



# THE NATIONAL CENTER FOR LAW & POLICY

## Freedom Forum

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### **School district sued for civil rights violations stemming from its religious Ashtanga yoga program.**

SAN DIEGO, CA - Attorneys for the National Center For Law & Policy (NCLP) filed a civil rights

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[lawsuit](#) in San Diego Superior Court on February 20th against the Encinitas Union School District (EUSD). The lawsuit seeks a writ of mandate and injunctive relief to order EUSD to comply with the California constitution's religious freedom provisions and a state education statute requiring EUSD to provide a mandatory minimum number of physical education minutes. The NCLP represents petitioners and plaintiffs Stephen and Jennifer Sedlock and their minor children, who are students in the district.

The lawsuit is the result of EUSD's decision to accept \$533,000 from the Jois Foundation in exchange for providing the religiously-based organization access to its young and impressive students to test and prove the feasibility of Jois' "health and wellness" Ashtanga yoga curriculum. According to Harvard educated religious studies Professor Candy Gunther Brown, Ph.D., who wrote a powerful and comprehensive [declaration](#) supporting the complaint, EUSD's Ashtanga yoga program is inherently and pervasively religious, having its roots firmly planted in Hindu, Buddhist, Taoist, and Western Metaphysical religious beliefs and practices.

As such, the program violates California constitutional provisions prohibiting government religious preference and religious discrimination (article I, § 4), prohibiting use of state resources to support religion (article XVI, § 5), and forbidding employing government resources to promote religion in public schools (article IX, § 8).

"EUSD's Ashtanga yoga program represents a serious breach of the public trust," declared attorney Dean Broyles. "Compliance with the clear requirements of law is not optional or discretionary. This is frankly the clearest case of the state trampling

religious, having its roots firmly planted in Hindu, Buddhist, Taoist, and Western Metaphysical religious beliefs and practices.

*"This is frankly the clearest case of the state trampling on the religious freedom rights of citizens that I have personally witnessed in my 18 years of practice as a constitutional attorney. The program is extremely divisive and has unfortunately led to the harassment, discrimination, bullying, and segregation of children who, for good reasons, opt out of the program."*

Dean Broyles

on the religious freedom rights of citizens that I have personally witnessed in my 18 years of practice as a constitutional attorney. The program is extremely divisive and has unfortunately led to the harassment, discrimination, bullying, and segregation of children who, for good reasons, opt out of the program. EUSD's Ashtanga yoga program represents a prime example of precisely why in America we wisely forbid the government from picking religious winners and losers, especially when you have a captive audience of very young and impressionable children as we do in our public schools."

"EUSD's 'model' yoga program sets a very dangerous precedent. No matter how starved our school districts are for money, we must not allow our public servants to 'sell' our precious children to the highest bidder to be used as religious 'guinea pigs' to fulfill the self-serving marketing purposes of a religiously motivated organization. Religious freedom is not for sale. EUSD's improperly cozy relationship with the Jois Foundation has entangled the district in an unnecessary and avoidable religious controversy and has caused considerable damage and negative fallout in the community. EUSD had more than three months of warnings to make the right call and suspend the illegal program voluntarily, yet has negligently failed to act. The EUSD Trustees have persistently closed their eyes to the transparently religious nature of the program, determining to take the money and run with it. They have shown little concern or respect for families who were religiously burdened by the program and appropriately objected to religious beliefs and practices being illegally promoted in the public schools. And the EUSD Trustees and Superintendent have done nothing to solve the major problem that Children who opt out of Ashtanga yoga for religious and other reasons and

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who are not receiving the state mandated 200 minutes of PE every 10 days. Sadly after learning that the program violated the law, rather than doing the right thing and immediately suspending the program, EUSD's Superintendent and Trustees engaged in months of delay and inaction. Meanwhile, Superintendent Baird repeated the misleading 'mantra' to the public and the press that EUSD had 'stripped' the program of religion or that it was not 'religious.'"

The lawsuit does not seek money damages; but rather seeks to immediately suspend EUSD's divisive Ashtanga yoga program and restore traditional physical education to the district.

