

## Michigan Court Upholds Private Right of Action Under PPRA

KALAMAZOO, MI - A Federal district court judge in Michigan issued a groundbreaking ruling on December 16, holding that the federal Protection of Pupil Rights Amendment (PPRA) allows students and their parents to sue school officials who violate it. If sustained, this decision would give parents a powerful legal remedy against school teachers and counselors who ignore the 16-year-old law.

The Protection of Pupil Rights Amendment (sometimes called the Hatch Amendment), passed by Congress in 1978, forbids psychological testing or treatment of children without prior written parental consent. The law received no attention until 1984, when hundreds of parents at six regional public hearings demanded its enforcement. In response, the U.S. Dept of Education issued regulations setting up a procedure for handling PPRA complaints up to a possible cutoff of federal funds from offending schools.

The U.S. Department of Education, however, has steadfastly refused to follow through on the many PPRA complaints it has received. In the ten years since the regulations were issued, not a single school district has been threatened with cutoff of federal funds. As a result, school officials have routinely ignored the law and "stonewalled" parents who sought to invoke its provisions or penalties.

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David Melton, Rutherford Institute attorney, represents Jason Newkirk and his parents.

## New York Court Nixes Condoms Overturns Joe Fernandez's Plan to Bypass Parents

NEW YORK, NY - In a smashing victory for parents over arrogant public school administrators who are aiding and abetting promiscuity, the New York state courts have thrown out the distribution of condoms to New York City students. This is a crushing defeat for the Joseph Fernandez-David Dinkins-Joycelyn Elders "axis" which has been trying to force this practice down the throats of children despite parental opposition.

The Supreme Court of the State of New York, Appellate Division, held 3-to-2 on December 30 in the case of *Alfonso v. Fernandez* that the New York City public schools "are prohibited from dispensing condoms to unemancipated minor students without the prior consent of their parents or guardians, or without an opt-out provision." The court held that the distribution program violates the fundamental rights of the parents under the Fourteenth Amendment as well as the New York Constitution.

The case started when School Chancellor Joseph Fernandez started an HIV/AIDS Education Program that included giving condoms to students who request them. After intense lobbying by then-Mayor David Dinkins, the New York City Board of Education voted 4 to 3 in 1991 to approve the program. Since then, dozens of school districts across the country have implemented similar programs.

Two Staten Island couples with children in the schools brought suit to prohibit the condom availability component of the HIV/AIDS program. They contended that the condom program violated their fundamental right to direct the upbringing of their children, and also violated the Public Health Law, which requires the consent of parents for health services.

The court took note of the fact that many believe that the condom distribution plan is "tantamount to condoning promiscuity and sexual permissiveness, and that the exposure to condoms and their ready availability may encourage sexual relations among adolescents at an earlier age and/or with more frequency, thereby weakening their moral and religious values."

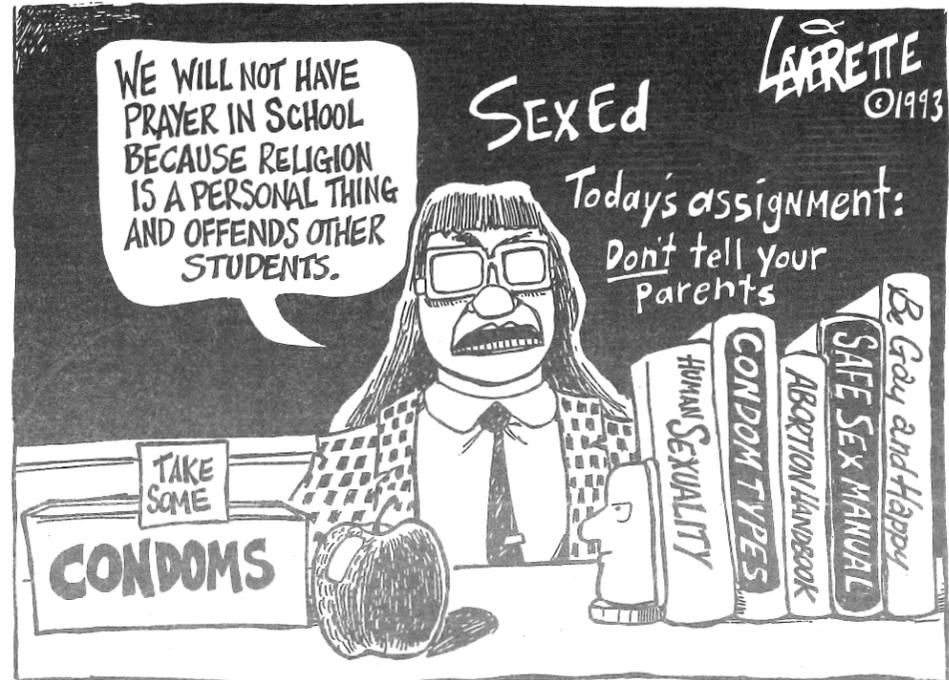
The New York schools contended that the condom program was merely "education" about HIV/AIDS. The court rebutted by saying that "supplying condoms to students upon request has absolutely nothing to do with education," but is a "health service" within the meaning of the law that requires parental consent when health services are provided to minors.

