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February 16, 2006

Honorable Michael O. Leavitt
Secretary
Department of Health and Human Services
200 Independence Avenue
Washington, DC 20201

Dear Secretary Leavitt:

I am writing to express a number of serious concerns regarding the funding guidelines recently announced by the Community-Based Abstinence Education Program. The new guidelines eliminate the requirement that federally funded abstinence-only education programs have health-based goals; require grantees to teach abstinence from any "sexual stimulation" between two people, a term so broad it could encompass kissing; require federally funded abstinence-only education programs to teach that "marriage" can occur only between a man and a woman; and require no meaningful measures of grantee performance.

Under the new guidelines, funding for abstinence education will be awarded based on ideology, not the effectiveness of programs in reducing teen sexual activity, teen pregnancy, and teen sexually transmitted disease rates. This is a dangerous development, especially since the amount of federal funding for abstinence-only funding is increasing rapidly.

Background

The Community-Based Abstinence Education (CBAE) program is the largest and fastest growing source of federal abstinence-only-until-marriage funding. It provides direct federal grants to community-based organizations that exclusively teach youth abstinence until marriage. In FY 2006, this program will receive $113 million in federal funding, an increase of 465% since FY 2001, the first year of the program.[1]

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[1] Department of Health and Human Services, *Budget in Brief, Fiscal Year 2007* (online at http://www.hhs.gov/budget/07budget/2007BudgetInBrief.pdf). In fiscal year 2001, the CBAE program received $20 million. Department of Health and Human Services, Health Resources and Services Administration, Maternal and Child Health Bureau, *The Special Projects of Regional and National Significance Community-Based Abstinence Education Program, 2001*

The statute creating CBAE required that grantees adhere to a rigid definition of "abstinence education" established in the 1996 welfare reform bill.[2] The CBAE statute requires that grantees not provide any other sex education in the same setting.[3] Therefore, youth in these programs may not learn any methods for prevention of disease or unwanted pregnancy aside from abstinence until marriage.

A report I released in December 2004 found serious scientific and medical errors in 11 of the 13 most popular federally funded curricula.[4] The report found that in 2003, over two thirds of CBAE programs used curricula containing false, misleading, or distorted information about

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Grantees' Annual Summary (Feb. 2004) (online at ftp://ftp.hrsa.gov/mchb/abstinence/SPRANS01annualrpt.pdf).

[2] Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Pub. L. No. 104-193 (1996) (hereinafter "PRWORA"). PRWORA §510(b) states that a qualifying program:

> (A) has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;
> (B) teaches abstinence from sexual activity outside marriage as the expected standard for all school age children;
> (C) teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;
> (D) teaches that a mutually faithful monogamous relationship in context of marriage is the expected standard of human sexual activity;
> (E) teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;
> (F) teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society;
> (G) teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and
> (H) teaches the importance of attaining self-sufficiency before engaging in sexual activity.

[3] 106 Pub. L. 246 H.R. 4425 (July 13, 2000) provides "[t]hat such grants shall be made only to public and private entities which agree that, with respect to an adolescent to whom the entities provide abstinence education under such grant, the entities will not provide to that adolescent any other education regarding sexual conduct, except that, in the case of an entity expressly required by law to provide health information or services the adolescent shall not be precluded from seeking health information or services from the entity in a different setting than the setting in which the abstinence education was provided."

[4] Minority Staff, House Government Reform Committee, *The Content of Federally Funded Abstinence-Only Education Programs* (Dec. 2004) (online at http://reform.democrats.house.gov/Documents/20041201102153-50247.pdf).

reproductive health. In response to the report, Administration officials have denied that these curricula had any problems at all.[5]

The New Funding Announcement

On January 25, 2006, the Administration for Children and Families announced the availability of funding for a new round of grants for abstinence-only education programs.[6] As a part of this announcement, the agency revised the guidelines for the award of grants. The effect of the new guidelines is to move the program in exactly the wrong direction. Instead of requiring federally funded abstinence-only education programs to use accurate curricula and meet objective performance standards, the new guidelines base funding decisions on ideological standards, not sound science.

