**Caroline Fredrickson, Director**  
ACLU Washington Legislative Office

**Vania Leveille, Legislative Counsel**  
ACLU Washington Legislative Office

On behalf of the American Civil Liberties Union (ACLU), a nonpartisan public interest organization dedicated to protecting the constitutional rights of individuals, and its hundreds of thousands of members, activists, and 53 affiliates nationwide, we would like to thank Chairman Waxman, Ranking Member Davis, and the esteemed Committee on Oversight and Government Reform for the opportunity to submit a statement for the record of this hearing on “Domestic Abstinence-Only Programs: Assessing the Evidence.”

Since 1996, Congress has appropriated more than a billion dollars for educational programs that focus exclusively on abstinence and censor other information that can help young people make responsible, healthy, and safe decisions about sexual activity. While federal funding for abstinence-only-until marriage programs has increased steadily to more than \$176 million annually, there are no federal funds dedicated to supporting sexuality education programs that teach both abstinence and contraceptive use.

We applaud the Committee’s timely and appropriate scrutiny of abstinence-only-until-marriage programs. Scientific evidence has accumulated over the past years that casts serious doubts upon the effectiveness of these programs and calls into question the wisdom of a substantial federal investment exceeding one billion dollars. Indeed, the evidence points to but one conclusion: abstinence-only programs represent a failed and ideologically-based policy. They are not based on science or on good public health policy. Most troubling, they represent a purposeful campaign to mislead, distort, stifle and censor; they encourage a disturbing trend to politicize science; and they express a disdain for knowledge and the free exchange of ideas that stands at the heart of our democracy and historical traditions.

Let us be clear: where local communities choose to offer young people instruction and guidance about human sexuality, abstinence should be an important component of that educational program. However, federally funded programs focusing exclusively on abstinence work against good public health policy and also raise serious civil liberties concerns. Congress ought not to support programs that censor information, reinforce gender stereotypes, provide inaccurate and misleading information, promote religion in the classroom, serve a narrow ideological agenda, and jeopardize the well-being of young people. Funding for abstinence-only programs should end immediately.

### **Some Abstinence-Only Programs Impermissibly Promote Religion**

In violation of First Amendment guarantees, some federally funded abstinence-only programs contain religious teachings about proper sexual behavior and values.

The Supreme Court has made clear that religion is impermissibly advanced, and the Constitution violated, when government aid is used to fund “specifically religious activit[ies]” even within “an otherwise substantially secular setting.” *Bowen v. Kendrick*, 487 U.S. 589,621 (1988) (internal quotation and citation omitted). Indeed, it was in *Bowen*, a case challenging the constitutionality of the Adolescent Family Life Act and its appropriation of funds for abstinence-only education, that Justice O’Connor emphasized, “any use of public funds to promote religious doctrines violates the Establishment Clause.” *Id.* at 623 (O’Connor, J. concurring).

Although federal funding guidelines do not permit abstinence-only grantees to convey overt religious messages or to impose religious viewpoints, in practice, many of these programs do precisely that. For example, in *ACLU v. Leavitt*, the ACLU showed how federal dollars were supporting an overtly religious abstinence-only program called The Silver Ring Thing, which had been awarded more than \$1 million dollars in federal money in the prior three years.

During the Silver Ring Thing's flagship three-hour program, members testified that accepting Jesus Christ improved their lives, quoted Bible passages, and urged audience members to ask the Lord Jesus Christ to come into their lives. As a result of the ACLU's lawsuit, federal officials suspended federal funding of the Silver Ring Thing. And, in February 2006, the ACLU announced a settlement with HHS, under which HHS agreed that it would not fund the program as currently structured.

Most recently, in May 2007, the ACLU expressed concern to HHS about the misuse of abstinence-only funds by two grantees funded by the federal Community Based Abstinence Education Program (CBAE). Specifically, one Oregon grantee created the *Stop and Think* abstinence program and contracted with another grantee to teach the program in various venues across the country. In order to use the program, the second grantee had to sign a contract containing the following conditions:

- 1) The presenter and supervisor
  - a) possess an authentic relationship with Jesus Christ
  - b) possess knowledge of the word of God, and the ability to communicate it's [sic] truth
  - c) exhibit a loving and merciful spirit
  - d) attend a Bible believing local church or fellowship

This contract was provided to HHS as part of the second grantee's application for CBAE funding. Moreover, an advertisement by one of the grantees for a full-time abstinence director "responsible for overall implementation of the *Stop & Think* [program]" directed applicants to send a resume and "letter of Christian testimony."

A direct grant of government dollars violates the Constitution when it is used to fund specifically religious activities. In the cited circumstances, one grantee required, and another agreed, that all presenters of the federally funded *Stop and Think* program hold particular religious beliefs. Additionally, proselytization was an essential component of the *Stop and Think* program and the program contained religious or sectarian messages. As a result of the ACLU's complaint, HHS conducted investigations of both grantees and reported that the Oregon grantee would require "all abstinence education program staff to sign a statement of understanding that they may not proselytize while working with any federally funded program." In addition, HHS found that though the other grantee, which had been organizing "purity balls," "took steps to separate [religious and non-religious] programs, the separation between the two events could in the future be strengthened."

## **Abstinence-only Programs Censor Information**

Statistics reveal that teens need information about contraception and sexual health: nearly two-thirds of all high school seniors in the U.S. have had sexual intercourse; approximately 822,000 pregnancies occurred among 15-19 year old women in 2000; and each year, approximately 9.1 million 15-24 year olds are infected with sexually transmitted infections.

