

FREEDOM FROM RELIGION *foundation*

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January 9, 2015

SENT BY MAIL AND FAX TO: (337) 436-5606

Mr. Gregory W. Belfour
Jones, Tête, Fonti & Belfour, LLP
P.O. Box 1930
Lake Charles, LA 70602-1930

Re: Unconstitutional District Involvement in Religious Club

Dear Mr. Belfour:

Thank you for your December 4, 2014 letter containing information responsive to the Freedom From Religion Foundation's (FFRF's) open records request regarding the Kids for Christ club at College Oaks Elementary and other schools within Calcasieu Parish Public Schools (District). FFRF is a national nonprofit organization with more than 21,500 members across the country, including members in Louisiana. Our purpose is to protect the constitutional principle of separation between state and church.

A concerned parent of a District student contacted FFRF after the start of this school year to alert us to the Kids for Christ bible club at College Oaks Elementary, due to our complainant's perception that the school was directly involved in recruiting students for the club. After reviewing the information provided in response to our open records request, we agree that this club is only "student-run" in the most nominal sense and that the District's involvement in the club goes well beyond what is permissible under the Establishment Clause.

We write to request that the District take this opportunity to review how religious clubs are being operated throughout its schools and to ensure that its employees are not violating the Constitution by promoting, running, or giving preferential treatment to any religious club.

Teacher-Run Religious Clubs in Elementary Schools Violate the Establishment Clause

For elementary schools, the Establishment Clause dictates the extent to which religious clubs are permissible. It is a well-settled principle of Establishment Clause jurisprudence that public schools may not advance, prefer, 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 Twp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962). Under established case law, it is unconstitutional for District elementary schools or staff to sponsor, lead, or promote a Christian club.

Absent the Equal Access Act, which does not apply to elementary schools, the Establishment Clause *prohibits* a school or its employees from organizing, running, or promoting a school religious club. As currently run, Kids for Christ bible club creates the impression of school sponsorship: it meets on District property; club logistics are handled by College Oaks Elementary teacher Kristen Shepherd,

who has encouraged other school staff to announce club meetings in their classrooms;¹ reminders about club meetings were sent home with students that included rules on attendance created by Principal Jackson; and at least one teacher has directly called a parent to seek permission for a student to attend the club.²

The Kids for Christ bible club also violates the District's own policies on student organizations. While the Equal Access Act contemplates student-run religious clubs at the secondary school level, it's not realistic to expect 5th graders to run a club without significant adult guidance. Thus, when Kids for Christ's adult organizers schedule club meetings and instruct 5th grade club "officers" on how to lead club meetings, they violate the School Board policy on Student Organizations, JHC, which cites to, and closely mirrors, the Equal Access Act. The EAA "prohibits school 'sponsorship' of any religious meetings . . . which means that school officials may not promote, lead, or participate in any such meeting." See *Bd. of Educ. of the Westside Cmty. Sch. v. Mergens*, 496 U.S. 226, 253 (1990).

Public Schools Cannot Sell, and Teachers Cannot Wear, Religious T-Shirts

College Oaks Elementary creates additional entanglement with this religious club by being directly responsible for the sale of club t-shirts. These t-shirts, which contain the message "We are Christians at College Oaks" and include a Latin cross, send an explicitly religious message that the District cannot endorse. Yet all t-shirt purchases, and purchases of NIV Children's Bibles, are being processed through the elementary school. Not only did Kristen Shepherd use teachers to distribute order forms to students in their classrooms,³ but she also advertised t-shirt sales directly to staff members.⁴

Public school employees cannot distribute, sell, or wear religious T-shirts while at school. Public schools have a duty to ensure that "subsidized teachers do not inculcate religion" or use their positions of authority to promote a particular religious viewpoint. *Lemon v. Kurtzman*, 403 U.S. 602, 619 (1971). When teachers wear a shirt with the message "We are Christians at College Oaks," they send a message to non-Christian and nonreligious students that they are outsiders in their own school community.