The court explained that the distribution of condoms in public schools, where attendance is compulsory, is quite different from making them available at clinics, where attendance is wholly voluntary, or

as part of a public assistance program. The court stated that parents should not be "compelled by state authority to send their children into an environment where they will be permitted, even encouraged, to obtain a contraceptive device, which the parents disfavor as a matter of private

health providers, who routinely prescribe and distribute contraceptives and offer other HIV/AIDS and reproductive health services to minors on the basis of their own consent."

The court responded: "The amici miss the point. The primary purpose of



belief."

Amicus curiae briefs filed by the New York Civil Liberties Union Foundation, the AIDS Project of the ACLU Foundation, and the Planned Parenthood Federation of America argued that the condom distribution is "consistent with the practice of

the Board of Education is not to serve as a health provider. Its reason for being is education. No judicial or legislative authority directs or permits teachers and other public school educators to dispense condoms to minor, unemancipated stu-

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## State Taxes Pay for Condom Ads

NEW ORLEANS, LA - The state of Louisiana is spending \$400,000 to launch a full-scale media barrage to "educate" the public on how to prevent the spread of HIV and other sexually transmitted diseases. The Louisiana Department of Health and Hospitals (DHH), Office of the Secretary, is responsible for conducting this advertising campaign. Its primary purpose is to "educate the high risk group of sexually active, low income, low educated, minorities." The secondary purpose is to "counterbalance the constant glamorization of casual sex which is routinely portrayed in movies, TV, music videos, and advertising."

The \$400,000 taxpayer-funded budget is for the period from January 1 through June 30, 1994, with additional funding to be requested on July 1 for the 1994/95 fiscal year. This figure will pay for a state-wide campaign using the entire media spectrum - billboards, radio, television, and print.

The purpose of the campaign is to convince Louisianians that all persons are at high risk, regardless of age, ethnicity, or sexual orientation, if they engage in unprotected sex.

The first goal of the media campaign is to portray abstinence as desirable and acceptable for early adolescents. The second goal is to portray condom use as "desirable and acceptable to those who are already sexually active and would find abstinence unacceptable." Normally, media content dealing with human sexuality has certain restrictions, but a special task force formed from the HIV/STD Prevention Media Advisory Board is addressing the need, in this case, to educate the public without these traditional restrictions.

The State of Louisiana is concerned that, despite the fact that the number of AIDS cases and HIV infections is growing, the threat of HIV infection is still not taken seriously by large numbers of Louisian-

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## EDUCATION BRIEFS

The powerful Michigan Education Association (MEA) is paying Michigan churches 75 cents for each signature obtained for a referendum that seeks to maintain property tax schedules to fund public education. The press is calling this a "payoff at the pulpit" by the teacher's union. The \$9 billion property tax schedules were eliminated last July when Gov. John Engler approved a plan to discontinue the property tax method of school funding.

Math teacher Adele Jones was fired from Sussex Central High School in Georgetown, Delaware for failing too many of her students. Although the math proficiency test scores went up after Ms. Jones began teaching at Sussex Central three years ago, school officials "like kids to feel good about themselves," explains Ms. Jones. During the 1991-92 academic year, 27% of her students failed, and 42% the year before. Ms. Jones was a hard-working teacher who arrived early and stayed late to give her students extra help. When the district's intention to fire Ms. Jones came out in April, 350 students staged a walk-out. Some carried signs that read: "I failed Ms. Jones' class, and it was my fault" or "Just because a student is failing doesn't mean the teacher is."

