



February 2, 2016  
*Via Email & U.S. Mail*

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**Re: Legal & Practical Concerns Regarding the District's Calmer Choice Mindfulness Curriculum.**

Dear Superintendent Woodbury & Members of the Dennis-Yarmouth Regional School District School Committee,

Thank you for your prompt attention to the important matters addressed in this legal opinion memorandum. Please be advised that the National Center for Law & Policy (NCLP) is a non-profit organization providing legal assistance to individuals and groups whose civil rights have been threatened or infringed by the government and its various agents. Because of the NCLP's extensive experience involving constitutional rights in public-school settings,<sup>1</sup> I was contacted

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<sup>1</sup> The National Center for Law & Policy was lead counsel in the case of *Sedlock v. Baird*, challenging the teaching of Ashtanga Yoga in public schools in Encinitas, California. The trial court ruled, and the appellate court affirmed,

recently by Mrs. Michelle Conover. Please do not contact my client directly, but refer all future communications regarding the matters discussed herein to my attention.

I am writing this memorandum on behalf of our client Mrs. Conover and other concerned parents in the Dennis-Yarmouth Regional School District (hereinafter “DYRSD” or “District”). There are many issues that have been already specifically raised with the District regarding the Calmer Choice programs, which are detailed below. However, stated broadly, the concerns are summarized as follows. First, there is the scientifically well-documented concern that mindfulness meditation may not be safe for children and may expose the District to significant legal liability and financial damages. Second, there is a concern that mindfulness meditation involves well-established Buddhist religious beliefs and practices that may undermine rights of conscience and religious freedom because the curriculum may conflict with worldviews or religious beliefs adopted by students and inculcated by parents at home. This is a violation of the First Amendment’s Establishment clause, which forbids government from picking religious winners and losers and enforcing its choice in the coercive environment of compulsory education.

The purpose of this letter is to urge the District, because of its stewardship of public funds and the public’s trust, and as a matter legal compliance with the constitutional right of religious freedom, to voluntarily suspend its Mindfulness training program and cancel its contracts with Calmer Choice.

### **STATEMENT OF FACTS**

Mindfulness appears to be everywhere. It has become mainstream, being increasingly employed in hospitals, prisons, the corporate world, and increasingly in educational contexts, to purportedly reduce stress and cure virtually all that ails us. But what is mindfulness? Is it safe and effective for children? Is there a connection with Buddhism? Is the practice of mindfulness religious? Do promoters use deceptive tactics to promote mindfulness as “secular”? These are very important questions that must be answered, especially in the context of evaluating whether children should be exposed to and immersed in Mindfulness-Based Stress Reduction (MBSR) practices as the Dennis-Yarmouth Regional School District has done for the past three years under various programs and contracts with Calmer Choice.

Calmer Choice (hereinafter “CC”), located in South Yarmouth, Massachusetts, was founded in 2011 by Fiona Jensen who describes herself as a tireless “advocate for mindfulness in education.” CC’s purported “goal is to provide skills that will diminish the risk of violence, substance abuse, and other self-destructive behaviors.” CC’s website boasts that it serves “more than 6,000 Cape Cod school children in programs held at 18 different schools across 8 separate school districts.”<sup>2</sup> CC defines mindfulness “as paying attention in a particular

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that yoga, including Ashtanga yoga, is religious. However, the court allowed the district to continue its altered “EUSD Yoga” program after the district made significant changes to its written curriculum and classroom instruction.

<sup>2</sup> [www.Calmerchoice.org](http://www.Calmerchoice.org)

way on purpose to what is happening right now, both internally and externally, with kindness and curiosity towards ourselves and others.”<sup>3</sup>

Calmer Choice says it “provide[s] mindfulness-based inner resilience training” to public school students. Publicly, CC touts its program as a “universal/primary prevention program,”<sup>4</sup> while CC’s Twitter page acknowledges that it “brings mindfulness based stress reduction” (MBSR) “into schools.”<sup>5</sup> CC also refers to their program as Mindfulness Based Inner Reliance Training in their handout, yet when looking for funds, calls it Mindfulness-Based Stress Reduction (MBRR).<sup>6</sup> The significance in this change in language demonstrates an attempt to deliver a different message about what mindfulness is to different audiences and people groups.

There is no mention of Buddhism or overt references to spirituality on CC’s website home page. However, as is well-documented below, mindfulness (an English translation from Pali language Buddhist sacred texts) is the seventh aspect of the Buddhist Eightfold Noble Path to alleviating the fundamental problem of suffering (the fourth of the Four Noble Truths of Buddhism).<sup>7</sup> As an article in the *Spectator* summed up mindfulness: “In fact, from the focus on breathing to the insistence on compassion, it [mindfulness] really is Buddhism.”<sup>8</sup>

Serving as CC’s honorary board member is Jon Kabat-Zinn, Ph.D.<sup>9</sup> Kabat-Zinn is founder and former executive director of the Center for Mindfulness in Medicine, Health Care, and Society, at the University of Massachusetts Medical School, where Mindfulness-Based Stress Reduction (MBSR) originated.<sup>10</sup> As will be amply evidenced below, Kabat-Zinn candidly admits that MBSR is rooted in Buddhism and promotes Buddhist beliefs and practices. As a prerequisite to becoming an instructor, CC’s website requires “your own daily practice of formal and informal mindfulness, experience teaching children/youth and an 8 week Mindfulness Based Stress Reduction Training course.”<sup>11</sup>

School districts find appealing the claim that mindfulness is a secular, low-cost, effective technique to reduce stress, violence, substance abuse, and a laundry list of other social ills. So,

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<sup>3</sup> *Id.* Cf. Jon Kabat-Zinn’s definition: “paying attention in a particular way: on purpose, in the present moment, and non-judgmentally”; Kabat-Zinn, *Wherever You Go, There You Are: Mindfulness Meditation in Everyday Life* (New York: Hyperion, 1994), 4.

<sup>4</sup> *Id.*

<sup>5</sup> [https://twitter.com/mindful\\_youth](https://twitter.com/mindful_youth)

<sup>6</sup> See Guide Star Amex Organization Report <http://www.guidestar.org/PartnerReport.aspx?ein=27-2836997&Partner=Amex> (“The Calmer Choice curriculum teaches . . . mindfulness based stress reduction [MBSR]”).

<sup>7</sup> Jeff Wilson, *Mindful America: Meditation and the Mutual Transformation of Buddhism and American Culture* (New York: Oxford University Press, 2014), 16.

<sup>8</sup> <http://new.spectator.co.uk/2014/11/whats-wrong-with-mindfulness-more-than-you-might-think/>

<sup>9</sup> <http://www.calmerchoice.org/board-of-directors/>

<sup>10</sup> <http://www.dharmanet.org/lcmindfulness.htm>

<sup>11</sup> <http://calmerchoiceneeds.weebly.com/instructor-training.html>

what could be wrong with a practice that promises so much good? To many, mindfulness appears to act like a big warm “bath,” with no possible negative side-effects for children.

CC’s MBSR program was initiated in at least one of the District schools in the 2012-2013 school year. Michelle Conover, whose children attend the District’s Station Avenue Elementary School, has served on the Station Avenue Elementary School’s School Council since the 2014-2015 school year and was appointed by the Yarmouth Board of Selectmen to the District’s School Committee in November of 2015 to fill a school committee vacancy. On information and belief, CC’s MBSR program was not vetted by the normal curriculum review process, including approval by the School Committee, before being adopted by the District.<sup>12</sup>

In November 2015, when Mrs. Conover became aware that CC’s MBSR curriculum was being integrated into Cape Cod schools, she inquired to Station Avenue Elementary School on November 9 as to whether the CC program was being implemented in her children’s school. When she learned that it was, she began asking questions. When she initially asked the school for a copy of the CC curriculum in November, she was told that a District employee had signed a “non-disclosure agreement” with Calmer Choice and could not legally provide it to her. She continued to ask to review the curriculum, but the District continued to provide her with a variety of excuses for not providing it over the following weeks.

Mrs. Conover met with representatives of CC and the District to discuss the MBSR program on November 23, 2015. At that time, she provided the District and CC officials with a three-page document summarizing her concerns about the CC MBSR program. During the meeting, CC representatives privately denied that the curriculum taught MBSR to public-school students. CC issued this denial in spite of the fact that CC’s website, public statements, and public documents all confirm that Kabat-Zinn influenced their work, CC requires its teachers to attend MBSR training, Kabat-Zinn serves on the CC board of directors, and CC admits teaching “MBSR.”<sup>13</sup>

The District and CC did not bring the CC curriculum to the meeting, but promised Mrs. Conover that they would get her the curriculum “soon” to review. At that time, Mrs. Conover informed the District and CC officials that she had decided to opt her children out of the CC MBSR program.

