

FREEDOM FROM RELIGION *foundation*

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June 21, 2016

SENT VIA EMAIL & U.S. MAIL
vesseys@bdusd.org

Stephen Vessey
Superintendent
Beaver Dam Unified School District
705 McKinley Street
Beaver Dam, WI 53916

Re: Religious Preschool Instruction

Dear Superintendent Vessey:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in Beaver Dam Unified School District. A concerned parent contacted us about this matter. FFRF is a Madison-based national nonprofit organization with 24,000 members across the country, including more than 1,300 members in Wisconsin. Our purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that Beaver Dam Unified School District has a policy in place that allows for three-year-olds with developmental delays to attend Early Childhood classes. One of the two available choices, and the only choice initially offered to our complainant, is St. Katherine's, a Catholic school whose preschool is named God's Little Miracles. Its "program is based on the theme "Thank you, God." Our complainant further informs us that she received materials about this preschool at an IEP meeting from a Beaver Dam Unified School District teacher. These materials contain a plethora of religious references and images. Its goals include: "Learn about a loving and caring God," and "Develop Christian attitudes." The materials also depict a "Birthday Blessing" in action. Copies of these materials are enclosed.

It is wildly inappropriate for the District to send three-year-old public school students to a private school for religious instruction as part of a student's IEP. Such a practice alienates those who practice other religious faiths and those who are nonreligious. The District has a constitutional obligation to ensure that "teachers do not inculcate religion" and are not "injecting religious advocacy into the classroom." *Lemon v. Kurtzman*, 403 U.S. 602, 619 (1971); *Webster v. New Lenox Sch. Dist. No. 122*, 917 F.2d 1004, 1007 (7th Cir. 1990).

As the District web site acknowledges, public schools may not provide religious instruction, even in preschool classes held at private schools.¹ Courts have repeatedly struck down public school practices that affiliate public schools with religious groups and religious instruction. *See, e.g., Doe ex rel. Doe v. Beaumont Indep. Sch. Dist.*, 173 F.3d 274 (5th Cir. 1999) (ruling that school partnership with clergy for counseling purposes violated Establishment Clause); *HS v. Huntington Cnty. Cmty. Sch. Corp.*, 616 F. Supp. 2d 863 (N.D. Ind. 2009) (issuing preliminary injunction against school that allowed trailers on school property for religious instruction because to do so conveyed a message of support and endorsement of religion); *Doe by Doe v. Shenandoah Cnty. Sch. Bd.*, 737 F. Supp. 913 (W.D. Va. 1990) (issuing temporary restraining order against school finding that buses used for religious instruction parked in front of the school gave the appearance of school involvement and that school employees took part in recruitment efforts); *Doe v. Human*, 725 F. Supp. 1499 (W.D. Ark. 1989), *aff'd without opinion*, 923 F.2d 857 (8th Cir. 1990) (issuing preliminary injunction against school practice of having outsiders teach voluntary bible instruction in school). By sending students to receive religious instruction at St. Katherine's, the District is violating this constitutional principle.

Including religious instruction in the District's preschool program also violates the Wisconsin state constitution. Art. X, Sec. 3 of the Wisconsin Constitution provides, "for the establishment of district schools, which shall be as nearly uniform as practicable . . . and no sectarian instruction shall be allowed therein."

Our complainant reports that a teacher assured her that the God's Little Miracles program does not really involve religious instruction, but the materials themselves make clear that that is not the case. The curriculum described in the materials undeniably includes religious instruction, because it is premised on the existence of the Christian god and promotes "Christian attitudes." It makes no difference if religious instruction is non-denominational. In the seminal school prayer case, *Engel v. Vitale*, the Supreme Court found it unconstitutional for teachers to lead students in a non-denominational prayer to "Almighty God." 370 U.S. 421, 422 (1962). Similarly, the Seventh Circuit Court of Appeals in *DeSpain v. DeKalb County Comm. Sch. Dist.*, held the following prayer unconstitutional in a public school setting: "We thank you for the flowers so sweet, we thank you for the food we eat, we thank you for the birds that sing, we thank you for everything." 384 F.2d 836 (1967). Indeed, the unconstitutional prayer in *DeSpain* is very similar to the curriculum description for St. Katherine's 3K program, which includes "Thank You God for Friends," "Thank You God for Land, Water, and Air," etc.

From the name of the school itself, to the pervasive nature of its goals and teachings, God's Little Miracles is not an appropriate place for a public school to teach children. The current policy is especially egregious with a captive audience of impressionable three-year-old children with developmental delays. It is very troubling that some parents felt that they had no choice but to send their children to this school.

