



**Sent Via Facsimile**

August 12, 2008

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Jack O'Connell  
Superintendent of Public Instruction  
California Department of Education  
1430 "N" Street  
Sacramento, CA 95814

**Re: Request for Investigation Pursuant to Education Code §  
56366.1(i)(2) - Trinity Youth Services/Advanced Education  
Services**

Dear Superintendent O'Connell,

We are writing to request that you conduct an immediate investigation of certain policies and practices concerning:

- 1) The delegation of parental education decision making authority to staff employed by licensed children's institutions run by Trinity Youth Services (TYS) and their associated nonpublic schools, operated by Advanced Education Services (AES); and
- 2) The steering of children residing at TYS group homes to TYS affiliated schools. These practices have led to the over-identification of nearly all youth residing in TYS group homes as individuals with exceptional needs and to their inappropriate, unwarranted placement in restrictive AES-run nonpublic schools.

We believe that the automatic assignment of children to TYS affiliated schools and the transfer of education decision making authority to group home or nonpublic school staff, who have a financial interest in securing placement of these youth in their own nonpublic schools, violates the intent of Educ. Code § 56366.9, which prohibits a licensed children's institution from requiring, as a condition of residential placement, that it provide the educational programs "through a nonpublic, nonsectarian school or agency owned, operated by, or associated with, a licensed children's institution." As Superintendent, and pursuant to Educ. Code §56366.1(i)(2), you have an affirmative obligation to conduct an investigation if you receive evidence of a violation of Section 56366.9.

These practices also run afoul of other Education Code provisions that prohibit a licensed children's institution from requiring, as a condition of admission or residency that a youth be identified as an individual with

exceptional needs or that educational authority for a child be designated to a facility. (Educ. Code §§ 56155.7; 48854).

**A. TYS Youth are Steered into TYS Affiliated Nonpublic schools or Other Alternative TYS On-Campus Schools.**

We are requesting that you investigate whether foster youth residing at TYS group homes are forced to attend AES nonpublic schools or county office of education operated alternative classrooms on site at AES nonpublic schools. Foster youth have the right to attend a comprehensive regular public school and to be placed in the least restrictive educational programs, unless they have exceptional needs that can not be met in a comprehensive public school and proper procedures have been followed. (Educ. Code §§ 48850; 48853). From a review of California Department of Education (CDE) files, and a Youth Law Center site visit to TYS-Ukiah facilities on July 2, 2008, it appears that TYS restricts attendance for a majority of children to schools located on the TYS facility campus. The Legislature sought to end the inappropriate segregation of foster youth into group home affiliated nonpublic and other alternative schools through enactment of AB 490 and AB 1858 (Statutes of 2003 and 2004). (See, AB 1858 California Assembly Floor Analysis, "to ensure that foster youth won't automatically have to attend the school attached to or affiliated with their group home if they want to attend public school.")

There is a presumption that all children entering a TYS facility will attend school at a TYS affiliated nonpublic school or another onsite alternative school. Pursuant to AB 1858, nonpublic schools are required to submit a certification application to CDE on a yearly basis and nonpublic schools have been incorporated into CDE's monitoring mechanisms. (Educ. Code § 56366.1) By correspondence dated March 4 and April 18, 2008, we obtained CDE certification and monitoring files of each of the nonpublic schools operated by AES in California. According to AES financial statements, it provides services as a nonpublic school "mainly to children who are residents of childcare homes operated by Trinity Youth Services. . . AES operates fifteen school sites, the majority of which are located at or near the various facility locations of TYS." We have attached a chart summarizing the relationship between TYS facilities and corresponding AES nonpublic schools. With the exception of one site, the capacity of the AES nonpublic school matches the capacity of the TYS group home. Much of this information was gleaned from the 2008 AES nonpublic school renewal certification applications submitted to CDE.

CDE's Trinity-Ukiah files contain correspondence from the Mendocino County Director of Special Education in which she states the following:

“The Director of Trinity Group Home routinely refers students for special education assessment, whether they have a valid IEP or if they never have received special education services . . . All students who are placed at Trinity attend North Haven School. “

Banning Unified School District informed CDE in December 2007 that AES uses an unqualified psychologist who finds all TYS youth eligible for special education services without providing any documented reasons, even when such students are experiencing no academic or behavioral problems.