Homework, once a childhood fact of life, may be headed for extinction. In both public and private schools many teachers are assigning less homework, and fewer students are completing the assignments. But when they do complete their assignments, students rush through them in school hallways, write entire research papers during study hall, and scribble down shared answers during class breaks.

"The worm in the American education apple" is how *Forbes* magazine described the National Education Association in a nine-page cover story. In this revealing article, authors Peter Brimelow and Leslie Spencer uncover the NEA's education monopoly and political activities. *Forbes* editor James W. Michaels says he can't "remember a cover story that has evoked a greater response or more positive one." Glossy, color reprints of this June 7, 1993 article, are available from Eagle Forum for \$1 each, or 50 cents each for orders over 50.

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# Condom Clinics Will Cash in Under Clinton

WASHINGTON, DC - The Clinton "Health Security Act" (S.1757) unveiled in November 1993 devotes 40 pages to "Subtitle G - Comprehensive School Health Education; School-Related Health Services." (pp. 627-667) The bill schedules \$100 million for school-based clinics ("school-related health services") next year, increasing to \$400 million a year by 1999 (p. 656). These facilities are popularly known as Condom Clinics. In addition, the bill schedules \$50 million a year for "School Health Education," which is popularly known as sex education. (p. 631)

School-based clinic professionals consider the Clinton health bill "a watershed event." "It would be an incredible boost," according to Claire D. Brindis, an Administration adviser on adolescent health. "Beyond the financial commitment is a policy change. There is a partnership emerging between the Education Department and H.H.S."

The prospective grantees of this windfall of big bucks are already celebrating in anticipation of their good fortune. At an October conference in Pittsburgh hosted by the Center for Population Options, a research group nationally known as a leading promoter of condom clinics in public schools, one of the 250 directors present said, "This is a coming-out party for school-based clinics." Debra Hauser, director of the school health care division of the Center for Population Options, added, "The numbers [of condom clinics] are just going to fly" if the Clinton plan is adopted.

The school-based clinics in the Clinton health bill can be spent for "planning for the provision of school health services; recruitment, compensation, and training of health and administrative staff; the development of agreements with regional and corporate alliance health plans and the acquisition and development of equipment and information services," (p. 659) for "operating school health service sites," (p. 662), and for "health and social services, counseling services, and necessary referrals." (p. 664) Individual grants can be up to \$500,000 each. (p. 650)

To get the money to operate school clinics, you need to set up a "local community partnership" that includes a public school and a "community based organization that has a history of providing services to at-risk youth." (p. 657) This language greases the way for Planned Par-

enthood to operate the school condom clinics. Preference in grants will be given to "health professional shortage areas," (p. 658), language that will make it possible to bring abortion services to areas where such are not now available.

The health education funds are specifically designated "to pay the initial costs of planning and establishing statewide comprehensive school health education programs." (p. 628) "Comprehensive" is defined to mean the programs must serve "all students every year from kindergarten through grade 12," and must include "family life" (a euphemism for explicit sexuality instruction), "environmental health," instruction in the benefits of "immunizations and other clinical preventive services" (a term that professionals are starting to use to include Norplant, the device to "immunize" girls against pregnancy for five years), and be "sensitive to

cultural and ethnic issues." (pp. 629-630)

The Clinton health bill specifically allocates federal funding "to reduce barriers to the implementation of comprehensive school health education programs in schools." The obvious purpose of this is to train school personnel in how to outmaneuver parents who object to "comprehensive" sex education, because parental opposition is the principal "barrier." This purpose is so important in the Clinton plan that it is authorized in four different places in the bill. (pp. 639, 641, 650, 652)

The authorized activities under the Clinton health bill are "to implement comprehensive school health education programs, to conduct local or regional coordination and collaboration activities, to provide staff development and technical assistance to schools, to administer the program and monitor program implementation," (p. 655), and "to adopt, validate, and disseminate curriculum models and program strategies." (p. 639) This latter appears to be in direct violation of the General Education Provisions Act which forbids the Federal Government from "exercis[ing] any direction, supervision, or control over the curriculum" of any school. □

**T**his is a coming out party for school-based clinics. The numbers [of condom clinics] are going to fly" if the Clinton Health Plan is adopted.

