

FREEDOM FROM RELIGION *foundation*

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SENT VIA EMAIL ONLY
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Attorney David T. Duff
Duff, White & Turner, LLC
3700 Forest Dr, Suite 404
Columbia, SC 29204

Re: Constitutional Violations Continuing at New Heights Middle School

Dear Mr. Duff:

Our organization wrote to the Chesterfield County School District on September 19, 2011. We want to thank you for your prompt response to our concerns. However, since that time, we have been made aware of a new constitutional violation that is scheduled to take place in the near future.

It is our information and understanding that the New Heights Middle School has scheduled an assembly for October 27, 2011 featuring speakers from the Bethel Colony of Mercy. We understand that Bethel Colony of Mercy is a rehabilitation facility from Lenoir, NC. After taking a look at the facility's website (www.bethelcolony.org), it is pervasively Christian. It is also our information and understanding that this assembly was discussed at a recent school board meeting and that a permission slip will be sent home asking parents permission to allow their student(s) to attend the undoubtedly faith-based presentation.

Again, given the overtly religious nature of this program, it is deeply troubling that Chesterfield County School District (District) would allow this assembly to take place. It is well settled that public schools may not advance or promote religion. *See generally, Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Epperson v. Arkansas*, 393 U.S. 97 (1967); *Sch. Dist. of Abington Twshp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962). Moreover, "the preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere." *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 310 (2001)(quoting *Lee v. Weisman*, 505 U.S. at 589). In *Lee v. Weisman*, the Supreme Court extended the prohibition of school sponsored prayers beyond the

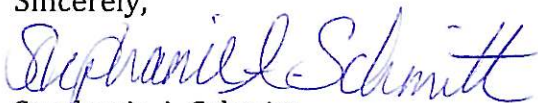
classroom to all school functions (holding prayers at public high school graduations an impermissible establishment of religion). Thus, religious programming as part of a school assembly violates the Establishment Clause.

The Constitution's prohibition against school-sponsored religious exercise cannot be overcome by claiming such activities are "voluntary." As the Supreme Court said in *Engel*, "Neither the fact that the prayer may be denominationally neutral nor the fact that its observance on the part of students is voluntary can serve to free it from the limitations of the Establishment Clause" 370 U.S. at 430. In *Schempp*, the Court said the offending religious practices were not "mitigated by the fact that individual students may absent themselves upon parental request, for that fact furnishes no defense to a claim of unconstitutionality under the Establishment Clause." 374 U.S. at 224-25. It makes no difference if the school requires parents to opt-in to religious practices. *See Karen B. v. Treen*, 653 F.2d 897 (5th Cir. 1981) (Finding required express written permission by parents for students to participate in prayer did not cure Establishment Clause violations).

While we understand the importance and need for drug and alcohol prevention programs in schools, it is extremely disturbing that the school district would select this facility. There are several other government-run organizations, such as police departments, that are secular in nature and are well qualified to present anti-drug awareness. Given the overt Christian nature of Bethel Colony of Mercy, we are extremely concerned that their religious focus will bleed into the message presented at the school assembly.

Therefore we ask that the District immediately cancel the presentation to be given by Bethel Colony of Mercy. We request that you respond to our concerns in writing so that we may notify our complainant.

Sincerely,



Stephanie A. Schmitt
Staff Attorney