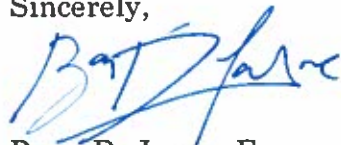
¹ <http://www.bdusd.org/district/4k-faqs.cfm>.

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The sort of entanglement between Beaver Dam Unified School District and the religious instruction offered by God's Little Miracles is inappropriate and unconstitutional. We respectfully request that the District stops sending any children to St. Katherine's unless the programs are made completely secular. St. Katherine's would have to remove all religious content, including generic affirmations of God's existence, and any promotion of "Christian attitudes," from the curriculum and accompanying materials. The program may in no way single out children who do not believe in the Christian god. If St. Katherine's is unwilling to make these changes, and to run preschool programs that would be permissible in a public school, we see no way the District could legally continue to send public school students to St. Katherine's preschool programs.

We ask that you inform us at your earliest convenience, in writing, of the steps the District takes to remedy this matter.

Sincerely,



Ryan D. Jayne, Esq.
Diane Uhl Legal Fellow
Freedom From Religion Foundation

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Enclosures

THREE YEAR OLD PROGRAM

The Three Year Old program is for children who will be three years old by September 1 of the year enrolled.

Our two-day preschool program is based on the theme "Thank you, God". The "Thank-you, God" program focuses on God's creation and all those things for which we are thankful. The theme is designed to:

1. Help each child discover God's gifts and
2. Make each child more aware of the world around him/her.

Young children enjoy feeling good about their environment and about themselves. Positive Christian attitudes of loving, sharing, helping, and caring are developed and emphasized throughout the year.

4K PROGRAM

The 4K program is for children who are four years old by September 1 of the year enrolled.

Our 4K program is based on the series called "I Am Special". The "I Am Special" program is designed to:

1. Help the young child discover his/her special qualities and
2. Realize his/her importance in God's creation.

The primary focus of the program is one of helping the child develop positive self-concepts through an awareness that God has made each one of them special. These positive self-concepts are the foundation for developing the Christian attitudes of loving, sharing, and helping. A positive self-image helps the child begin to develop a relationship with a loving God.

Saint Katharine Drexel offers a religion component as part of its program. As a result, our program is 2 hours 45 minutes long and we charge a \$20 religion material fee.



"Preschool" Curriculum

"Thank You God" themes

We begin our year focusing on God's World Around Us and end with God's Gifts to Us.

*September-January: Thank You God for Colors; many mini themes will be incorporated and color days will blend nicely with seasons and holidays.

*February: Thank You God for Friends and Community Helpers.

*March: Thank you God for Land, Water, and Air. Through these gifts we will learn about Transportation.

*April: Nursery Rhymes & New Life

*May: Thank you God for Animals

Children learn best by doing!

Children:

Do:

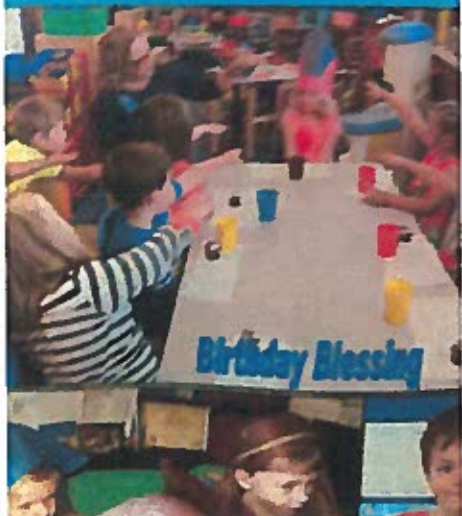
* Music and Movement

* Songs & Finger Plays

* Books & Language Activities



God's Little Miracle in action!



PHILOSOPHY

Saint Katharine Drexel School offers a preschool program for children of any faith.

Each child is a unique individual, cherished by a loving God and blessed with individual gifts and talents. At Saint Katharine Drexel School we are thankful for each child and strive to instill in each one that s/he is special. We encourage the full development of each individual physically, mentally, emotionally, socially, and spiritually with the help of his/her parents, who are a child's primary teachers.

GOALS

Our goals are to help the child:

1. Develop positive self-concepts through increased awareness of his/her God-given characteristics and abilities.
2. Develop positive concepts about family, friends, church, and school.
3. Learn about a loving and caring God by discovering and appreciating the world around him/her.
4. Increase his/her awareness and appreciation of the five primary senses.
5. Develop Christian attitudes of sharing, taking turns, helping, listening, thanking, and celebrating; and
6. Progress in his/her development in the areas of Fine Motor, Gross Motor, Language, Social, and Cognitive Skills.