The District did not provide the pre-kindergarten through grade 2/3 curriculum to Mrs. Conover until November 30, several weeks after she first requested it.<sup>14</sup> When she went to the school to

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<sup>12</sup> See M.G.L. [69:1E](#); 603 CMR [26:05](#); M.G.L. [71:1](#); [69:1E](#)

<http://z2policy.ctspublish.com/masc/Z2Browser2.html?showset=dennisyarmouthset>

<sup>13</sup> On or about early January 2016, Calmer Choice began to scrub its website and other public resources of (1) explicit references to MBSR, (2) detailed discussions of Kabat-Zinn and his MBSR model, and (3) language and links that may be viewed as spiritual and religious. Mrs. Conover believes this cosmetic alteration came as a result of her research and complaints provided to the District and Calmer Choice about its MBSR program. Mrs. Conover’s counsel is in possession of screen shots that document the significant changes to CC’s public face and will make them available upon request.

<sup>14</sup> Mrs. Conover subsequently submitted a public records request to the District on January 12, 2016, requesting a copy of the CC curriculum for grades 4 and above. As of the date of this letter, the District has not provided it to her.

pick up the curriculum, District representatives asked her to sign what appeared to her to be a non-disclosure agreement on behalf of CC, which she refused to sign stating that she had a right to the information as a parent and citizen under the Massachusetts Public Records Act.<sup>15</sup> During the dispute, Superintendent Carol Woodbury was called in, and after a brief meeting with her, the District finally dropped its non-disclosure demands and released the curriculum to Mrs. Conover with the understanding that she would review it and they would meet again. The Superintendent also provided her with a document that attempted to answer the issues raised in Mrs. Conover's three-page document discussed at the prior meeting. With many more red flags having been raised at this point, Mrs. Conover continued to dig deeper. She conducted a significant amount of research into CC and MBSR.

During a December 9, 2015 meeting with District Superintendent Carol Woodbury and Principal Peter Crowell of the Station Avenue Elementary School, and in a follow-up email on December 10, and subsequent communications, Mrs. Conover raised additional concerns. In support, she presented to the Superintendent a twenty-page research summary, which was supported by a binder full of research. Among the concerns raised at the meeting and afterwards by Mrs. Conover were: (1) The CC curriculum was not vetted by the normal review process before being adopted by the District; (2) The effectiveness of MBSR for children has not been scientifically established; (3) Adult studies indicate that MBSR should be excluded for individuals suffering from any psychotic disorders; (4) The impact of MBSR on the children's brains has not been studied at all; (5) Potential adverse effects of MBSR for children has not been adequately studied (5); Child meditation is a novel idea, in that Buddhist monks in other countries do not typically instruct children in meditation; (6) Children engaging in MBSR should be screened and carefully monitored, and CC's program fails to do so; (7) MBSR trains children to engage in Buddhist religious practices and promotes a Buddhist worldview; (8) studies show that individuals engaging in purportedly "secular" MBSR experience a transformative spiritual impact; and, (9) CC deceptively camouflages Buddhist religious practices and beliefs.

After only sharing her first few main points during the meeting, Superintendent Carol Woodbury stopped Mrs. Conover's presentation. Mrs. Woodbury indicated that she had "heard enough" and asked Mrs. Conover what her bottom line was. Mrs. Conover responded that she wanted the program to be stopped. Ms. Woodbury assured Mrs. Conover that, as a result of the documented concerns she had raised, the District would "not be renewing contracts" with CC going forward because the District could not afford to look bad. After the meeting, Mrs. Conover promptly sent the Superintendent a confirming email thanking her for the meeting and for her determination to resolve the matter promptly by suspending the CC program. However, in subsequent communications, Mrs. Woodbury began to back off from her commitment to suspend the program. In fact, the District renewed several Calmer Choice contracts in December in spite of Mrs. Woodbury's earlier promise.

The deeper she dug, the more evidence Mrs. Conover uncovered to support her concerns. Ultimately, she observed a District classroom CC mindfulness program, obtained copies of the

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<sup>15</sup> Massachusetts Public Records Act § 66-10 et seq.

contracts between CC and the District, as well as requested all communications between District officials and CC regarding the curriculum.

### **The Calmer Choice Curriculum:**

The following are specific aspects of the District’s Calmer Choice curriculum that Mrs. Conover addressed in the twenty-page research report. The curriculum promotes an undifferentiated validation of feelings, passivity in the face of injustice, personalization of ethics, internalization of a worldview, and inculcation of an ongoing practice.

**Undifferentiated Validation of Feelings:** The CC curriculum trains children to listen to, trust, and validate their feelings, without differentiating between good feelings and bad feelings. “Always remember - that whatever you feel right now is just right . . . it is ok,” the curriculum urges students.<sup>16</sup> No teacher training is provided nor is guidance given to the children regarding how to process strong negative feelings or inappropriate behaviors that may result from the indiscriminant affirmation of emotion. As is discussed below, studies show that mindfulness meditation can bring negative thoughts and feelings to the surface, which is why even mindfulness promoters caution against applying mindfulness as a universal intervention.<sup>17</sup> Yet CC’s program is indiscriminately taught to all District students, and CC instructors do not have the psychological training or expertise to help children process and appropriately express these feelings. Neither are the children screened for psychological problems or carefully monitored.

**Passivity in the Face of Injustice:** The CC curriculum does not discuss how to take positive, proactive actions based on your thoughts and feelings. Rather, the CC curriculum’s introductory pages assert (using confusing grammar), “Like, don’t like can’t it just be [sic].” This attitude may tend to lead to passivity when the proper response may be action. Even supporters of mindfulness call out these types of program because they fall short of empowering children to take any sort of social action, as presented by the Buddhist Peace Fellowship’s response to a *New York Times* article.<sup>18</sup>

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<sup>16</sup> Calmer Choice Curriculum (hereinafter “CC Curriculum”), p. 51

<sup>17</sup> See, e.g.: “Participants encountered difficult thoughts or feelings in meditation”; Tim Lomas, et al., “A Religion of Wellbeing? The Appeal of Buddhism to Men in London, United Kingdom,” *Psychology of Religion and Spirituality* 6.3 (2014): 201. “Is meditation then a Buddha pill? No, it isn’t in the sense that it does not constitute an easy or certain cure . . . yes, in the sense that, like medication, meditation can produce changes in us both physiologically and psychologically, and that it can affect all of us differently. Like swallowing a pill, it can bring about unwanted or unexpected side-effects in some individuals, which may be temporary, or more long-lasting”; Miguel Farias and Catherine Wikholm, *The Buddha Pill: Can Meditation Change You?* (London: Watkins, 2015). “Secular mindfulness teachers may not be aware of the kinds of things that can come up for people practicing meditation—both problematic spiritual emergencies and profound insights—and won’t know how to guide people with these”; Jenny Wilks, “Secular Mindfulness: Potential & Pitfalls,” *Insight Journal* (Sept. 8, 2014), <http://www.bcbsdharma.org/2014-10-8-insight-journal/>

<sup>18</sup> <http://www.buddhistpeacefellowship.org/the-heart-of-mindfulness-a-response-to-the-new-york-times/>

Mindfulness proponent Natalie Flores likewise notes that “Another problematic aspect of this form of mindfulness in the early years is the attention given to preparing students to comply with the behavioral demands seen in most elementary institutions, including demonstrating appropriate emotional responses and maintaining positive relationships with teachers and other school authorities. The emphasis on sublimating strong emotions such as anger could send unintended messages about not speaking up in the face of injustice, which has serious ramifications for dissuading children’s later participation in social activism. Actually, teaching mindfulness that lacks a critical lens may perpetuate and promote what Ronald Purser and Joseph Milillo call ‘institutional blindness,’ which helps to maintain the status quo rather than lead to transformative change of power-structures. Such learning environments may encourage children to become peaceful and passive in their acceptance of hardships, rather than questioning, or holding an oppositional stance to inequities of social class, race, or gender. So, when teaching mindfulness becomes a vehicle toward academic improvement and encouraging ‘normalized’ behavior, we run the cost of neglecting an awareness of the oppression that many people in our world currently endure.”<sup>19</sup>

**Personalization of Ethics:** Children are instructed not only to accept their feelings but to validate choices and behaviors that flow from their thoughts and feelings. Students are urged, “There is no right way, just your way.”<sup>20</sup> This trains young children, who may not be equipped to navigate ethical nuances, that not only are their feelings “right,” but that the choices that flow from their actions are also “right.” This tends to set up the subjective individual child’s self as the ultimate arbiter of what is right and wrong, as opposed to relying on external or objective authorities outside of the student, including, parents, religious teachings, and even public-school teachers. This teaching may undermine and conflict with a child’s healthy understanding and acceptance of authority, social norms, and behavioral expectations.