The Goals of Federally-Funded Abstinence Education Programs

Last year, abstinence education programs had to be designed to achieve objective health outcomes to be eligible for federal funding. According to the CBAE announcement issued in May 2005:

> This funding opportunity targets the implementation of community-based abstinence educational programs designed to: (a) Reduce the proportion of adolescents who engage in premarital sexual activity, including but not limited to sexual intercourse; (b) reduce the incidence of out-of-wedlock pregnancies among adolescents; and (c) reduce the incidence of sexually transmitted diseases among adolescents.[7]

This year, these health goals are eliminated. The new announcement states:

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[5] For example, Deputy Assistant Secretary for Population Affairs Alma Golden asserted "This report misses the boat. These issues have been raised before and discredited." U.S. Department of Health and Human Services, *Statement by Alma Golden, M.D., Deputy Assistant Secretary for Population Affairs, Office of Public Health and Science Regarding Abstinence Education Report of the House Committee on Government Reform* (Dec. 1, 2004) (online at http://www.dhhs.gov/news/press/2004pres/20041201.html).

[6] Department of Health and Human Services, Administration for Children and Families, *Community-Based Abstinence Education Program, Funding Opportunity Number HHS-2006-ACF-ACYF-AE-0099* (Jan. 25, 2006) (online at www.acf.hhs.gov/grants/pdf/HHS-2006-ACF-ACYF-AE-0099.pdf).

[7] Department of Health and Human Services, Administration for Children and Families, *Community-Based Abstinence Education Program, Funding Opportunity Number HHS-2005-ACF-ACYF-AE-0099* (May 20, 2005) (online at www.acf.hhs.gov/grants/pdf/HHS-2005-ACF-ACYF-AE-0099.pdf).

> The purpose of these programs is to educate young people and create an environment within communities that supports teen decisions to postpone sexual activity until marriage.[8]

There is no explanation for the omission of the public health purposes of the program.

Definition of Abstinence

One flaw of federal abstinence-only programs has been the lack of a clear definition of "abstinence." The new funding announcement provides an overbroad definition that exacerbates the problem:

> Abstinence means voluntarily choosing not to engage in sexual activity until marriage. Sexual activity refers to any type of genital contact or sexual stimulation between two persons including, but not limited to, sexual intercourse.[9]

Under this broad definition, "sexual stimulation" could include kissing. Unless it is the intent of the federal government to spend money to encourage teens to refrain from kissing until marriage, the definition should be revised to reflect those activities that cause a risk of unwanted pregnancy or sexually transmitted disease.

Definition of Marriage

Another flaw in the abstinence-until-marriage program has been its irrelevance to gay and lesbian youth. The new funding announcement aggravates this problem with its definition of "marriage." According to the funding guidelines:

> Throughout the entire curriculum, the term "marriage" must be defined as "only a legal union between one man and one woman as a husband and wife," and the word "spouse" refers only to a person of the opposite sex who is a husband or a wife. (Consistent with Federal law).[10]

This definition conflicts with state law.[11] More important, the benefits of abstinence from teenage sex should be taught in a way that does not further alienate gay and lesbian youth.

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[8] Administration for Children and Families (2006), *supra* note 6.

[9] *Id.*

[10] *Id.*

[11] Marriage between two people of the same sex has been legal in Massachusetts since May 2004; lawsuits are pending in other states.

Unsubstantiated Health Claims

One of the major problems with current abstinence-only education programs is that they teach false or misleading information to youth. For example, the study that I released found inaccurate information on the effectiveness of condoms in many of the curricula reviewed, including extremely exaggerated failure rates and the false claim that HIV and other pathogens can "pass through" condoms.[12]

The new funding announcement fails to take any steps to address this problem. The funding announcement provides that grant programs will be reviewed by "non-Federal reviewers" on "a panel of experts knowledgeable in the areas of abstinence education, youth development, and social/human services."[13] There is no mention of review for scientific or medical accuracy.

