



May 2, 2007

Dr. Bruce Goldberg
Director

Oregon Department of Human Services
500 Summer Street NE, E-15
Salem, Oregon 97301-1097

AMERICAN CIVIL
LIBERTIES UNION
OF OREGON

P.O. BOX 40585
PORTLAND, OR 97240
T/503.227.3186

By Federal Express

Re: Abstinence-Only-Until-Marriage Funding for Lane Pregnancy Support Center

Dear Dr. Goldberg:

P.O. BOX 50426
EUGENE, OR 97405
T/541.345.6162

WWW.ACLU-OR.ORG
INFO@ACLU-OR.ORG

We write to express concern about the disbursement of abstinence-only-until-marriage funding by the Department of Human Services (DHS) to the Lane Pregnancy Support Center (Lane). Evidence strongly suggests that this funding violates both the Establishment Clause of the United States Constitution and Article I, Section 5 of the Oregon Constitution. We ask that you immediately investigate this matter and provide the results of your investigation to us. Anticipating that your investigation will confirm our own, we request that you take the steps necessary to remedy this misuse of public funds. If DHS does not satisfactorily respond to these requests by the end of this month, the ACLU of Oregon will consider all necessary and appropriate measures to remedy the situation, including legal action.

As you know, DHS receives an annual grant from the United States Department of Health and Human Services (HHS) through the Title V, Section 510 abstinence-only-until-marriage program. DHS currently sub-grants a portion of that Section 510 money – as of 2006, \$37,500 annually – to Lane.¹ Lane, in turn, uses this funding to support its *Stop and Think* abstinence program, which is presented to adolescents in schools throughout Oregon.²

In addition to creating the *Stop and Think* program and presenting it to Oregon adolescents, Lane contracts with other organizations to present *Stop and Think* in Oregon and other states.³ We have evidence that Lane has conditioned use of its *Stop and Think*

¹ See Exhibit A, Letter from Carolyn Ross, Food Stamp and Prevention Program Manager, Office of Self Sufficiency Programs, Oregon Department of Human Services, to Chakshu Patel, American Civil Liberties Union Foundation (June 5, 2006) (stating that Oregon uses Section 510 funding to contract with the "Lane Pregnancy Resource Center").

² See Exhibit B, Lane Pregnancy Support Center, *Stop and Think*, <http://www.stopthink.net/history.html> (last visited May 2, 2007) ("Stop and Think in Oregon is funded in part through a grant from the Oregon Department of Human Resources [sic]. These funds have allowed the program to expand throughout Oregon").

³ See Exhibit C, Lane Pregnancy Support Center, *Stop and Think*, <http://www.stopthink.net/locations.html> (last visited May 2, 2007). The website lists the names and contact information for sixteen organizations, in addition to Lane, that present the *Stop and Think* program. Nine of these other organizations are also located in Oregon.

program on receipt of a Christian testimonial from program presenters. Specifically, our national office recently obtained, through a Freedom of Information Act request to HHS, documents pertaining to the federal abstinence funding received by Northern Hills Pregnancy Care Center (Northern Hills, or NPHCC) in Spearfish, South Dakota, a direct recipient of federal abstinence funding through the Community Based Abstinence Education (CBAE) Program. ⁴ Included in these documents is the contract that Northern Hills signed in order to present the *Stop and Think* program. The contract includes some fairly standard clauses, such as providing for the payment of fees and stating that Lane “maintains all copyrights to the program.” It also explicitly requires that Northern Hills adhere to Christian beliefs and present the *Stop and Think* program accordingly. Specifically, the contract contains the following language:

I agree to use the *Stop and Think* program according to 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. ⁵

As recently as late February of this year, Northern Hills ran a series of classified ads that make clear that this contract remains in effect. The ads – which seek a full-time abstinence program director “responsible for overall implementation of the Stop & Think abstinence-until-marriage program” – direct applicants to send both a resume and “letter of Christian testimony” to Northern Hills. ⁶

Both the Federal and Oregon Constitutions are violated when a direct grant of government dollars funds specifically religious activities. ⁷ The above-quoted language demonstrates that Lane requires, as a condition of presenting its publicly funded *Stop and Think* program, that all presenters hold particular religious beliefs. Such a contract

⁴ Lane itself (under the name “Eugene Pregnancy Center d.b.a. Lane Pregnancy Support Center”) has also received CBAE funding for the *Stop and Think* program. Accordingly, we are simultaneously sending a letter to HHS regarding Lane’s potential misuse of public abstinence-only funds. But the fact of Lane’s CBAE funding in no way lessens DHS’s responsibility to monitor Lane’s use of its Section 510 funds.