**NCLP files its "immutability" brief at the 9th Circuit in case challenging California's ban on counseling for those struggling with unwanted same-sex attraction.**

SB 1172, which prohibits a "mental health provider" from engaging in "sexual orientation change efforts with a patient under 18 years of age" under all circumstances, was passed by California's liberal legislature and signed by Governor Brown last year. In adopting SB 1172, the California legislature assumed two "facts" which are not true: (1) that same-sex attraction is an immutable characteristic, and, (2) that sexual orientation change efforts are harmful. Pacific Justice Institute (PJI) was able to successfully obtain a preliminary injunction in federal district court in December in the matter of *Welch v. Brown* where the court held that the law amounted to a discriminatory viewpoint-based government restriction on the freedom of speech.

Attorney Kevin Snider of PJI contacted NCLP president Dean Broyles in early February to ask whether NCLP would file the same brief at the Ninth

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NCLP's "immutability" brief refutes California's faulty assumptions about the fixed nature of same-sex attraction and the value of sexual orientation change efforts.



*"Individuals seeking to change their unwanted same-sex attraction must not be barred by the state from obtaining the assistance of health care professionals."*

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Circuit U.S. Court of Appeals which NCLP had dual filed last month at the United States Supreme Court in the Proposition 8 and DOMA matters on behalf of Parents and Friends of Ex-Gays and Gays.

NCLP's "immutability" [brief](#), filed February 26, 2013, refutes California's faulty assumptions about the fixed nature of same-sex attraction and the value of sexual orientation change efforts. Specifically, NCLP's brief confirms the growing recognition of the ex-gay community by the courts, government bodies, and business entities and presents the real life, personal stories of four individuals who have successfully done exactly what SB 1172 would forbid young Californians to do with the important assistance of health care professionals: they chose to change their orientation and now live in opposite-sex relationships despite having been deeply entrenched in same-sex relationships. The stories demonstrate that, in fact, sexual orientation is not immutable-either in the sense that it is a trait determined solely by "accident of birth" or in the sense that it cannot be changed-but is a transient, personal characteristic that can and does change. "Individuals seeking to change their unwanted same-sex attraction must not be barred by the state from obtaining the assistance of health care professionals to assist them," declared Dean Broyles.

The issue is important because a finding that sexual orientation is immutable could lead the Court to improperly uphold SB 1172, which would coercively deny thousands of Californians who are struggling with unwanted same-sex attraction the health care support they need and deserve, and to which they clearly have a legal rights, pursuant to the freedom of speech and the free exercise of religion.

**Update:** NCLP's brief filed last month at the U.S. Supreme Court in the Prop. 8 and DOMA marriage cases was mentioned in an U.S.A. Today [article](#) and World Magazine [interviewed](#) NCLP's Dean Broyles.

This sad status quo in American Christendom is not doing God, his church, or our nation any good. Darkness advances as the light retreats, and the church has been in full retreat for decades, leading to the dimming of our light.

*"Silence in the face of evil is itself evil: God will not hold us guiltless. Not to speak is to speak. Not to act is to act."*

Dietrich Bonhoeffer

## **The Silence of the Lambs.**

"Be nice." "Fit in." "Don't rock the boat." "Don't be controversial." "Water down the truth." "Don't talk about sin." "Be quiet." "Fear man more than God."

These and other messages whispered in our ears result more often than not in the silence of the lambs. This sad status quo in American Christendom is not doing God, his church, or our nation any good. Darkness advances as the light retreats, and the church has been in full retreat for decades, leading to the dimming of our light.

If there is one characteristic that most Christians have in common today, it is our fear and silence in the face of growing cultural opposition and pressure. Sadly, this is leading both to a lack of moral-cultural engagement with our neighbors and also a lack of sharing a much needed Gospel. Not surprisingly, the culture is influencing us far more than we are impacting it.

As silent lambs, we are truly guilty of a multitude of sins--of omission. As Dietrich Bonhoeffer said, "Silence in the face of evil is itself evil: God will not hold us guiltless. Not to speak is to speak. Not to act is to act."

If the church's salt is to be made salty again and our light is to shine brightly, we must rediscover how to speak the truth in love in these dark days.

Oh, that God would raise up a generation of bold and fearless roaring lambs.

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