## Parental Opposition to Clinics Slows their Growth in High Schools

Since the first condom-dispensing clinic opened in 1989, strenuous efforts have been made to expand their number, but according to the Center for Population Options, the number of school clinics has grown to only 327, of which 60 percent provide contraceptive counseling, 28 percent write prescriptions for birth control pills, and 20 percent dispense general contraceptives on-site. Now, however, some clinic professionals are predicting that, if Congress adopts the President's adolescent health initiatives, 16,000 new condom clinics will open within the next two years.

The expansion of school clinics has been slowed by strenuous parental opposition. Three states have prohibited the distribution of condoms on school property.

School clinic services now vary widely from school to school, with some clinics merely providing immunizations and physical examinations. The strategy of the condom clinic advocates has been to get their foot in the door by claiming they just want to provide non-controversial services for poor children, and then introducing condom and birth control distribution later.

At the present time, school health clinics are financed by funds from a mix of federal, state and local taxpayers' money plus grants from wealthy foundations predisposed to finance population control. The percentage of money from each source varies from school to school.

Clinics typically get started with a

grant from a private foundation, and then keep going by soliciting funds from federal sources such as Medicaid, maternal-and-child-health block grants, the Drug-Free Schools program (which is supposed to be limited to anti-drug purposes), and Title X of the Public Health Service Act.

Currently, there is no federal program specifically for condom clinics, but since clinics are run by people highly skilled in getting grants of taxpayers' money, they have gotten millions of tax dollars anyway. No one knows how much federal money flows to school clinics, but some officials estimated last year's figure at \$17 million.

Surgeon General Dr. Joycelyn Elders' enthusiastic advocacy of contraceptives is only the tip of the iceberg of federal involvement. Dr. C. Wayne Bardin, vice president of the Population Council, said that \$17 million of the \$114 million spent to research and develop Norplant came from the federal taxpayers through the U. S. Agency for International Development. The nonprofit Population Council collaborated with Wyeth-Ayerst, a U.S. drug company, to bring Norplant to market.

Norplant, the contraceptive that is surgically implanted in women's arms to prevent ovulation for five years, was first used on Baltimore schoolgirls in January 1993. In October, Baltimore announced expansion of the Norplant service to five other schools. □



# FOCUS: Dyslexia Is Not A Disease

by Dr. Fred A. Baughmann, Jr.

An edited interview with Fred A. Baughmann Jr., M.D., on the weekly Saturday radio program, *Phyllis Schlafly Live* (August 21, 1993). Dr. Baughmann, of La Mesa, California, is a pediatric neurologist who has practiced medicine for some 30 years, has published many articles on issues affecting children and is the medical advisor to the National Right to Read Foundation.

Q: Let's start off by asking you to tell our listeners, what is dyslexia?

Dr. Baughmann: Dyslexia, or specific reading disability, is said to affect 8% of all U.S. school children and is widely believed to be a biologically based disorder. It is contended that some children do not learn how to read on schedule, because they have a glitch or physical abnormality of the brain that disallows ready acquisition of literacy.

Q: You mean they have a cell in the brain marked "this is a dyslexic kid?"

Dr. Baughmann: That is the theory. Most people are aware of patients who have had strokes or brain tumors. When such localized injuries or diseases affect the left half of the brain, frequently there are quite specific and fascinating language deficits. There are places in the left side of the brain where a tumor or stroke can leave the

patient able to see words, but not able to comprehend what he is looking at. This is called specific word blindness.



patient able to see words, but not able to comprehend what he is looking at. This is called specific word blindness.

For the past half a century, we have had the theory that children who don't read on schedule must have something wrong in that area of the brain, but during all that time no proof has been produced that any such thing exists. In fact, F. R. Vellutino concluded in a 1987 article in *Science* that "there are no well-defined reading behaviors that clearly distinguish a dyslexic from other poor readers" whose difficulties stem, for example, from limitations in experience. Nor are there any distinguishing clinical patterns.

Q: Well, then, how should we define dyslexia?

Dr. Baughmann: As recently as 1989, the AMA council on Scientific Affairs found that there is no satisfactory definition of dyslexia. And yet one to two million school children each year are diagnosed and labeled dyslexic. To them, dyslexia is a reality. It is a reality to educators and to parents who are given this diagnosis, but it

is not thus far a scientific reality. It is time that we scrutinize the theory and evidence of dyslexia more carefully.

I certainly feel sorry for those one to two million children who have been diagnosed as having a physical disability from some part in their brain, when that really wasn't their problem at all.

Q: What kind of scientific evidence do you have that dyslexia doesn't exist?

