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May 12, 2009

**RE: PE CREDIT FOR JROTC & NEED FOR PE TEACHERS TO HAVE PE CREDENTIALS**

Dear Superintendent Garcia, President Maufas and Commissioners of the Board of Education:

I understand the Board is reviewing its JROTC policy this evening and that, as part of that determination, may again be considering whether to offer Physical Education (PE) credit for JROTC courses.

As we have stated previously, Public Advocates takes no position on the Board's discretionary decision as to whether to offer JROTC courses in the district. We write to reiterate our concern that, should the Board decide to maintain JROTC, it may not offer PE credit for such courses without meeting state PE standards and state PE teacher credentialing statutes.

**JROTC Content Must Meet State Standards for a High Quality PE Course of Study.**

Last week's action by the State Board to revise its PE curriculum framework and yesterday's correspondence to districts from Superintendent O'Connell confirm that it remains incumbent upon districts to ensure that PE courses deliver content in eight state-mandated areas. *Cal. Educ. Code* §§ 33350(a); 33352(a); *Cal. Code Regs.*, tit. 5, § 10060(a). The Curriculum Frameworks properly interpret these requirements to ensure that the eight content areas be covered within the two-year PE course of study prescribed for graduation from high school in California. See *Cal. Educ. Code* § 51225.3(a)(1)(F). If JROTC courses are to be offered for PE credit, they must be part of a high quality PE course of study that meets state standards. It is our understanding that current JROTC courses, created and maintained for purposes other than delivering high quality PE, most likely fall short of that mark.

**JROTC Instructors Must Have California PE Credentials to Teach Courses that Offer PE Credit.**

It remains the case that teachers teaching any subject in California are considered unlawfully misassigned if they lack the proper state credential or other authorization to teach that subject. Today's *San Francisco Chronicle* quotes Phil Lafontaine, the California Department of Education's Director of Professional Development and Curriculum Support as opining that JROTC instructors may teach JROTC courses for PE credit without need of a PE credential. Mr. Lafontaine's opinion is not only wrong, it is utterly of no consequence. As Superintendent O'Connell's correspondence yesterday indicates, in California it is the California Commission on Teacher Credentialing (CTC)—not the California Department of Education—which implements and interprets state law regarding what constitutes appropriate credentials. As the attorney for the plaintiffs in the *Williams v. California* litigation who crafted the applicable misassignment definition with state officials, the

law clearly states that an individual must be authorized *by statute* to teach a given subject. JROTC credentials authorize individuals to teach JROTC courses, not PE courses. If a JROTC course is doing double duty as a PE course, the instructor must also be authorized to teach PE, absent which, the individual is misassigned as a PE teacher. *There is no statute authorizing individuals possessing only JROTC credentials to teach PE. See Cal. Educ. Code §§ 35186(e)(2)(C), 35186 (h)(2), 44258.9(b)(1)(A). See also Public Advocates May 6, 2008 Letter to Supt. Garcia and School Board Members re Lack of Credential PE Teachers etc. (citing statutes establishing credentials and permits authorizing PE instruction).*

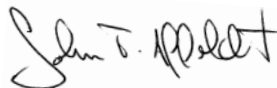
CTC staff has confirmed to us that agency practice has been to apply state law in this manner, determining individuals without PE credentials are misassigned if it is determined that a JROTC course is being offered for PE credit.

### **Conclusion**

Public Advocates continues to be concerned about the diminishing quality of physical education in our public schools. Increasing state and national attention has focused on the declining health of our youth and the critical role that schools play in addressing that decline. As a recent policy brief reported, “[s]chool PE is the primary instrument for preparing children with the skills, knowledge and confidence to lead physically active lives.” San Diego State University, *Physical Education Matters at 2* (California Endowment Policy Brief 2007). The quality of physical education as with any school program, depends on course instruction and content. As explained by the CTC “[t]he extent to which students learn to engage creatively in physical education and respond critically to physical education depends substantially on the preparation of their teachers in physical education and the teaching of physical education . . .” (CTC, *Physical Education Teacher Preparation in California: Standards of Quality and Effectiveness for Subject Matter Programs; A Handbook for Teacher Educators & Program Reviewers* (2004) at p. 1).

Whatever the district decides with respect to JROTC, we request that you adhere to state law in providing high quality PE in the district.

Sincerely,



John T. Affeldt  
Managing Attorney