**Internalization of Spiritual Worldview and Ongoing Practice:** Mindfulness is not merely taught to the students as an external physical practice that has a purely physiological effect, but rather an internal spiritual practice they carry inside of themselves that has the power to change the individual and transform the world. Indeed, the curriculum actually urges children to become mindfulness missionary evangelists of sorts.

Although the curriculum does not define the term “Core Practice” it employs this term throughout the guide,<sup>21</sup> including using the phrase “Inviting use of Core Practice” on page 22. Defining a practice as “core” implies the idea that MBSR is more than a curriculum, but an important central lifestyle practice, inculcating a worldview.

This concept is affirmed as the instructors are to encourage the children that, “What you have learned in calmer choice . . . You will never forget . . . You have it inside you. No one can take

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<sup>19</sup> [http://www.huffingtonpost.com/natalie-flores/heres-why-you-need-to-question-mindfulness\\_b\\_8112090.html](http://www.huffingtonpost.com/natalie-flores/heres-why-you-need-to-question-mindfulness_b_8112090.html)

<sup>20</sup> CC Curriculum Pre-K – Grade 2/3, p. 51

<sup>21</sup> CC Curriculum, p. 17, 22.

mindfulness away from you.”<sup>22</sup> Instructors are urged to “Ask them to imagine what it would be like if the whole school, community . . . world practiced mindfulness” and to “Ask them to teach one person mindfulness.”<sup>23</sup> Children practice sending “kind thoughts” to others, using carefully scripted, repeated phrases: “May you be happy...May you be healthy and strong... May you live with love and peace . . . May all humans and all creatures . . . . repeat.”<sup>24</sup> An oft-repeated song also instills related virtues: “when I breathe in, I breathe in calm / when I breathe out, I breathe out peace.”<sup>25</sup>

The CC curriculum does not merely teach children a purely secular cognitive concept and practice, rather it cultivates an ongoing practice and lifestyle that promotes a specific worldview and set of virtues. According to the CC website trainer registration page, CC instructors are required to have taken MBSR training and maintain a personal mindfulness practice. Suggested books for instructors include titles by Kabat-Zinn that include explicitly Buddhist content.<sup>26</sup> And CC reports that its MBSR missionary inculcation efforts with students are largely effective. CC Outcome Evaluation states that up to one year since receiving Calmer Choice 60% of students still practice MBSR. In a survey, CC boasts that 84% are still using it.<sup>27</sup>

### **Calmer Choice’s Contracts with the District**

After the December 9, 2015 meeting, as the Superintendent appeared to begin to back pedal from her commitment to end the mindfulness program, Mrs. Conover submitted public records requests to the District asking for all communications regarding the CC program and for copies of the Calmer Choice-District contracts.

In response, the District provided copies of its contracts with Calmer Choice to Mrs. Conover. Pursuant to the simple two-page contract, CC provides “Mindfulness Training.” The contract states that the District is solely legally and financially liable for any problems that may arise from teaching children CC’s untested MBSR curriculum. Specifically, the Ezra H. Baker contract states:

**“The SCHOOL shall indemnify and hold CALMER CHOICE, its officers, directors and employee harmless from any loss, liability or actions by third parties or government agencies arising from this Agreement and the services provided hereunder.”**

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<sup>22</sup> CC Curriculum, p. 103.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*, p. 98. Using almost identical phrases of “May you be happy” etc., Kabat-Zinn labels this practice “Loving-kindness or *metta* in the Pali language,” and describes it as “one of four foundational practices taught by the Buddha known collectively as the heavenly abodes or the divine abodes”; Kabat-Zinn, *Guided Mindfulness Meditation*, Series 3, track 2, <http://www.mindfulnesscds.com/>.

<sup>25</sup> CC curriculum, p. 21 (and also pp. 16, 23, 27, 55, 71, 99).

<sup>26</sup> <http://calmerchoicenews.weebly.com/instructor-training.html>. For example, “Mindfulness is an ancient Buddhist practice which has profound relevance for our present-day lives. . . . Mindfulness has been called the heart of Buddhist meditation,” Kabat-Zinn, *Wherever You Go*, 3-4, 217-225. The book includes chapters on the Buddhist doctrines of “ahimsa” (non-harming) and “karma” (consequences).

<sup>27</sup> <http://www.calmerchoice.org/outcome-evaluation/>.

The total fee for the Ezra school is \$16,000, \$10,000 of which is covered by CC, and \$6,000 of which is paid by the District. The contract allows that either party may “terminate this Agreement at any time for any reason.”

### **Is MBSR Safe for Children?**

MBSR’s growing popularity and ubiquity have led few to question its effectiveness or study existing and growing evidence of meditation’s dark side. Yet the lack of affirming scientific studies has not stopped CC and other similar organizations from promoting its MBSR curriculum as a panacea of sorts for nearly all that ails children. Efficacy claims include that CC is a universal risk program,<sup>28</sup> a suicide prevention program,<sup>29</sup> a stress reduction program,<sup>30</sup> helps adolescents cope with unique perils adolescence brings,<sup>31</sup> helps children to sit still and pay attention,<sup>32</sup> and helps with achievement.<sup>33</sup>

Behind MBSR’s façade of only sweetness and light lurk a plethora of significant and growing concerns that require more rigorous study. In their 2015 book, the *Buddha Pill*, psychologists Dr. Miguel Farias and Catherine Wilholm raise concerns about the lack of research into the adverse effects of meditation, which they term the “dark side” of mindfulness. Farias says. “It’s difficult to tell how common [negative] experiences are, because mindfulness researchers have failed to measure them, and may even have discouraged participants from reporting them by attributing the blame to them.”<sup>34</sup>

An expert who has been increasingly speaking and writing about negative effects of MBSR is Dr. Willoughby Britton, Assistant Professor of Psychiatry and Human Behavior at Brown University Medical School. Britton has been a committed mindfulness practitioner for twenty years. She reports that “in a study I’m doing on the ‘Varieties of Contemplative Experience,’ people are having all kinds of unexpected meditation effects, and it’s scaring the hell out of them. Many of the meditators in my studies in clinical settings are reporting classic meditation side effects like depersonalization. De-repression of traumatic memories is another really common one. People have all this energy running through them; they are having spasms and involuntary movements; they are seeing lights. They check themselves into psychiatric hospitals. Some of the people I’ve seen in my study come from a health and medicine framework and are not Buddhist, and yet they are reporting meditation effects that are well documented in Buddhist texts. But these are not well documented in the scientific literature because nobody is asking about them. . . . I’m seeing people who came to meditation through MBSR or who are not Buddhist but are meditating ‘to be happy.’ They are following their breath or doing a mantra.

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<sup>28</sup> <http://www.calmerchoice.org/school-programs/>.

<sup>29</sup> <http://1440.org/who-we-support/calmer-choice/>.

<sup>30</sup> <http://www.barnstablepatriot.com/article/20091009/NEWS/310099993>.

<sup>31</sup> <http://www.capecod.com/newscenter/sunday-journal/calmer-choices-lessons-mindfulness-spread/>.

<sup>32</sup> <http://www.calmerchoice.org/helping-students-make-the-calmer-choice/>.

<sup>33</sup> <http://www.capecod.com/newscenter/sunday-journal/calmer-choices-lessons-mindfulness-spread/>.

<sup>34</sup> <http://www.theguardian.com/lifeandstyle/2016/jan/23/is-mindfulness-making-us-ill>.