Dr. Baughmann: In 1992, Doctors Sally and Bennett Shaywitz, who are dyslexia experts at Yale University, applied so-called discrepancy testing to consecutive first graders in Connecticut public schools. They did an IQ or aptitude test, then a reading achievement test; then they subtracted the achievement test score from the IQ score and got a discrepancy score. This is a practice mandated by law across the nation since the mid-1970s. They then tested these same children again in the 3rd grade and found that only 28% were still identifiably dyslexic, even though none had any remediation at all.

This means three-fourths of the so-called dyslexic children overcame their alleged disability without any remediation or help whatsoever. Somehow the dyslexia just disappeared! And by the 6th grade, only 17% of the kids deemed dyslexic in the first grade were identifiably dyslexic.

The Shaywitzes concluded, "Our data do not support the notion" that dyslexia is a discrete diagnostic entity.

Q: How do you account for the fact that more than a million children are labeled dyslexic? Are the doctors doing it? Or the teachers doing it?

Dr. Baughmann: It is the result of a complicated collaboration of many industries. The psychological industry has become immense within public schools. Child psychiatrists regularly give public schools free consultation services, but they all profit from the spin-off from these school-based diagnoses. Dyslexia has become a big industry, even though, when pinned down, the experts such as the Shaywitzes admit that the proof simply is not there. Dyslexia is not a disease entity. It is not a syndrome. And yet it is a multi-million dollar industry and is the primary excuse given by U.S. public schools for our epidemic illiteracy.

Q: What are the manifestations of this alleged illness called dyslexia? How do children show what some think is dyslexia?

Dr. Baughmann: The children appear normal as they start school. It might be your child or grandchild, or mine. The pregnancy and birth were normal. They walked and talked on time and no one detected anything wrong when they started school. Yet it may become apparent by the end of the first grade that the child is not reading as well as the other children in the class.

Nowadays, in U.S. public schools, grades have become almost meaningless. More attention is paid to self-esteem. Everybody gets A's and B's. Frequently, children are not identified as being substantially behind in reading until the 3rd or 4th grade when a teacher, doing things in the old-fashioned way, discovers that, when Johnny reads aloud, he can identify only 3-letter words, and his reading level is at the first part of the first grade.

According to Vellutino, dyslexia cannot be distinguished from poor reading from any other cause. Scientifically, dyslexia does not exist.

It can't be seen, felt, touched, or smelled. It is a costly marketplace contrivance which provides the educational establishment with an excuse for the epidemic illiteracy seen among school children and even graduates and adults.

Two bureaucracies and empires have been built up called "Remedial Reading" and "Special Education." The schools receive far more money for these programs than they do for ordinary kids who know how to read.

Special Education was just 2% of all public school students in 1975, but today is approaching 13%. The expenditures for each Special Ed enrollee are two to three times as much as they are for regular students.

So it is very profitable to the local district to label a child as "learning disabled" or "special ed." It enhances and enlarges the Special Education division.

At the same time, it provides the schools with handy excuses for not having taught those children how to read. They say the teacher "can't" be held accountable for the child not reading because there is something wrong in the child's brain. They blame the victim.

I am not saying there are no subnormal or retarded children or that there is no need for Special Ed. I am just saying that legions of normal children are labeled "incapable" when the truth is that they simply have not been taught how to read.

There have always been some children who sustained brain injuries at some point in childhood or infancy or at birth. Usually those children are identified by

the late date at which they start to walk or speak, or by clumsiness, or other signs that something is wrong with the brain. Those children have identifiable brain diseases or brain lesions.

The children who are mislabeled "learning disabled" are children who appear normal before they start school, and who very likely have a normal potential to learn how to read and to do math, but are subjected to a broad array of psychometric tests, none of which are of proven validity. Because of those tests, they are labeled "learning disabled" and placed into Special Education.

Many other learning disabilities have also been defined. There is said to be a specific mathematics disability. For all I know, some may claim there is a specific center in the brain for the learning of geography. These are all theoretical constructs, none of which can be scientifically validated. Yet millions of our children each year and their parents are made to accept these labels and to accept lower expectations.

Q: Do you think that the schools, instead of trying to evaluate children as learning disabled, should

concentrate on teaching them how to read by the phonics method?

