

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

January 18, 2018

SENT VIA U.S. MAIL AND EMAIL: KSharp@nmjc.edu

Dr. Kelvin W. Sharp
President
New Mexico Junior College
1 Thunderbird Circle
Hobbs, NM 88240

Re: Unconstitutional Display of Crosses on Public Property

Dear President Sharp:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to the display of crosses on public property. FFRF is a national nonprofit organization with 30,000 members across the country, including members and a local chapter in New Mexico. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

It is our understanding that New Mexico Junior College (NMJC) has numerous crosses on display. We understand that there is a cross in the main reception area of the Ben Alexander Student Center that sits on the counter and faces the public. We also understand that several offices, including the cashier's office, contain crosses that are easily visible to anyone visiting or passing by these offices. Please find enclosed pictures of these religious displays.

We write to ensure that NMJC is no longer endorsing religion by displaying Latin crosses on public property.

The religious significance of the Latin cross is unambiguous and indisputable. "The Latin cross . . . is the principal symbol of Christianity around the world, and display of the cross alone could not reasonably be taken to have any secular point." *Capitol Square Review and Advisory Bd. v. Pinette*, 515 U.S. 753, 792 (1995) (Souter, J., concurring). An overwhelming majority of federal courts agree that the Latin cross universally represents the Christian religion, and only the Christian religion. See, e.g., *Separation of Church and State Comm. v. City of Eugene*, 93 F.3d 617, 620 (9th Cir. 1996) ("There is no question that the Latin cross is a symbol of Christianity, and that its placement on public land . . . violates the Establishment Clause"); *Harris v. City of Zion*, 927 F.2d 1401, 1412 (7th Cir. 1991) ("a Latin cross . . . endorses or promotes a particular religious faith. It expresses an unambiguous choice in favor of Christianity."), *cert. denied*, 505 U.S. 1218 (1992); *ACLU of Ill. v. City of St. Charles*, 794 F.2d 265, 271 (7th Cir. 1986) ("When prominently displayed . . . the cross dramatically conveys a message of governmental support for Christianity, whatever the intentions of those responsible for the display may be. Such a display is not only religious but sectarian."), *cert. denied*, 479 U.S. 961 (1986).

A majority of federal courts have held displays of Latin crosses on public property to be an unconstitutional endorsement of religion. See, e.g., *Trunk v. San Diego*, 629 F.3d 1099 (9th Cir. 2011), *cert. denied*, 132 S.Ct. 2535 (2012); *Buono v. Norton*, 371 F.3d 543, 550 (9th Cir. 2004); *Carpenter v. City and Cnty. of San Diego*, 93 F.3d 627, 632 (9th Cir. 1996); *Friedman v. Bd. of Cnty. Comm'rs*, 781 F.2d 777, 778 (10th Cir. 1985) (en banc); *ACLU v. Rabun Cnty. Chamber of Commerce*, 698 F.2d 1098, 1111 (11th Cir. 1983); *ACLU v. Eckels*, 589 F. Supp. 222, 241 (S.D. Tex. 1984). While most of the aforementioned cases involved the display of a Latin cross in public parks, the display on any government property would also violate the Establishment Clause. Justice Kennedy has stated, "I doubt not, for example, that the Clause forbids a city to permit a permanent erection of a large Latin cross on the roof of city hall . . ." *Cnty. of Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573, 661 (1989) (Kennedy, J., concurring in part, dissenting in part). Such a religious display "would place the government weight behind an obvious effort to proselytize on behalf of a particular religion." *Id.* This is certainly so in the case of the crosses on display at NMJC.

Furthermore, federal courts have upheld restrictions on the display of religious iconography in government offices and buildings because such restrictions exist to avoid an Establishment Clause violation. The Ninth Circuit Court of Appeals has stated the, "government has a greater interest in controlling what materials are posted on its property than it does in controlling the speech of the people who work for it." *Tucker v. Department of Education*, 97 F.3d 1204,1214 (9th Cir. 1996); see also *Berry v. Department of Social Services*, 447 F.3d 642,651 (9th Cir. 2006)("materials posted on the walls of the corridors of government offices may be interpreted as representing the views of the state.")

In *Berry*, the court upheld restrictions on displays of religious materials in work spaces, even private cubicles or offices, because public access to the area could cause someone to "reasonably interpret the presence of visible religious items as a government endorsement of religion." *Berry*, 447 F.3d at 652. The court concluded that "[d]isplaying the Bible implicitly endorses a religious message and it is precisely that message which the Department reasonably seeks to avoid." *Id.* The courts have recognized that "the state has a legitimate interest, for example, in preventing the posting of crosses or Stars of David in the main hallways, by the elevators, or in the lobbies, and in other locations throughout its buildings. Such a symbol could give the impression of impermissible government support of religion." *Tucker*, 97 F.3d at 1216.