And then they eradicate their sense of self. They freak out. That is a pretty common experience in my study.”<sup>35</sup>

Britton opines that most studies of MBSR have been less than scientifically rigorous. Fewer than 25% of the studies have even considered adverse effects of MBSR. Dr. Britton has been closely monitoring adverse effects in a MBSR/CT clinical trial. Her results, congruent with other studies, indicate that 60% of the sample reported at least one adverse effect, and about 15% reported experiences distressing enough not to want to continue meditating.<sup>36</sup>

Britton was interviewed, along with other leaders in the field, in a 2014 *Atlantic* article “The Dark Night of the Souls.”<sup>37</sup> “We have a lot of positive data [on meditation],” she says, “but no one has been asking if there are any potential difficulties or adverse effects, and whether there are some practices that may be better or worse-suited [for] some people over others. Ironically,” Britton adds, “the main delivery system for Buddhist meditation in America is actually medicine and science, not Buddhism.”<sup>38</sup> Chris Kaplan, a visiting scholar at the Mind & Life Institute who also works with Britton on the Dark Night Project, said, “There is a *sutta*,” a canonical discourse attributed to the Buddha or one of his close disciples, “where monks go crazy and commit suicide after doing contemplation on death.”<sup>39</sup>

Britton and other experts interviewed for the article confirm instances of meditation retreats where students became psychologically incapacitated and some were hospitalized. Says Britton, “there was one person” who “never recovered.”<sup>40</sup> Another meditator interviewed by Britton describes a meditation-induced “psychological hell” of “confusion and tons of terror,” including “a vision of death with a scythe and a hood, and the thought ‘Kill yourself’ over and over again.” Britton reflects, “There are parts of me that just want meditation to be all good. I find myself in denial sometimes, where I just want to forget all that I’ve learned and go back to being happy about mindfulness and promoting it, but then I get another phone call and meet someone who’s in distress, and I see the devastation in their eyes, and I can’t deny that this is happening. As much as I want to investigate and promote contemplative practices and contribute to the well-being of humanity through that, I feel a deeper commitment to what’s actually true.”<sup>41</sup>

Britton’s concerns are not merely anecdotal, but are well founded. The negative effects of MBSR have been documented across multiple studies. An article in the *International Journal of Psychotherapy*, reviewing 75 scientifically selected articles in the field of meditation side effects, observed the following negative effects: relaxation-induced anxiety and panic; paradoxical

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<sup>35</sup> Willoughby Britton, “Meditation Nation,” Interview by Linda Heuman, *Tricycle* (April 25, 2014), <http://www.tricycle.com/blog/meditation-nation>.

<sup>36</sup> Britton, e-mail to Conover, December 10, 2015.

<sup>37</sup> <http://www.theatlantic.com/health/archive/2014/06/the-dark-knight-of-the-souls/372766/>.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

increases in tension; less motivation in life; boredom; pain; impaired reality testing; confusion and disorientation; feeling ‘spaced out’; depression; increased negativity; being more judgmental; feeling addicted to meditation; uncomfortable kinesthetic sensations; mild dissociation; feelings of guilt; psychosis-like symptoms; grandiosity; elation; destructive behavior; suicidal feelings; defenselessness; fear; anger; apprehension; and despair.<sup>42</sup>

For example, a 1992 study by Deane Shapiro found that 63% of 27 mindfulness meditation (Vipassana) retreat participants reported adverse effects; 7% suffered severe enough effects that they stopped meditating. Side effects included depression, confusion, severe shaking, more judgmentalness of others, increased negative emotions, increased fears and anxiety, more emotional pain, disorientation, loss of self, feeling spaced out, decreased attentional clarity, less motivation in life, boredom and pain, feeling more uncomfortable in the real world, “experience of egolessness which brought deep terror and insecurity,” “roller coaster of powerfully pleasant and unpleasant experiences.” Thus, “in order to reach a deeper stability, one becomes fundamentally destabilized. To undergo this, one needs considerable preliminary strength and faith. If that strength and faith do not exist, intensive meditation can be dangerous.”<sup>43</sup>

Researchers Mark D. Epstein and Jonathan D. Lieff, after studying “hundreds of meditators over the past ten years,” describe “Psychiatric Complications of Meditation Practice.” These commonly include: depersonalization, derealization, panic attacks, anxiety, tension, agitation, restlessness, depressive affect, attempted suicide, extreme euphoria, unbearable dysphoria, grandiose fantasies, “religious delusions with messianic content,” psychotic episodes, agitation, and paranoia. The authors note that even the “early stages of meditation practice” can produce “explosive experiences” that are pathological.<sup>44</sup> Psychotherapist P. Gregg Blanton similarly notes that “formal mindful practices can lead to some problems. People with fragile personalities can experience fragmentation of the self which can manifest itself as dissociation, grandiosity, terror, or delusion.”<sup>45</sup>

John L. Craven, M.D., lists contraindications for meditation: “Meditation is not indicated for patients who are likely to be overwhelmed and decompensate with the loosening of cognitive controls on the awareness of inner experience. This would include patients with a history of psychotic episodes or dissociative disorder. . . . The most frequent symptoms include: nausea,

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<sup>42</sup> Alberto Perez-De-Albeniz & Jeremy Holmes, “Meditation: Concepts, Effects and Uses in Therapy,” *International Journal of Psychotherapy* 5.1 (March 2000): 49,

<http://minet.org/www.trancenet.net/research/2000perezdealbeniz.shtml>.

<sup>43</sup> Deane H. Shapiro, Jr., “Adverse Effects of Meditation: A Preliminary Investigation of Long-term Meditators,” *International Journal of Psychosomatics* 39.1-4 (1992): 64-65.

<http://www.ncbi.nlm.nih.gov/pubmed/?term=Shapiro+meditation+1992>.

<sup>44</sup> Mark D. Epstein and Jonathan D. Lieff, “Psychiatric Complications of Meditation Practice,” *The Journal of Transpersonal Psychology* 13.2 (1981): 137-38, 144.

<sup>45</sup> P. Gregg Blanton, “The Other Mindful Practice: Centering Prayer & Psychotherapy,” *Pastoral Psychology* 60 (2011): 143.

dizziness, uncomfortable kinesthetic sensations and mild dissociation,” but may also extend to ‘extreme reactions such as psychosis-like symptoms, suicide and destructive behavior.’”<sup>46</sup>

As a result of these and other similar studies, Britton cautions that currently, the official exclusion criteria for adults, according to The Center for Mindfulness at the University of Massachusetts, is **all psychiatric disorders** (Suicidality, Psychosis, PTSD, Depression, Social anxiety, etc.).<sup>47</sup> Most people are unaware of these exclusion criteria because MBSR is broadly misapplied to treat anxiety, PTSD, depression, and other similar disorders. Britton notes that most school-based MBSR programs do not screen children for psychiatric disorders nor do they carefully monitor the effects of MBSR on children, which according to Britton is a “huge problem.” The *Stress Reduction Clinic Authorized Curriculum Guide © for Mindfulness-Based Stress Reduction* states that risk of suicide is a reason to exclude even adult participants from a class—because it can increase the risk.<sup>48</sup> Everyone who wants to be a participant has to be interviewed, because honest MBSR leaders recognize that it **is not a “universal” intervention**. Reasons to exclude adults from MBSR include feelings of sadness, anger, fear, a history of trauma, abuse, significant recent loss or major life changes, or addiction to substances, and risk of suicide.

Regarding MBSR and children, Dr. Britton notes that many school-based mindfulness programs use the buzz-word “neuroplasticity” to purport that meditation changes the brain in beneficial ways. But, Britton asserts, there has *not been a single study on how meditation affects the brains of children*, so we really have no idea! And of course a child’s brain is very different from an adult’s brain, so we should expect differences in how they respond to meditation.<sup>49</sup> In

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<sup>46</sup> John L. Craven, M.D., “Meditation and Psychotherapy,” *Canadian Journal of Psychiatry* 34.7 (1989): 651.

<sup>47</sup> Saki F. Santorelli, ed., *Mindfulness-Based Stress Reduction (MBSR): Standards of Practice* (Worcester, MA: CFM, 2014), [http://www.umassmed.edu/contentassets/24cd221488584125835e2eddce7dbb89/mbsr\\_standards\\_of\\_practice\\_2014.pdf](http://www.umassmed.edu/contentassets/24cd221488584125835e2eddce7dbb89/mbsr_standards_of_practice_2014.pdf).

<sup>48</sup> Melissa Blacker, Florence Meleo-Meyer, Jon Kabat-Zinn, Lynn Koerbel, & Saki Santorelli, *Authorized Curriculum Guide for Mindfulness-Based Stress Reduction 2015* (Worcester, MA: CFM, 2015).

<sup>49</sup> On the Calmer Choice website it states that college students benefit from short sessions in class (<http://www.calmerchoice.org/school-programs/>), yet we know that children’s brains are not as developed in the early years. For example, most neurologists agree that the prefrontal cortex is not fully developed until around the age of 25 (<http://www.goodtherapy.org/blog/psychpedia/prefrontal-cortex>). In February 2016, the journal *Mindfulness* published a special issue on “Mindfulness-Based Interventions in School Settings.” The issue introduction notes that “Mindfulness research has often been described as being in its infancy, and if this is the case, then the study of mindfulness with youth and in schools is in the prenatal stage of development.” As of November 2015, of the 3,350 scientific articles published on mindfulness, “only 1% (n=36) focused on youth in school settings.” The special issue adds six intervention studies—“a 21% increase in the total number of peer-reviewed articles on this particular topic.” The articles are of generally low quality and still fail to shed light on how meditation affects children’s brains or cortisol levels. Of interest, the same journal issue—focused on presumably secular MBIs in public-school settings—includes a contribution from Jon Kabat-Zinn on “Dukkha”—that frames mindfulness as a Buddhist, not a secular, practice: “The first Noble Truth of the Buddha’s teachings is the centrality, universality, and unavoidability of dukkha [suffering] . . . Lying at the heart of all these meditative practices for the recognition of, liberation from, and cessation of dukkha is the cultivation of mindfulness”; Kabat-Zinn, “Dukkha,” *Mindfulness* 7.1 (2016): 277. The issue also features an interview with the Dalai Lama’s translator, Thupten Jingpa,

fact, Dr. Kimberly Schonert-Reichl, scientific advisor for MindUp, a program similar to Calmer Choice,<sup>50</sup> admits (in attempting to account for her unexpected finding that MindUP students, compared with those in a control group, actually showed cortisol patterns indicative of *significantly increased stress!*): “the fact of the matter is that we know very little about normative cortisol regulation across the day in healthy samples of elementary schoolchildren” and “clearly more research is needed to shed further light on the effects of mindfulness practices on cortisol regulation in late middle childhood and early adolescence.”<sup>51</sup>

Under these circumstances is it then reasonable for Calmer Choice to tout its MBSR program as a “universal/primary prevention program?” The obvious question that emerges here is that if MBSR can be dangerous for adults, and there has been little research on its impact on children’s brains, are we risking the health of children by experimenting on them with untested modalities like MBSR?