Dr. Baughmann: I certainly do. I think that the schools have gone far afield insofar as their mission is concerned. Nowadays, teachers and Special Ed teachers attend courses on diseases that are said to produce learning disabilities and therefore require psychoactive medication. They are becoming deputy diagnosticians rather than teachers.

What is very clear from the Shaywitz research, and should be clear to anyone who knows the limitations of paper-and-pencil psychological testing, is that it is ludicrous to think that, with paper-and-pencil testing, the human determine the potential of the human brain with its 100 billion neurons, or nerve cells. There really is no such thing as a valid test of educational potential; such testing should not be a part of education. The only way to know how much the child is capable of is with expectant and hopeful encouragement in a continuing and consistent way. That is the best trial of learning, the best predictive test, and the best education at the same time.

If we can get the public schools of the country back to giving meaningful grades or evaluations of where children stand on each subject, especially reading that is tested by reading aloud in class, teachers should be able to know within about three or four weeks where each child stands in the class. This shouldn't depend on once-a-year "normed" state-wide or nation-wide tests.

Whenever a teacher discovers a child

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Three-fourths of the so-called dyslexic children overcame their alleged disability without any remediation.

## Dyslexia

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to be lagging by a month or six weeks, that child should immediately get individualized attention and remediation. If the child is visibly behind within the first half of the first grade, that is when remediation should start, and it should continue until the child is at grade level, or as close to grade level, as he could possibly be.

The legally mandated discrepancy testing for specific reading disability does not allow a child to begin to get remediation until he is an arbitrary number of months behind. In some states the discrepancy score must be an arbitrary 22 points before special help is allowed to start. In other states, it might be 30 points. The way the law is written, teachers may not be able to give individual attention to children whom they recognize as substantially behind simply because they don't meet the government guidelines.

Q: What do you think of "Whole Language?"

Dr. Baughman: The "whole language" or "whole word" cult holds sway in teachers colleges and in public education today. In San Diego, we had "whole word" imposed on first graders in 1991 to the exclusion of phonics. In 1990, 51% of these first graders scored above the national median, but in 1991 only 25% did the same, quite clearly because of the strident imposition of "whole language" to the exclusion of phonics.

Q: What role do you think parents play in this? Can't they do a lot for their children that the school is not doing?

Dr. Baughman: Reading is the one basic. If you can't read, you are not educable. Parents must turn their children on to reading. One of the most important reasons they must do this is that nowadays schools are not standing accountable for teaching children how to read. It's up to parents to "school proof" their children.

Q: Do you think schools actively oppose reading by phonics?

Dr. Baughman: I have seen children reading aloud in their first or 2nd grade class who are not allowed to sound out the words, in other words, to use phonics to read. So, it is very easy to turn off children to any subject matter to be learned and make it unpleasant. The other important fact about the early acquisition of reading is that small children have sponge-like acquisitive brains that can soak up knowledge. Having heard or seen something once, they have a lock on it. But if they are not taught in those early acquisitive years, they don't learn as easily. It is a tragedy if reading failure is not recognized until the 5th or 6th grade.



Q: Is dyslexia hereditary?

Dr. Baughman: Dyslexic cannot be defined. If science can't define it, there is no such thing. Millions of parents across the country are made to believe their children have it, and millions of teachers and psychologists believe in it, but that is not scientific evidence. Science has not defined any such illness or disorder or disease as dyslexia.

Q: Have you heard about the cases of adults who went through school and graduated, but can't read?

Dr. Baughman: I have heard this story many, many times. The volunteer literacy programs across the country are filled with people who have gone all the way through high school and gotten diplomas but are reading, if at all, at an early grade-school level. Many of these people become literate when helped by literacy volunteers, most of whom have never taught before. This is further evidence that our schools have failed massively and are continuing to do so. The *Lake Tahoe Times* reported in the winter of 1992 that 60% of California Community College students required basic skills instruction and concluded: "We should all be alarmed that our schools are not doing their job."

Q: Some schools test kindergartners to see if they are ready for the first grade. What do you think of that?

Dr. Baughman: This kind of testing has no long-term predictive validity and should be stopped. That is all there is to it. Yet, "predictive tests" are being given across this country to kindergarten children to try to determine their readiness for school and their educational potential. By the 6th grade, the predictive value is so terrible as to render all of those tests meaningless.

The schools do a terrible disservice to children and their families to convey to them the impression that these tests have validity or precision.