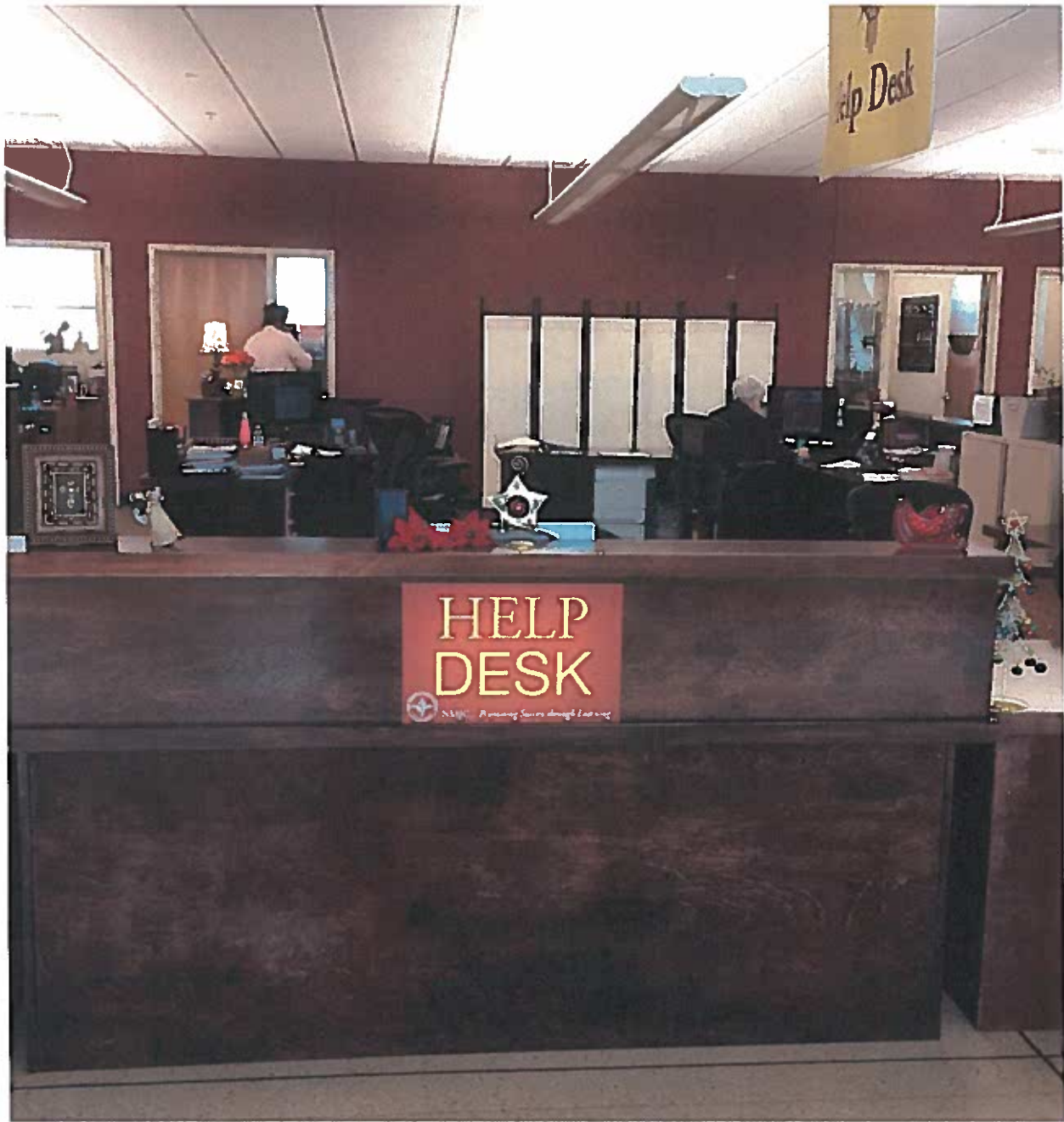
We ask you to remove the crosses on display at New Mexico Junior College immediately. Please inform us in writing of the steps you are taking to resolve this matter.

Sincerely,



Christopher Line
Patrick O'Reiley Legal Fellow
Freedom From Religion Foundation

Enclosures





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