⁵ See Exhibit D, *Stop and Think* Contract for Program Operation (July 15, 2002); see also Exhibit E, Application of Northern Hills for CBAE funding 23 (June 15, 2005) (“NPHCC is an accredited affiliate of the Stop and Think National Program through a contract for program operation since 2002. We abide by the policies and procedures set by their Board of Directors. (See agreement with National Stop and Think in the appendix).”).

⁶ See Exhibit F, LAWRENCE COUNTY JOURNAL, <http://www.lawrencemountyjournal.com/admarket/employment?query=nhpcc> (last visited Feb. 27, 2007); MEADE COUNTY TIMES-TRIBUNE, <http://www.meadecountytimes.com/admarket/employment/> (last visited Feb. 27, 2007); BELLE FOURCHE POST & BEE, *Classifieds*, <http://www.bellefourchepostandbee.com/admarket/employment/> (last visited Feb. 27, 2007).

⁷ See *Bowen v. Kendrick*, 487 U.S. 589, 621 (1988) (construing Establishment Clause of First Amendment to the U.S. Constitution); *Dickman v. Sch. Dist. No. 62C, Oregon City, Clackamas County*, 366 P.2d 533, 543-44 (Or. 1961) (construing Article I, Section 5 of the Oregon Constitution).


renders funding by DHS of Lane and/or *Stop and Think* illegal and improper. Additionally, the requirement that *Stop and Think* presenters and supervisors have “the ability to communicate” the “Word of God” suggests that proselytization is an essential component of the *Stop and Think* program, and that the program contains religious or sectarian messages. Such religious content in a publicly funded program is likewise impermissible.

As a public agency, DHS has a duty to all Oregonians to monitor the use of public funds, to ensure that those funds are being used in a manner that is lawful, and to remedy their misuse – for instance, by stopping the flow of funds to grantees who have used them unlawfully; declining to re-issue funds to such grantees; and seeking recoupment of funds that have been misused. As public officials, DHS employees who oversee this funding have a legal obligation to ensure that it is not misused and to restore funds that are misused.⁸

Again, we ask that DHS immediately commence an investigation into its funding of Lane and/or *Stop and Think*. Specifically, we ask that DHS examine Lane’s contracts with other individuals and organizations to present the *Stop and Think* program, to ensure that this publicly funded program is available to all qualified presenters, regardless of their faith. We also ask that DHS examine the content of the *Stop and Think* program, to ensure that it does not include religious material. And we ask that DHS immediately take the steps necessary to remedy unconstitutional use of Section 510 funds by Lane. We intend to pursue a resolution of this matter, through legal action if necessary, if by the end of this month DHS has not responded satisfactorily to this request.

Thank you in advance for your attention to our concerns. We look forward to hearing back from you in the near future.

Sincerely,



Jann Carson
Associate Director
ACLU of Oregon

Enclosures

⁸ See, e.g., *American Civil Liberties Union of Louisiana v. Foster*, No. Civ. A 02-1440, 2002 WL 1733651, at *7-8 (E.D.La. July 24, 2002) (holding that promotion of religion in publicly funded abstinence-only program violated constitution and ordering public officials to better monitor funding and to remedy misuses); see also *Laskowski v. Spellings*, 443 F.3d 930 (7th Cir. 2006) (recoupment is an appropriate remedy for constitutional violations in Establishment Clause context), *petition for cert. filed*, 75 USLW 3248 (Oct. 24, 2006) (No. 06-582); OR. REV. STAT. § 294.100 (unlawful for public officials to expend money for any other or different purpose than provided by law).