### **Is Mindfulness Even Effective for Relieving Stress?**

Does MBSR actually reduce stress as its title suggests? Scientific studies of MBSR have raised serious questions about its primary claim to fame, that it diminishes stress and improves one’s overall wellbeing. In fact, a study published in the prestigious *JAMA Internal Medicine* found, after reviewing 18,753 citations and excluding all but 47 trials with 3,515 participants (since others lacked active control groups) that while mindfulness meditation programs had moderate evidence of improved anxiety and pain, it had low evidence of improved stress/distress and mental health–related quality of life. They also found insufficient evidence of any effect of meditation programs on positive mood, attention, substance use, eating habits, sleep, and weight. They found no evidence that meditation programs were better than any active treatment (i.e., drugs, exercise, and other behavioral therapies).<sup>52</sup> This review also confirms Britton’s point that the vast majority of studies on meditation lack active controls—which means that reported conclusions are less reliable.

As Buddhist scholar Edward Ng explains, “The science of mindfulness is not unproblematic. Buddhist scholars like Bernard Faure, as well as scientific researchers like Catherine

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who reflects honestly on the difficulty of keeping mindfulness secular: “I think one of the interesting things about mindfulness, is that the initial emphasis on the secularization of the language really makes it less threatening to many people. It offers a very, very, skillful route to get to that experience, and then as people’s experience deepens, there is no denying the fact that it does open to deeper spirituality, however it may be formulated”; Edo Shonin and William Van Gordon, “Thupten Jingpa on Compassion and Mindfulness,” *Mindfulness* 7.1 (2016): 280.

<sup>50</sup> Letter by John H Meklejohn provided by Calmer Choice.

<sup>51</sup> Kimberly Schonert-Reichl KA, et al., “Enhancing Cognitive and Social–Emotional Development Through a Simple-to-Administer Mindfulness-Based School Program for Elementary School Children: A Randomized Controlled Trial,” *Developmental Psychology* 51.1 (2015):52-66. doi:10.1037/a0038454, <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4323355/>.

<sup>52</sup> Madhav Goyal, et al., “Meditation Programs for Psychological Stress and Well-being: A Systematic Review and Meta-analysis,” *JAMA Internal Medicine* 174.3 (2014):357-368. doi:10.1001/jamainternmed.2013.13018, <http://archinte.jamanetwork.com/article.aspx?articleid=1809754>.

Kerr and Willoughby Britton, have questioned the hype surrounding the science of mindfulness. Kerr notes that the media features tend to be sensationalist and selective in their reporting of findings, and that the demand for institutional and financial support also partly influences the way scientists (over) sell the case for meditation research. Reflecting on the unavoidable bias in meditation research, Britton acknowledges that mindfulness training is not an exercise that can be performed or extracted and studied in isolation: “It’s an entire worldview and religion.”<sup>53</sup>

### **What Really is Mindfulness Based Stress Reduction (MBSR)?**

Depending upon the audience he is addressing, Jon Kabat-Zinn advertises MBSR as a “secular” program—or insists that it is authentically Buddhist. The term mindfulness does “double-duty” for Kabat-Zinn: it sounds like a simple technique for regulating attention, but it is also a “placeholder for the entire dharma,” the Buddha’s comprehensive life-style teachings about the ultimate problem of suffering and the pathway to liberation from suffering. Likewise, the term “stress” is one most people can relate to, but it also “has the element of *dukkha* [or suffering] embedded within it.” Kabat-Zinn has explained to his Buddhist audiences that the name *Mindfulness-Based Stress Reduction* refers to “the words of the Buddha in his most explicit teaching on mindfulness, found in the *Mahasattipathana Sutra*, or great sutra on mindfulness.” It is the “**direct path for the purification of beings, for the surmounting of sorrow and lamentation, for the disappearance of pain and grief, for the attainment of the true way, for the realization of liberation [Nirvana] – namely, the four foundations of mindfulness.**”<sup>54</sup>

The MBSR model relies on teachers to convey not only techniques, but also **worldviews** to students. Mindfulness Based Intervention (MBI) teacher training includes “cultivation of a particular attitudinal framework” and “assimilating a particular view of the nature of human suffering.”<sup>55</sup> The Center for Mindfulness “Standards of Practice” guidelines specify that MBSR teachers cultivate “foundational attitudes” of “non-judging, patience, a beginner’s mind, non-striving, acceptance or acknowledgement, and letting go or letting be.”<sup>56</sup> These attitudes are, according to psychologist Steven Stanley, “related to core virtues found in early Buddhist texts, such as generosity, loving-kindness, empathetic joy and compassion.”<sup>57</sup> Indeed, the CC curriculum teaches children related virtues, “cultivating positive emotional states... kindness, gratitude, compassion, empathy, optimism, forgiveness.”<sup>58</sup>

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<sup>53</sup> Edwin Ng, “Who Gets Mindfulness ‘Right’?: An Engaged Buddhist Perspective,” *ABC Religion and Ethics* (March 5, 2015), <http://www.abc.net.au/religion/articles/2015/03/05/4191695.htm>.

<sup>54</sup> Kabat-Zinn, “Some Reflections on the Origins of MBSR, Skillful Means and the Trouble with Maps,” *Contemporary Buddhism* 12.1 (2011): 288, 290; Kabat-Zinn, “Foreword,” in Fabrizio Didonna, ed., *Clinical Handbook of Mindfulness* (New York: Springer, 2009), xxviii-xxix.

<sup>55</sup> Rebecca S. Crane, R. S., Hastings, R. P., & Williams, J. M. G., “Training Teachers to Deliver Mindfulness-based Interventions: Learning from the UK Experience,” *Mindfulness*, 1 (2010): 82.

<sup>56</sup> Santorelli, *Standards of Practice*, 10.

<sup>57</sup> Steven Stanley, “Sīla and Sati: An Exploration of Ethics and Mindfulness in Pāli Buddhism and their Implications for Secular Mindfulness-based Applications,” in E. Shonin, et al., *Buddhist Foundations of Mindfulness* (Cham, Switzerland: Springer, 2015), 99.

<sup>58</sup> CC curriculum, p. 8.

What is the ultimate spiritual goal of MBSR, according to Kabat-Zinn? The “particular techniques” taught in MBSR are “merely launching platforms or particular kinds of scaffolding to invite cultivation and sustaining of attention in particular ways” that bring one to “ultimate understanding” that “transcends even conventional subject object duality.”<sup>59</sup> Kabat-Zinn aims at nothing less than **“direct experience of the noumenous, the sacred, the Tao, God, the divine, Nature, silence, in all aspects of life,”** ushering in a “flourishing on this planet akin to a second, and this time global, Renaissance, for the benefit of all sentient beings and our world.”<sup>60</sup> Although he still trains with Buddhist teachers, Kabat-Zinn stopped identifying as a Buddhist when he realized that he “would [not] have been able to do what I did in quite the same way if I was actually identifying myself as a Buddhist.” Kabat-Zinn also insists that “the Buddha himself wasn’t a Buddhist,” since “the term Buddhism is an invention of Europeans.” Yet, Kabat-Zinn views his “patients as Buddhas,” since “literally everything and everybody is already the Buddha.”<sup>61</sup>

### **Secular Mindfulness or Stealth Buddhism?**

When promoters claim to have “secularized” mindfulness, this typically means that they have swapped out a few vocabulary terms--replacing “Buddhism” and “meditation” with “neuroscience” and “scientific research”—yet without substantively changing the nature of mindfulness practice.<sup>62</sup> Kabat-Zinn has even boasted that “what is practiced in Buddhist monasteries is essentially no different from what is taught in MBSR.”<sup>63</sup>

Promoters may employ various tactics, such as describing mindfulness as “purely secular,” couching mindfulness in terms of health and science (brain structure, neuroplasticity, stress reduction), avoiding religious terminology when discussing it, arguing that mindfulness’s long history of practice validates its efficacy, arguing that its modern practice has been uncoupled from Buddhist cultural and religious origins, or asserting that mindfulness teaches allegedly “universal” values such as compassion. Furthermore, marketers may employ religious and secular discourses simultaneously: describing religious concepts with language of science and spirituality; through self-censorship, selecting certain concepts or practices to omit disclosing

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<sup>59</sup> Kabat-Zinn, J. “Mindfulness-based Interventions in Context: Past, Present, and Future,” *Clinical Psychology: Science and Practice*, 10.2 (2003): 147-148.