During the Youth Law Center's July 2<sup>nd</sup> site visit to Trinity-Ukiah, the group home director verified the practice of automatic placement at an AES school and stated that “all youth attend the AES non-public school pending receipt of all educational records, regardless of special education status”. Those youth who are not placed in the nonpublic school are relegated to alternative education classrooms established by the County Office of Education, but located at the TYS site. There is little effort to enroll any youth in a regular school run by a local educational agency. It appears that similar arrangements have been made at other TYS sites with other county offices of education, with the full knowledge of CDE staff.

Although AES and TYS staff purport that the two organizations are two separate unrelated entities, AES and TYS share a mailing address, staff, and many board of director members. The financial statements refer to the two corporations “collectively” as “AES.” We believe the decision to place children residing in TYS at an AES operated school is made for the convenience and financial benefit of the corporations, rather than to meet the educational needs of a child.

**B. Delegation of Education Decision Making Authority to TYS/AES Staff.**

We are requesting that you also investigate whether TYS is inappropriately seeking delegation of education decision making authority to TYS/AES staff. The practice of delegating education decision making to either AES or TYS staff is well documented in several of the CDE files we reviewed. 2005 correspondence from Banning Unified School District to CDE describes the practice in question:

“Another concern is AES' use of a “Parent Transfer of Rights” form. The Trinity Whitewater Administration, upon receipt of a student, sends a packet of information to the parents of each student as part of the required enrollment forms. Within that group of letters is a form generally entitled “Parent Transfer of Rights.” We believe that the parent, without explanation or knowledge of what they were doing,

would purportedly sign over their rights to make educational decisions for their child from a staff member at AES. This is in conflict with the parents rights to make education decisions for their child and has a conflict of interest to use a staff member who works at AES as the person making those decisions."

We now understand that the facility at issue, Trinity-Whitewater, has shut down. But other AES files strongly suggest that the delegation of parental decision making authority regularly occurs at other TYS/AES sites. In the correspondences referenced earlier, the Mendocino County Director of Special Education refers to this same practice occurring at Trinity-Ukiah in the context of special education referral, when she states, "In addition, Ms. Tate [group home director] represents herself as the "Parent" in these referrals."

The Vice President of AES confirms in correspondence that TYS staff were, in fact, designated to represent the educational rights of youth residing in TYS facilities and that "[t]he Director of Trinity-Ukiah is acting in place of the parent and therefore has the rights of the parent." (A copy of what we suspect is the delegation form in question is attached.)

Other documents confirm that this practice is widespread within the TYS/AES system. A notation in the Trinity Apple Valley-Mountain View file states "[a]t time of the Student's placement . . . at Trinity Group Home, the parents sign over educational rights to a specific individual at the Group home. . ." A notation on a Trinity-El Monte-Vista Del Rio self review report states that "majority of parents refer their rights to the group home." The Banning Unified December 2007 correspondence states in reference to the TYS El Monte facility that "AES is using their staff as parents and not allowing the student's actual parents to participate in the IEP meeting."

The Mountain View file reveals some confusion with respect to this issue on the part of the CDE staff who conducted a 2004 onsite review. When we asked for clarification, CDE consultant Jerry Elmore informed us that he could not determine how it was resolved since the staff person who conducted the review was no longer employed with CDE. Then he informed us that "[a]s of this date, the matter has been resolved satisfactorily after several discussions with AES Director Josh Wycoff." Given our review of all the AES files, we are not satisfied with this response.

The CDE certification and monitoring documents that we reviewed for AES schools clearly document that parental education decision making authority was regularly delegated to TYS/AES staff through what can only be described as a highly questionable process and that this occurred throughout the TYS/AES system. The files also reveal that CDE staff was well aware of this practice and did very little to stop it. Although school district and county office

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staff informed CDE that this was occurring and expressed concerns that this, and other practices, led to the unnecessary placement of youth in AES nonpublic schools, CDE staff took no formal action to address this issue.