The children would be far better off if they were in a school system where there is no such testing. After all, there is no valid test other than a "trial of learning," that is, you provide an ongoing, hopeful, expectant, encouraging education, making sure each step of the way you keep the child turned on and trying, and you will find out what he or she is capable of. Only in this way will we bring the unlimited potential and talent in our children to the fore.

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## PPRA

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"The ability of parents to sue in federal court when the PPRA is violated makes a qualitative change in the balance of power between parents and schools," says David Melton, Mid-America regional coordinator for the Rutherford Institute, who brought the action.

Melton filed the lawsuit in 1991 on behalf of then nine-year-old Jason Newkirk and his parents. Although Mr. and Mrs. Newkirk had refused to agree to counseling for Jason, the school counselor began counseling him, resulting in Jason's displaying signs of anxiety disorder. A music teacher then allegedly utilized "psychotherapeutic materials" on Jason



without his parents' informed consent.

Mr. and Mrs. Newkirk also assert that "psychotherapeutic" and quasi-psychotherapeutic activities are prevalent in the East Lansing public schools.

The district court decision stated, "It seems clear that the expressed language in [the PPRA] provided unambiguous rights to private parties not to be subjected to certain testing."

The court then posed the question, "who can enforce the rights?" The school district claimed that the *only* remedy is the ability of the Secretary of Education to withhold funds for violations under a regulatory scheme contained in the federal regulations, even though the Department of Education has refused to invoke these sanctions in the face of clear and admitted violations of the PPRA.

The court responded to this argument by stating that "the detailed regulatory scheme did not exist until 1984, six years after the Hatch [PPRA] Amendment passed. It seems clear that the statute allowed room for private enforcement of rights at the time it was passed. Although the legislative history of the Amendment is silent on whether there is a private right of action, I believe such a right was implied and unambiguously conferred at the time the Amendment was passed in 1978."

Continuing, the court stated, "I believe that private enforcement through 42 U.S.C. section 1983 is an appropriate means of addressing prohibited testing under the statute."

Defendants in the lawsuit include the East Lansing Public School district superintendent, the principal, two teachers and a school counselor. The Rutherford Institute, a nonprofit civil liberties organization specializing in the defense of religious liberty, is based in Charlottesville, VA.

## Condoms

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dents without the knowledge or consent of their parents. Nor do we believe that they have any inherent authority to do so."

The court ruled that parents "enjoy a well-recognized liberty interest in rearing and educating their children to accord with their own views," citing the leading U.S. Supreme Court cases from the 1920s, *Pierce v. Society of Sisters* and *Meyer v. Nebraska*. "The Constitution gives parents the right to regulate their children's sexual behavior as best they can," and a decision about contraceptives "is clearly within the purview of the petitioners' constitutionally protected right to rear their children."

The school system tried to say that the problem of AIDS posed a "necessity" for this program, but according to the court, that is not a reason to force parents "to surrender a parenting right - specifically, to influence and guide the sexual activity of their children without state interference."

"The threat of AIDS cannot summarily obliterate this Nation's fundamental values," the court added. "We conclude that the condom availability component of the program violates the petitioners' constitutional due process rights to direct the upbringing of their children."

Fernandez's introduction of this condom distribution plan, followed by his attempt to force homosexual curricula on New York's elementary grades, resulted in his being fired last June 30 from his \$195,000-a-year job. He was given a severance package totaling \$475,000, and is now traveling the country as president of the Council of Great City Schools, an organization funded by dues from urban school districts. □

## Louisiana

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ians. They note the nationwide research which shows that countless campaigns have made Americans *aware* of AIDS, yet this knowledge has not resulted in notable behavior change.

Louisiana has had a history of high numbers of AIDS cases. In 1991, it ranked 9th in the nation in rates of AIDS cases per 100,000 population. The rates of sexually transmitted diseases (STD's) are also increasing, especially among teenagers. Statewide, STD rates among teenagers have been climbing faster than in the general population. Since the rates of STD's are increasing, it is likely that the transmission of HIV is increasing as well, since STD's are believed to facilitate transmission of HIV. Although many studies indicate that teenagers are aware that HIV is transmitted through sexual activity, but again, the knowledge has not had any impact on sexual behavior. Many teenagers consider themselves immune to HIV.

The State claims that prevention of HIV infection must become a mainstream message, "even though some means of prevention are potentially controversial." They also insist that because of the wide range of "lifestyle choices," a variety of solutions must be presented. □