

September 28, 2011

Stephanie A. Schmitt, Esq.  
Staff Attorney  
Freedom from Religion Foundation  
P.O. Box 750  
Madison, Wisconsin 53701



Dear Ms. Schmitt:

Re: Concerns Regarding Location of Upcoming Middle School Staff Meeting

Superintendent Nerad forwarded me your September 22, 2011 letter regarding the scheduled location for an upcoming professional development meeting for response.

You assert that the District's use of the Covenant Presbyterian Church for staff development programming for Cherokee, Wright and Hamilton Middle Schools violates the Establishment Clause of the First Amendment of the United States Constitution and the "compelled support" clause of Article 1, §18, of the Wisconsin State Constitution. I believe that the 7<sup>th</sup> Circuit Court of Appeals' recent holding and lengthy discussion in *Doe, 3 v. Elmbrook School District*, No. 10-2922 (Sept. 9, 2011) is wholly dispositive in this matter. First, the District has selected the venue for purely secular reasons including, but not limited to, the cost, capacity and utility of the space. Second, the purpose of the meeting is secular and related to the District's mission to educate students. The District has not taken any nor does it intend to take any steps to link itself to any of the religious iconography that may be present within the venue. Finally, the District is accessing and using the venue without any charge or expenditure of public monies. Truly, any conceivable interaction between the religious venue and the District is *de minimus*, and cannot be perceived by any beholder of the facts to constitute an excessive entanglement, endorsement or coercion by the District.

Contrary to your assertions, the mere exposure of an individual to faith-based beliefs or symbols is not constitutionally impermissible. "...[T]he Establishment Clause does not shield citizens from encountering the beliefs or symbols of any faith to which they do not subscribe." *Doe, 3*, No. 10-2922, pg. 37.<sup>1</sup> Furthermore, "[e]ntering a church may be of religious significance to some, but it is not an inherently religious activity..." *Id.* at 40. As the Court explained, interaction with, or at least exposure to, faith-based iconography or symbols is part and parcel of being a member of a pluralistic society. *See Id.*

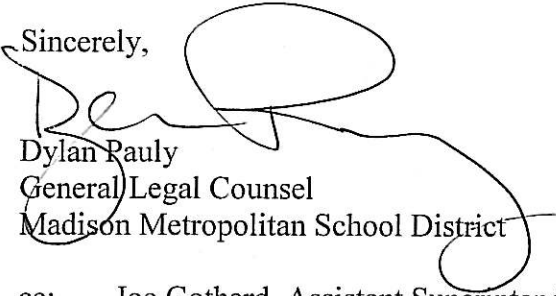
The Wisconsin Supreme Court has interpreted the "compelled support" clause of the state constitution to prohibit the state from requiring individuals to attend or participate in religious

<sup>1</sup> It is important to note that *Doe 3* addressed these issues as they relate to students. It is likely that incidental exposure is of even less concern when the audience in question is comprised of only adults.

activities. *See Jackson, et al. v. Benson, et al.*, 213 Wis.2d 1 (1998). It does not prohibit the state from creating circumstances in which a citizen may be passively exposed to faith-based symbolism. In the current circumstance, employees are not being compelled to attend a place of worship. Employees are being compelled to attend staff development.

At this time, the District intends to move forward with the scheduled staff meetings at the Covenant Presbyterian Church on October 27 and 28, 2011. If individual employees believe a specific individual accommodation is necessary and appropriate, s/he should speak directly with his/her building principal.

Sincerely,



Dylan Pauly  
General Legal Counsel  
Madison Metropolitan School District

cc: Joe Gothard, Assistant Superintendent