<sup>60</sup> Kabat-Zinn, “Catalyzing Movement Towards a More Contemplative / Sacred-appreciating / Non-dualistic Society,” The Contemplative Mind in Society Meeting of the Working Group, Sponsored by The Nathan Cummings Foundation & Fetzer Institute (September 29-October 2, 1994), 4, <http://www.contemplativemind.org/admin/wpcontent/uploads/2012/09/kabat-zinn.pdf> ; Kabat-Zinn, “Some Reflections,” 281.

<sup>61</sup> Kabat-Zinn, “Mindfulness and the Cessation of Suffering,” Interview by D. Fisher (October 7, 2010), <http://www.lionsroar.com/mindfulness-and-the-cessation-of-suffering-an-exclusive-new-interview-with-mindfulness-pioneer-jon-kabat-zinn/>; Kabat-Zinn, “Some Reflections,” 300.

<sup>62</sup> [http://www.huffingtonpost.com/candy-gunther-brown-phd/mindfulness-meditation-in\\_b\\_6276968.html](http://www.huffingtonpost.com/candy-gunther-brown-phd/mindfulness-meditation-in_b_6276968.html)

<sup>63</sup> Kabat-Zinn, “This is not McMindfulness by any Stretch of the Imagination,” Interview by E. Shonin, *The Psychologist* (May 18, 2015), <https://thepsychologist.bps.org.uk/not-mcmindfulness-any-stretch-imagination>

while emphasizing others; and by means of camouflage, or concealing followed by carefully timed, gradual introduction of spiritual teachings as perceived benefits win over novices.<sup>64</sup>

Kabat-Zinn has described MBSR as “one of a possibly infinite number of **skillful means** for bringing the dharma into mainstream settings. It has never been about MBSR for its own sake.”<sup>65</sup> Kabat-Zinn’s disciple Trudy Goodman, founder of Insight LA, admitted in an interview for BuddhistGeeks.com that she circumvents the First Amendment by engaging in “**stealth-Buddhism,**” thereby teaching mindfulness in “hospitals, and universities, and schools, and places where as Buddhists we might not be so welcome especially state places.” Goodman confessed that though advertised as “secular,” her mindfulness classes “aren’t that different from our Buddhist classes. They just use a different vocabulary.”<sup>66</sup> Stephen Batchelor, meditation teacher and advocate of “Secular Buddhism,” popularized the phrase “**Buddhist Trojan Horse,**” positing that once mindfulness has been “implanted into the mind/brain of a sympathetic host; dharmic memes are able to spread virally, rapidly and unpredictably.”<sup>67</sup>

Actress and movie producer Goldie Hawn boasts of writing a “**script**” to sneak Buddhist meditation “into the classroom under a different name because obviously people that say ‘oh meditation’ they think oh this is ‘Buddhist.’” Hawn’s script is *The MindUP Curriculum* for K-8 classrooms. Speaking at The Dalai Lama Center for Peace-Education, Hawn says that MindUP “all started” with “His Holiness” (who “gave me my mantra”) and the Dalai Lama Center (“it’s karma”).<sup>68</sup> The MindUP script replaces the terms “Buddhism” and “meditation” with “neuroscience” and “Core Practice.”<sup>69</sup>

Hawn’s goal is to see MindUP “absolutely mandated in every state . . . that’s our mission.”<sup>70</sup> Kimberly Schonert-Reichl, who serves on MindUP’s advisory board, is a “long-time partner with the Dalai Lama Center for Peace-Education” and in videos linked from the MindUP website, Schonert-Reichel reassures Buddhist audiences at the Vancouver Peace Summit and at the

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<sup>64</sup> Courtney Bender, *The New Metaphysicals: Spirituality and the American Religious Imagination* (Chicago: University of Chicago Press, 2010), 42; Nurit Zaidman, et al., “From Temples to Organizations: The Introduction and Packaging of Spirituality,” *Organization* 16.4 (2009): 605–606.

<sup>65</sup> Kabat-Zinn, “Some Reflections,” 281.

<sup>66</sup> Trudy Goodman, “Stealth Buddhism,” Interview by V. Horn & E. Horn. BG331 (20104), [www.buddhistgeeks.com/2014/08/bg-331-stealth-buddhism/](http://www.buddhistgeeks.com/2014/08/bg-331-stealth-buddhism/).

<sup>67</sup> Stephen Batchelor, “A Secular Buddhism,” *Journal of Global Buddhism* 13 (2012): 89.

<sup>68</sup> Goldie Hawn, “Address for Heart-Mind 2013. The Dalai Lama Center for Peace-Education,” <https://www.youtube.com/watch?v=7pLhwGLYvJU>.

<sup>69</sup> Hawn Foundation, *MindUP Curriculum: Brain-focused Strategies for Learning—and Living, Grades Pre-K-2* (New York: Scholastic, 2011).

<sup>70</sup> Goldie Hawn, “Goldie Hawn Talks ‘MindUP’ and Her Mission to Bring Children Happiness,” Interview by M. Schnall, *Huffington Post* (April 20, 2011), [http://www.huffingtonpost.com/marianne-schnall/goldie-hawn-mindup\\_b\\_850226.html](http://www.huffingtonpost.com/marianne-schnall/goldie-hawn-mindup_b_850226.html).

Garrison Institute that “secularized” classroom mindfulness effectively advances “Buddhist Contemplative Care.”<sup>71</sup>

Not surprisingly, Buddhist religious leaders and scholars have raised ethical objections, sharply criticizing the “secular” mindfulness movement as self-contradictory or deceptive.<sup>72</sup> Lynette Monteiro argues that “regardless of the intention to not impose extraneous values,” it is problematic to define mindfulness-based interventions as secular because Buddhist values are “ever-present and exert a subtle influence on actions, speech and thoughts,” potentially disrespecting client values.<sup>73</sup>

### **Research Confirms MBSR is A Gateway to Buddhism**

Does the practice of purportedly “secular” mindfulness have any metaphysical impact on practitioners who begins MBSR with no spiritual or religious intent? Simply put, yes. Non-Buddhists who believe they are engaging in mindfulness in a non-religious way in an attempt to gain secular benefits often report an increase in spiritual and religious experiences. Indeed, there are many anecdotal reports of individuals who begin with a secular mindfulness course finding their way into Buddhism. Neuroscience researcher and MBSR teacher Willoughby Britton reports that a number of students who have been introduced to mindfulness through college courses have subsequently taken off time to go on long retreats, often in Asia, and/or ordain as Buddhist monks/nuns.<sup>74</sup>

Research studies confirm anecdotal reports of an association between secular mindfulness and increased religiosity. Quantitative survey research by psychologist Jeffrey Greeson et al. of participants in MBSR classes found a significant correlation between increased mindfulness and spirituality. Most participants in a 2011 study enrolled wanting improved mental health (90%), help managing stress (89%), and improved physical health (61%); half (50%) agreed that “exploring or deepening my sense of spirituality” motivated enrollment. **After eight weeks, 54% reported that the course had deepened their spirituality, including personal faith, meaning, and sense of engagement and closeness with some form of higher power or**

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<sup>71</sup> Kimberly Schonert-Reichel, Interview by Dalai Lama Center (September 25, 2012), <http://dalailamacenter.org/blog-post/interview-dr-kimberly-schonert-reichel>; Schonert-Reichel, “Vancouver Peace Summit 2009: Educating the Heart and Mind” (September 27-29, 2009), <https://www.youtube.com/watch?v=suojNzKZ8ew&feature=youtu.be&t=1h11m28s>, at 1:11:28; Schonert-Reichel, “Buddhist Contemplative Care Symposium (2011), <http://www.garrisoninstitute.org/cae-videoaudio/2011-symposium-videos/1091-susan-kaiser-greenland-kim-schonert-reichel-and-patricia-broderick>, at 38:35.