Lack of Meaningful Evaluation

The new funding announcement emphasizes that applicants will engage in substantial measurement and evaluation of their programs. However, the only required measurements appear to be the number of youth served; the hours of service provided to each; and the number who complete the program. The announcement notes:

> Successful applicants will choose additional outputs that will allow for effective monitoring and management of the project. Outputs may include tracking the number of staff trained to provide services, the number of events hosted, number of marketing materials distributed, etc.
>
> Successful applicants will also contract with third-party evaluators to select and monitor outcomes that show that the project activities are accomplishing the goals of the project. Outcomes may include assessing changes in attitudes or behaviors of program participants that show the positive consequences of adopting abstinence-until-marriage as a personal standard.[14]

The first list of outputs appears extremely minimal; in fact, it is hard to imagine a competently run program of any sort that would not be able to provide them. More problematic, the latter set purports to show that the program is accomplishing its goals, yet only suggests, rather than requires, assessment of behavior change.

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[12] House Government Reform Committee Minority Staff, *supra* note 4.

[13] Administration for Children and Families (2006), *supra* note 6.

[14] *Id.*

The attempt to focus on measurements most likely to make abstinence-only education appear "effective" is not new.[15] In late 2001, the Bush Administration dropped meaningful measurement requirements then in place for CBAE programs, which included birth rates and the number of teens who had had intercourse, and replaced them with far less meaningful measures such as attendance and attitudes.[16] A 2001 review of scientific evidence concluded that "'adolescents' sexual beliefs, attitudes, and even intentions are ... weak proxies for actual behaviors."[17] According to a major HHS-funded report, "hallmarks of good evaluation" in programs designed to reduce teen pregnancy rates are evaluations that "[m]easure behavior[s], not just attitudes and beliefs."[18]

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[15] *Id.*

[16] The new measures are:

- Proportion of program participants who successfully complete or remain enrolled in an abstinence-only education program.
- Proportion of adolescents who understand that abstinence from sexual activity is the only certain way [*sic*] to avoid out-of-wedlock pregnancy and sexually transmitted disease.
- Proportion of adolescents who indicate understanding of the social, psychological, and health gains to be realized by abstaining from premarital sexual activity.
- Proportion of participants who report they have refusal or assertiveness skills necessary to resist sexual urges and advances.
- Proportion of youth who commit to abstain from sexual activity until marriage.
- Proportion of participants who intend to avoid situations and risk, such as drug use and alcohol consumption, which make them more vulnerable to sexual advances and urges.

U.S. Department of Health and Human Services, *SPRANS Community-Based Abstinence Education Program, Pre-Application Workshop, Application Narrative* (Dec. 2002) (online at http://web.archive.org/web/20030324065935/http://www.mchb.hrsa.gov/programs/adolescents/abedguidetext.htm).

[17] Douglas Kirby, National Campaign to Prevent Teen Pregnancy, *Emerging Answers: Research Findings on Programs to Reduce Teen Pregnancy* 78 (2001).

[18] National Campaign to Prevent Teen Pregnancy, *Get Organized: A Guide to Preventing Teen Pregnancy* (Sept. 1999) (online at www.teenpregnancy.org/resources/reading/getorgan.asp).

Conclusion

The new funding announcement for abstinence-only-until-marriage programs places ideology ahead of teen health and well-being. The new guidelines omit public health purposes, insert definitions that track not health concerns but narrow moral views, contain no review for scientific accuracy, and measure attendance and attitudes instead of actual health outcomes. This is a program driven by fealty to a political constituency, not public health or scientific evidence.

I ask that the entire funding announcement be retracted. The public health purposes should be restored and should inform the terms of the program. Definitions should only be included if they further public health goals; the content of programs should be reviewed for scientific accuracy; and evaluation requirements should reflect actual health outcomes.

Sincerely,

Henry A. Waxman
Ranking Minority Member