However, recipients of abstinence-only funds are censored in the information they can provide to students. Federal funding can be used solely to offer programs with the “exclusive purpose” of teaching the benefits of abstinence programs. In the context of these programs, grantees may not provide a participating adolescent with any information that is inconsistent with the narrow eight-point definition of abstinence-only education. These programs thus leave teens without information critical to protecting their health and preventing pregnancy.

The government’s mandate thus censors the transmission of vital information about human sexuality and reproduction. And in the schools, this funding serves to force many teachers to avoid providing educational information they consider valuable to teens. A 1999 nationally representative survey of 7th-12th grade teachers in the five specialties most often responsible for sex education found that a strong majority believed sexuality education courses should cover birth control methods (93.4%), factual information about abortion (89%), where to go for birth control (88.8%), the correct way to use a condom (82%), and sexual orientation (77.8%), among other topics.

The federal government should not censor educational programs concerning the communication of vital information to young people.

## **Abstinence-only Programs Provide Inaccurate and Misleading Information**

Many federally funded abstinence-only programs present teens with inaccurate information. A study conducted by the House of Representatives Committee on Government Reform found that 11 of the 13 abstinence-only curricula used by CBAE programs “contain major errors and distortions about public health information,” including HIV and other STD prevention, pregnancy prevention, and condom effectiveness. The problems have not gone away.

Most recently, the ACLU conducted investigations into HHS violations of a federal law relating to medical accuracy of educational materials. Specifically, by letter dated April 25, 2007, the ACLU called on HHS to take immediate action to remedy its ongoing violations of 42 U.S.C. § 247b-17(c)(2), a federal statute that requires that a broad category of educational materials must include medically accurate information about the effectiveness of condoms in preventing STDs.

In that letter, and other supporting documents, we addressed a number of abstinence-only materials that are covered by 247b-17(c)(2), but failed to meet its requirements. Instead, they omitted vital information about condom effectiveness and contained inaccuracies suggesting that condoms fail to protect against infection, when in fact they are highly effective at doing so. Following that initial complaint, the ACLU communicated over the course of several months

with officials at ACF in order to ensure that particularly problematic curricula identified in its letter were either corrected or no longer funded. While the entity that produced one of those curricula, *Teen-Aid Inc.*, is no longer a CBAE grantee, the other, *Why kNOw*, continues to receive federal funds. Some improvements to the *Why kNOw* materials were made after our complaint. But, as we have advised HHS, serious inaccuracies remain—despite HHS’s assurances that it reviews for, and demands, medical accuracy in all grantees’ educational materials. Thus, it is clear that HHS is unable, or simply unwilling, to ensure that abstinence-only grantees satisfy minimum standards of scientific and medical accuracy.

Congress should not support the dissemination of medically inaccurate and misleading information. Rather, it should fund programs that provide teens with medically accurate and complete information about abstinence as well as contraceptives.

### **Abstinence-Only Programs are Ineffective**

There is no conclusive evidence that abstinence-only programs, which teach students to abstain from sex until married and generally only teach about contraceptive failure, reduce the rate of unintended pregnancy or STDs.

Moreover, studies show that most abstinence-only programs do not help teens delay having sex, and some show evidence that these programs actually deter teens who become sexually active from protecting themselves from unintended pregnancy or STDs.

In April 2007, a long-awaited study by Mathematica Policy Research Inc., on behalf of HHS, showed that abstinence-only programs don't work. This congressionally commissioned study, *Impacts of Four Title V, Section 510 Abstinence Education Programs*, evaluated several federally funded programs and found that teens who participated in them were just as likely to have sex as teens who did not participate. Specifically, the report concluded that, “[f]indings indicate that youth in the program group were no more likely than control group youth to have abstained from sex and, among those who reported having had sex, they had similar numbers of sexual partners and had initiated sex at the same mean age.”

In light of recent research highlighting the lack of medical accuracy of these programs, and at a time when the Administration emphasizes accountability in funding only programs with demonstrated success, the continued funding of unproven programs is deeply troubling.

### **Many Abstinence-Only Programs are Hostile to Gay and Lesbian Youth**

Federally funded abstinence-only programs marginalize gay and lesbian students and stigmatize homosexuality by requiring programs to teach that a “mutually faithful monogamous relationship in [the] context of marriage is the expected standard of human sexual activity.” Such a message rejects the idea of sexual intimacy for lesbians and gays, ignores their need for critical information about protecting themselves from STDs in same-sex relationships, and creates a hostile learning environment.

Indeed, a study of Ohio abstinence-only programs concluded, “one of the greatest flaws of abstinence programs is their inherent exclusion of [lesbian, gay, bisexual, and transgender] youth.” A recent review of the leading abstinence-only curricula found that most address same-sex sexual behavior only within the context of promiscuity and disease, and several are overtly hostile to lesbians and gay men.

For example, in its parent-teacher guide, an abstinence-only program called “Facing Reality” instructs educators to teach students that homosexuals with AIDS are now suffering for the “choices” they made regarding their sexual orientation. Materials from an abstinence-only program used recently in Alabama state that “same sex ‘union’ cannot provide an adequate means of achieving a genuine physical relationship with another human being because this type of ‘union’ is contrary to the laws of nature.”

By positioning sexual relations within a heterosexual marriage as the “standard” for sexual activity and teaching that STDs are a form of moral punishment for homosexuality, abstinence-only programs undermine efforts to educate students about protecting their health and create a hostile learning environment for lesbian and gay students or the children of lesbian, gay and/or single parents.

Federal funding of such programs should not be tolerated.

### **Conclusion**

The ACLU applauds the Committee’s examination of abstinence-only programs and urges continued action to bring this failed policy to an end.