<sup>72</sup> Edo Shonin et al., “Mindfulness-based Interventions: Towards Mindful Clinical Integration,” *Frontiers in Psychology* (April 18, 2013): 1-4; Ron Purser, “Clearing the Muddled Path of Traditional and Contemporary Mindfulness: A Response to Monteiro, Musten, and Compson,” *Mindfulness* 6.1 (2015): 23-45.

<sup>73</sup> Lynette Monteiro, “Ethics and Secular Mindfulness Programs: Sila as Victim of the Fallacy of Values-neutral Therapy,” Paper presented at the American Academy of Religion, Atlanta, GA, November 2015.

<sup>74</sup> Willoughby Britton, “The Dark Night Project,” Interview by V. Horn. BG232 (2011), <http://www.buddhistgeeks.com/2011/09/bg-232-the-dark-night-project/>.

**interconnectedness with all things.** The study concludes that mental health benefits of secular mindfulness can be attributed to increases in daily *spiritual* experiences.<sup>75</sup>

Tim Lomas et al. investigated the question of why the number of Buddhists is rising in Britain by conducting in-depth narrative interviews with thirty London male meditators. While most of those interviewed tried meditation for secular reasons, such as stress management, “meditation became their gateway to subsequent interest in Buddhism,” and over time “meditation and Buddhism had become inextricably linked.”<sup>76</sup> In a study of mindfulness retreat participants, Deane Shapiro found that longer-term meditators were less likely to be religious “Nones” or monotheists and more likely to identify as Buddhist or with “All” religions.<sup>77</sup>

John A. Astin examined the effects of an eight-week program “modeled very closely after Kabat-Zinn’s” on twenty-eight participants randomized into an experimental or nonintervention control group. Experimental subjects demonstrated statistically significant “higher scores on a measure of spiritual experiences” (Index of Core Spiritual Experiences (INSPIRIT)). Astin also noted that Kabat-Zinn’s program “has its roots in the tradition of Theravada Buddhism” and utilizes “meditation techniques which were not originally conceived of as stress reduction exercises but rather as contemplative practices specifically designed to *foster* spiritual growth and understanding.”<sup>78</sup>

Research on mantra meditation<sup>79</sup> offers additional insights into the inherent difficulties involved in the elusive goal of disentangling and neatly separating the physical (“secular”) from the metaphysical (“religious”), casting grave doubts on whether meditation can be ever fully “secularized.” These seemingly inextricable connections between MBSR meditation and Buddhism should not be surprising given decades of research showing that religion promotes physical and mental health and learning, and studies of prayer reporting benefits similar to those of mindfulness.<sup>80</sup>

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<sup>75</sup> Jeffrey M. Greeson, et al., “Changes in Spirituality Partly Explain Health-Related Quality of Life Outcomes after Mindfulness-Based Stress Reduction,” *Journal of Behavioral Medicine* 34.6 (2011): 508–18.

<sup>76</sup> Lomas, “Religion of Wellbeing?” 201.

<sup>77</sup> Deane H. Shapiro, “A Preliminary Study of Long-term Meditators: Goals, Effects, Religious Orientation, Cognitions,” *The Journal of Transpersonal Psychology* 24.1 (1992): 34.

<sup>78</sup> John A. Astin, “Stress Reduction through Mindfulness Meditation: Effects on Psychological Symptomatology, Sense of Control, and Spiritual Experiences,” *Psychotherapy and Psychosomatics* 66 (1997): 97-106.

<sup>79</sup> Amy B. Wachholtz and Kenneth Pargament, “Is Spirituality a Critical Ingredient of Meditation? Comparing the Effects of Spiritual Meditation, Secular Meditation, and Relaxation on Spiritual, Psychological, Cardiac, and Pain Outcomes,” *Journal of Behavioral Medicine* 28.4 (2005): 369-84, 382; Amy B. Wachholtz and Kenneth Pargament, “Migraines and Meditation: Does Spirituality Matter?” *Journal of Behavioral Medicine* 31.4 (2008): 363.

<sup>80</sup> Harold Koenig, Dana King, and Verna B. Carson, eds., *Handbook of Religion and Health*, 2nd ed. (New York: Oxford University Press, 2012).

## LEGAL ARGUMENT

### Calmer Choice's MBSR Program May Be Dangerous for Children and Expose the District to Significant Legal Liability and Damages.

Without properly vetting the curriculum, screening students, or carefully monitoring their well-being, the District is paying Calmer Choice to implement a risky religiously-based MBSR program, neither the effectiveness nor the dangers of which have been sufficiently studied scientifically. And, as is also discussed herein, the religious roots and fruits of MBSR disrespectfully undermine and in some cases contradict the religious beliefs and practices and worldviews parents are inculcating at home. The curriculum creates a significant likelihood that children will be injured and that families may become disenchanting and upset when they discover that the district has not accurately represented the true nature of the curriculum nor has it obtained appropriate informed consent.

Pursuant to its contracts with CC, CC stunningly bears no responsibility or liability whatsoever for its MBSR program. In fact, the District is solely legally and financially liable for any problems that may arise from teaching children CC's risky and untested MBSR "Mindfulness Training" curriculum. The Ezra H. Baker contract, for example, requires the District to "indemnify and hold . . . CALMER CHOICE . . . harmless from any loss."

Therefore, the CC curriculum and contracts together embody the potential to financially cripple or destroy the District. Imagine, if only 5% of children have serious psychological difficulties (compared with the 15% of adults that Britton has found report significantly distressing effects) as a result of the MBSR curriculum and sue the District, the District could very quickly become bankrupt! Even if the district is unconcerned with the impact of MBSR on its young students, it should carefully consider the profound financial impact the District will suffer if children are in fact harmed.

### Calmer Choice's Curriculum Promotes Religion, in Violation of the Establishment Clause of the First Amendment.

Courts have interpreted the Establishment Clause of the U.S. Constitution's First Amendment<sup>81</sup> to require, and parents and their children should be able to expect, that public schools offer a curriculum that is neutral towards specific religions and neutral towards religion in general. In other words, the government should never be in a position of picking religious winners and losers.<sup>82</sup>

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<sup>81</sup> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

<sup>82</sup> See *Abington School District v. Schempp*, 374 U.S. 203 (1963) (In-classroom Bible reading unconstitutional); *Engel v. Vitale*, 370 US 421 (1963) (In-classroom prayer unconstitutional); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (In Classroom moment of silence for meditation or prayer unconstitutional).

There are many good reasons for this limitation, especially in the public-school context. As public servants, schools serve families and have teachers from diverse cultural and religious backgrounds, who subscribe to a wide variety of spiritual beliefs and practices, and some, none at all. For example, children or teachers, from a Judeo-Christian background are taught to engage in prayer or reading of scripture when they are feeling stressed as opposed to looking to Buddhist meditative practices like MBSR. Those subscribing to atheism may prefer to not engage in either prayer or meditation.

Public-school teachers and instructors, including those who teach MBSR, are authority figures, especially for younger students, who command the respect and trust of students and their families. For this reason, courts interpreting the First Amendment have been sensitive to the fact that regular classes (as opposed to after-school voluntary courses) offered pursuant to a compulsory education regime create a somewhat coercive environment for students. In this unique authoritarian context, the courts have held that the state has no legitimate interest in breaching this sensitive public trust by abusing its privilege of acting in loco parentis (in the place of parents) and inappropriately promoting religion. The District's decision here to uniformly impose a "one-size fits all" Buddhist-based meditative practice and worldview on all students, regardless of their spiritual affiliation, is a breach of the public trust and the First Amendment. Even where opt-out provisions exist, it can be socially costly for students and their families to go against the flow and risk being perceived as "outsiders." As a result, the District's CC curriculum is culturally and spiritually insensitive and intolerant of families and students who do not subscribe to meditative practices. True diversity and inclusion exists when public schools honor the free choices of students and their parents regarding their own cultural, religious, and spiritual beliefs and practices.