Obviously, the delegation of education decision making authority to a group home or nonpublic school staff member creates an inherent conflict of interest. Under law, even a judge would be precluded from appointing TYS/AES staff to serve as education decision makers for these youth on the basis of the "conflict of interest" prohibitions under the code. Welf. & Inst. Code §§ 361(a); 726(b).

We ask that this investigation begin immediately and that it extend to all nonpublic schools established and associated with AES and TYS. You should be aware that we have also raised these concerns to California Department of Social Services Community Care Licensing.

If you have any questions concerning the above, please do not hesitate to contact us.

Sincerely,



Deborah Escobedo  
Jennifer Rodriguez  
Youth Law Center

cc: State Senator Darrell Steinberg  
Larry Bolton, Chief Counsel, California Department of Social Services  
Jerry Elmore, Consultant, Special Education Division  
Jackie Wong, Foster Youth Services  
Karen Grace-Kaho, California Foster Care Ombudsman

<b>Residential Facility</b>	<b>Nonpublic School</b>	<b>Contracting LEA/SELPA</b>
Trinity Apple Valley Apple Valley, CA San Bernardino County Capacity: 44 Males 7-15	Mountain View School Hesperia, CA  Program Capacity – 44 Grades served – 1-12 No. of Classrooms - 3	Desert/Mountain SELPA
Trinity El Monte El Monte, CA Los Angeles County Capacity: 53 Males 11-17	Vista del Rio Jr./Sr. H.S. El Monte, CA  Program Capacity – 53 Grades served – 7-12 No. of Classrooms – 4	El Monte Union High SD West San Gabriel SELPA
Trinity Sacramento Sacramento, CA Sacramento County Capacity: [59 in the area – four 6-bed GHs, one 8-bed GH, one 10- bed GH and a 17-bed GH]	Excelsior Jr./Sr. High School Carmichael, CA  Program Capacity – 59 Grades served – 5-12 No. of Classrooms – 4	San Juan USD Sacramento City USD Folsom/Cordova USD  Sacramento County SELPA
Trinity Ukiah Ukiah, CA Mendocino County Capacity: 80 Males & Females 6-17	North Haven School Ukiah, CA  Program Capacity – 24 Grades served – K-12 No. of Classrooms – 2	Mendocino County Office of Ed. Tehachapi USD  Mendocino County SELPA Kern County SELPA
Trinity Yucaipa Yucaipa, CA Riverside County Capacity: 66 Males 10-17  Trinity Norco Norco, CA Riverside County Capacity: 6 Females 13-17	Wilson Creek Jr./Sr. High Yucaipa, CA  Program Capacity – 66 Grades served – 7-12 No. of Classrooms - 3	Yucaipa/Calimesa Jt USD East Valley SELPA



Dear Parent(s):

As part of our philosophy to involve the family in their child's program, we would like for you to attend a meeting to develop an educational plan for your child. The meeting is called an Individual Educational Plan (IEP) Meeting. The meeting is chaired by the local school district and/or county office of education and includes members from the home and school. These meetings are held to ensure that Each child receives the best education possible during his or her stay at Trinity-Ukiah.

We will notify you by phone as soon as we know the date for your child's meeting.

If you are unable to attend this meeting, you then have a choice as to who represents you on your behalf. You may assign the educational rights to an adult individual of your choice.

\_\_\_\_\_ I will attend the IEP Meeting for my son/daughter; \_\_\_\_\_  
(If in the event I am unable to attend the IEP, I assign the educational rights for my child to Ramona Tate

\_\_\_\_\_ I hereby appoint \_\_\_\_\_, \_\_\_\_\_ or \_\_\_\_\_ to act on my behalf for my son/daughter, \_\_\_\_\_, born \_\_\_\_/\_\_\_\_/\_\_\_\_ and assign him/her all rights related to educational matters.

\_\_\_\_\_  
Parent Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Witness Initial

\_\_\_\_\_ I have received a copy of my rights as a parent in the education process.

\_\_\_\_\_ No parent could be located.