Schoolchildren already experience significant pressure from peers to conform. They must not be subjected to similar pressure from public school staff. The Supreme Court has recognized that "[f]amilies entrust public schools with the education of their children, but condition their trust on the understanding that the classroom will not purposely be used to advance religious views that may conflict with the private beliefs of the student and his or her family." *Edwards v. Aguillard*, 482 U.S. 578, 584 (1987). If the District turns a blind eye to religious promotion at College Oaks Elementary, it becomes complicit in an egregious constitutional violation and breach of trust.

Teachers Cannot Distribute Bibles to Students at School

Inappropriate teacher involvement in Kids for Christ has evidently led to an even more egregious constitutional violation. On September 12, Kristen Shepherd reports, "We handed out 100 Bibles today!! Praise the Lord!!! . . . I went into a 3rd grade classroom and [they] asked me for Bibles, so I gave 14 out in that class. And the 5th graders got all the rest."⁵ As a schoolteacher and representative of

¹ See email from Kristen Shepherd to College Oaks Elementary Staff (Sept. 3, 2014, 4:39 PM).

² See email from Christina Cormier to Kristen Shepherd (Oct. 2, 2014, 1:42 PM).

³ See email from Kristen Shepherd to College Oaks Elementary Staff (Sept. 19, 2014, 8:15 AM).

⁴ See email from Kristen Shepherd to College Oaks Elementary Staff (Sept. 22, 2014, 9:08 PM).

⁵ Email from Kristen Shepherd to Carrie Moreau (Sept. 12, 2014, 2:38 PM).

the District, it is completely inappropriate and illegal for Ms. Shepherd to distribute bibles to students. This practice must end immediately.

Courts have uniformly held that the distribution of bibles to students during the school day is prohibited. *See Roark v. South Iron R-1 Sch. Dist.*, 573 F.3d 556 (8th Cir. 2009) (permanently enjoining distribution of bibles to school children on school property); *Berger v. Rensselaer Central Sch. Corp.*, 982 F.2d 1160 (7th Cir. 1993) (holding that classroom distribution of Gideon bibles to fifth-graders violated the Constitution); *Tudor v. Bd. of Educ. of Rutherford*, 14 N.J. 31 (1953), *cert. denied*, 348 U.S. 816 (1954) (finding unconstitutional a school board resolution permitting the distribution of bibles by Gideons). The bible distribution by Ms. Shepherd is even more egregious than in the cases cited above, since in this case the bibles came with the direct endorsement of a teacher who was acting in her capacity as a District representative.

Solutions

Given the high level of faculty involvement in the organization and content of the Kids for Christ bible club, plus the location of the meetings and regular faculty promotion of the club, a reasonable student or parent will perceive this religious club as “stamped with her school’s seal of approval.” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 307 (2000) (quoting *Lee v. Weisman*, 505 U.S. at 589). This leads to the inevitable conclusion that the District impermissibly endorses religion over nonreligion, and specifically Christianity over all other faiths. “School sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are nonadherents ‘that they are outsiders, not full members of the political community and an accompanying message to adherents that they are insiders, favored members of the political community.’” *Id.* at 309-10.

The Kids for Christ bible club at College Oaks Elementary is in direct violation of both the District’s policies on Student Organizations and the Establishment Clause. It must be disbanded. The “Start Up Rally” put on by club organizers at LeBleu Settlement Elementary suggests significant faculty involvement in any similar Kids for Christ clubs at other District schools. We ask that the District investigate all of these clubs to ensure that there is no faculty involvement in the organization, promotion, or running of these religious clubs. Furthermore, all District staff should be reminded that their duties under the Establishment Clause prohibit them from wearing religious t-shirts, distributing bibles, or otherwise promoting religion while acting in their official capacities as District employees. Please reply in writing outlining the steps the District will take to protect the right of conscience of its students so that we may notify our complainant.

Sincerely,



Sam Grover
Staff Attorney

cc: Superintendent Karl Bruchhaus *via* karl.bruchhaus@cpsb.org