To determine whether something is religious it is important to define religion. The word "religion" encompasses beliefs and practices perceived as connecting individuals or communities with transcendent realities, aspiring toward salvation from ultimate problems, or cultivating spiritual awareness and virtues.<sup>83</sup> Religion may be identified by the presence of "creeds" (explanations of the meaning of human life or nature of reality), "codes" (rules for moral and ethical behavior), "cultuses" (rituals or repeated actions that instill or reinforce creeds and codes), and "communities" (formal or informal groups that share creeds, codes, and cultuses), or by "ultimate ideas," "metaphysical beliefs," "moral or ethical system," "comprehensiveness of beliefs," and "external signs" such as an enlightened founder, sacred writings, gathering places,

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<sup>83</sup> See Candy Gunther Brown, *The Healing Gods: Complementary and Alternative Medicine in Christian America* (New York: Oxford University Press, 2013), 22; Émile Durkheim, *The Division of Labor in Society*, reprint ed. (New York: Simon & Schuster, 1984), 131; Jonathan Z. Smith, *Relating Religion: Essays in the Study of Religion* (Chicago: University of Chicago Press, 2004), 179-196; Thomas A. Tweed, *Crossing and Dwelling: A Theory of Religion* (Cambridge, MA: Harvard University Press, 2006), 73.

keepers of knowledge, and proselytizing.<sup>84</sup> Such definitions do not sharply distinguish religion from “spirituality,” both of which make metaphysical (more-than-physical) assumptions about the nature of reality. Definitions that differentiate religion and spirituality tend to associate the former with bureaucracy and the latter with individual quests for ultimate reality, while noting that overlaps are so extensive that they are difficult to disentangle.<sup>85</sup>

Based on these definitions, despite significant secular posturing, MBSR promotes religion. Specifically, Buddhism pervades MBSR and MBSR offshoots such as the CC curriculum. MBSR’s practice of cultivating spiritual awareness, cultivating virtues, and going within oneself to achieve transcendence and unity with “awareness itself” or ultimate reality are definitely religious beliefs and practices. As religious studies scholar Dr. Candy Gunther Brown concludes in her analysis of MBSR, “Dr. Jon Kabat-Zinn’s MBSR model is a prime example of an MBI infused at every level—concept, structure, teacher training, and graduate resources—with carefully camouflaged Buddhist content. . . . Mindfulness is steeped in transcendent beliefs and enacted through practices that purportedly connect individuals with ultimate reality, trace a path to salvation from suffering, and cultivate spiritual awareness and Buddhist virtues. The mindfulness movement has its own creeds or compelling explanations of what is real; implies codes of moral and ethical behavior; reinforces its creeds and codes through cultuses or repeated words and actions; and is practiced through formal and informal communities. Ultimate ideas, metaphysical beliefs, a comprehensive worldview, and external signs of religion and spirituality can all be identified.”<sup>86</sup>

The scenario here is not very different than *Malnak v. Yogi*,<sup>87</sup> where the court found that the meditative practices and worldview promoted by Transcendental Meditation (TM), though not a traditional theistic religion, being taught in public high schools in New Jersey violated the Establishment Clause. In *Malnak*, like here, the organization promoting meditation attempted to avoid using religious vocabulary, claimed its program was secular, and that its effectiveness was supported by scientific research. Nonetheless, the court found that the meditation program promoted religious practices and religious beliefs about the ultimate nature of reality. It is noteworthy that the district court opinion in *Malnak*<sup>88</sup> includes an extensive discussion regarding the fact that although **Buddhism** and Hinduism teach a concept of ultimate reality different from the Jude-Christian mono-theistic concept of God, because both of these religions nonetheless

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<sup>84</sup> Catherine Albanese, *America, Religions and Religion*, 5th ed. (Boston: Wadsworth, 2013), 2-9; *Malnak v. Yogi*, 592 F.2d 197, 208-210 (3rd Cir. 1979) (Adams Conc.); See also *U.S. v. Meyers*, 95 F.3d 1475, 1483 (10th Cir. 1996).

<sup>85</sup> Shapiro, “Preliminary Study of Long-term Meditators,” 24; Stephen P. Stratton, “Mindfulness and Contemplation: Secular and Religious Traditions in Western Context,” *Counseling and Values* 60.1 (2015): 101.

<sup>86</sup> Candy Gunther Brown, “Can the Mindfulness Technique be Separated from Religion?” In R. Purser, D. Forbes, and A. Burke, eds., *Handbook of Mindfulness: Culture, Context, and Social Engagement* (New York: Springer, under review).

<sup>87</sup> 440 F. Supp. 1284 (1977); 592 F. 2d 197 (1979).

<sup>88</sup> 440 F. Supp. at 1321-1323.

inculcate concepts of an “Ultimate Reality,” their propagation in public schools also violates the Establishment Clause.

This is not to say that MBSR has no place whatsoever on public-school campuses. With appropriate disclosures, MBSR could be offered by Calmer Choice as an optional course during non-instructional time, such as during lunch or after school.<sup>89</sup> This would avoid the legitimate concerns raised by the Establishment Clause that the school is promoting religion during instructional time of the regular school day. However, implementing mindfulness as a formal part of the regular public-school-day curriculum, as the District has done here, is an entirely different matter.

### CONCLUSION

It is a well-established fact that the practice of mindfulness, including purportedly “secular” variants, can be dangerous for adults struggling with mental disorders and lead to a variety of negative outcomes, including a loss of one’s sense of self. The impact of the practice of mindfulness on children, in spite of promoters’ positive claims, has not been sufficiently studied or documented. Mindfulness programs such as Calmer Choice fail to warn parents about exclusionary criteria or even the possibility of negative outcomes for children, nor do their programs screen children for mental health issues or carefully monitor children participating in such programs. The District’s adoption and implementation of an MBSR curriculum is, at best, negligent and, at worst, reckless. Public-school children must not be treated as metaphysical guinea pigs, subjected to largely untested religious beliefs and practices.

Mindfulness is without question a Buddhist religious practice. In a spirit quite frankly smacking of philosophical and spiritual “insiderism” or elitism, promoters of mindfulness claim special “new” insights into the universal causes and the universal solutions of being human. The prescription of mindfulness as a universal, non-sectarian cure for nearly all that ails us in modern life is precisely a religious attitude! And the fact that promoters of mindfulness vaunt its secular benefits does not magically convert MBSR from a religious practice to a non-religious practice. Ample studies demonstrate the failures of attempts to “secularize” mindfulness meditation, which even in its secular linguistic clothing remains rooted in and has the effect of promoting Buddhist religious ideals. Many religious practices, including prayer, have been confirmed by science to have tremendous “secular” personal benefits to regular practitioners, yet we no longer allow mandatory prayer in public-school classrooms precisely because we understand that claims of mind-body effectiveness alone do not somehow mystically erase or sanitize the religiosity of prayer. The same factors apply to MBSR meditation.

As is demonstrated by ample research, secular MBSR programs involve religious components and serve as a gateway to adopting a Buddhist worldview and/or ultimately conversion to

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<sup>89</sup> See *Good News Club v. Milford Central School*, 533 U.S. 98 (2001).

Buddhism. There is evidence that promoters of mindfulness meditation and yoga (which is one of the three basic practices taught in MBSR) commonly engage in “self-censorship” or “camouflage” to make practices appear less religious and thus more palatable to secular or Christian audiences. Just because Calmer Choice represents that its mindfulness program is not religious does not remove the Buddhist religious meanings that are implicitly communicated through the meditative “core” practices and aphorisms taught children—and labeled as “mindfulness”—a loaded term that points toward Buddhism.

It is not enough, however, to eschew the deception of Skillful Means, Stealth-Buddhism, Trojan Horses, and Scripting. Advocates may truly believe that mindfulness is secular because its values seem to them self-evidently universal, and science appears to validate its practical benefits. But it is easy to confuse culturally and religiously specific diagnoses and prescriptions for the ultimate problems that plague humanity with universally shared goals, values, and human capacities. Given the pervasiveness of explicit and implicit Buddhist content in MBSR it should come as no surprise that research suggests that even nominally secular mindfulness programs produce religious and spiritual effects.

The well-documented exclusionary criteria and risks MBSR poses for many adults and the lack of sufficient scientific studies of MBSR’s impact on children should set off “danger” and “warning” alarm bells and sirens among District administrators, teachers, parents, and students. All taxpayers, even those who do not have children enrolled in the District, should be deeply concerned that public funds may be inappropriately depleted if children start to manifest psychological and spiritual problems as a result of the meditation program.

Calmer Choice and mindfulness instructors have an affirmative ethical obligation to be completely honest about what MBSR is and what it does. The District cannot now claim that it “didn’t know.” Without having been provided objectively thorough and accurate information up front, neither parents nor students have given nor can they give informed consent before engaging in the District’s existing MBSR curriculum. This is especially important here, where MBSR is being imposed upon young, impressionable, and vulnerable children and their unsuspecting families who deserve much better from their public servants.

Please confirm, on or before February 14, 2016, that the District will suspend and not renew any and all contracts with Calmer Choice. As an option, it would be legally acceptable for the District to decide to transform the MBSR program to a voluntary, after-school program involving no significant expenditure of taxpayer funds.

Thank you for your immediate attention to the important matters addressed in this letter. I look forward to your anticipated courtesy and cooperation in acknowledging, honoring, and respecting the religious legal rights of District students, their families, and community religious

organizations, and protecting the health and safety of the District's children. Should you have any questions, please direct them to me at The National Center for Law and Policy.

Sincerely,



Dean R. Broyles, Esq.  
President & Chief Counsel  
**THE NATIONAL CENTER FOR LAW & POLICY**