

FREEDOM FROM RELIGION *foundation*

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May 11, 2018

**SENT VIA EMAIL AND U.S. MAIL:
pshoulders@zsws.com**

Mr. Patrick Shoulders
Ziemer Stayman Weitzel Shoulders
20 NW First Street
Evansville, IN 57706-0916

Re: School-sponsored elementary school religious club

Dear Mr. Shoulders:

I am writing again on behalf of the Freedom From Religion Foundation regarding a religious club at an Evansville Vanderburgh School Corporation ("EVSC") elementary school. As we mentioned previously, we received a complaint from a concerned EVSC community member regarding the Fellowship of Christian Students ("FCS") at Daniel Wertz Elementary School, a teacher-led religious club aimed at students.

We received your email on April 6, forwarding a statement from EVSC Chief of Staff Rick Cameron that that the FCS club does not pay rental fees because it "is a faculty-sponsored club similar in form and function to a chess club, a soccer club, or the GSA (Gay-Straight Alliance), which are all clubs that meet in our facilities and must have a faculty sponsor."

The District's sponsorship of the FCS club is further demonstrated by the District employees who organize and lead the club: Mr. Benjamin Hester, Mr. Robert Helfert, and Ms. April Helfert. They used their position as District employees, as well as District resources such as their school email addresses, to promote the FCS club to students with a flyer that they sent home with students and posted on social media.¹ A copy of this flyer was enclosed with our previous letter.

On the same social media post, Ms. Helfert stated that other religious clubs could also be formed if an adult was "willing to head up a program of a different Faith. . . . there would just have to be someone of that particular faith willing to be in charge of it." She also stated that the club "had been on

¹ See <https://bit.ly/2IoRxAX>.

Ben Hester's heart for some time now!" Copies of the above social media statements are available on request.

This club is undeniably school-sponsored, as Mr. Cameron stated. It would be disingenuous to argue that the club is student-initiated or student-run, especially given the young age of the students at Daniel Wertz Elementary. There is no doubt that the club's organizers are acting in their official capacities as District representatives when they promote and lead this religious club.

It is unconstitutional for a public elementary school to sponsor a religious club, or for school employees to use their government position to advance their personal religious beliefs through a religious club aimed at students. Teacher-run religious clubs are impermissible under the Establishment Clause. The FCS club at Daniel Wertz Elementary must be disbanded.

As you know, it is well settled that public schools may not advance or endorse religion. *See generally Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Sch. Dist. of Abington Twp. 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 (2000) (quoting *Lee*, 505 U.S. at 589).

For elementary schools, the Establishment Clause dictates the extent to which religious clubs are permissible. Even when student religious clubs are permissible, it is inappropriate and unconstitutional for District staff to lead or organize a student religious club, or to otherwise suggest that the District sponsors the club. Elementary schools are under no obligation to allow students to form and run clubs, something elementary-age students are rarely capable of without adult guidance. If student-initiated clubs are allowed, teachers may be present at religious student clubs to ensure that students are not violating school rules but may not participate in any way.

The Equal Access Act (EAA), 20 U.S.C. § 4071, which allows student-initiated religious clubs to form at secondary schools, does not apply to elementary schools. Even if it did apply, school employees would not be permitted to participate in, much less initiate or lead, student religious clubs. 20 U.S.C. § 4071(c)(2) ("employees or agents of the school or government [must be] present at religious meetings only in a nonparticipatory capacity.").

This makes sense because the Act is premised on the idea that secondary school students are mature enough to run clubs on their own and dictate the activities that the club will undertake. Elementary school students, by

contrast, are not old enough to organize and run their own clubs and are likely not mature enough to appreciate the nuanced distinction between a teacher acting as a school sponsor and a teacher acting as a monitor or advisor of a religious club.

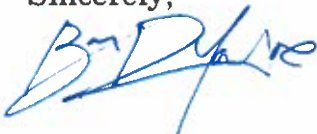
The District's apparent attempt at treating religious clubs identically to secular clubs, such as a chess club, is fundamentally misguided when that treatment includes staff participation, District sponsorship, or any other indication that the District endorses the club or its message. The District can initiate, promote, and lead a chess club, but not a religious club. There is no constitutional separation between chess and state.

Given that students did not initiate FCS's formation, and the District has acknowledged that it is a school-sponsored religious club, the FCS club violates the Establishment Clause and must be immediately dissolved. Any teachers who have illegally participated in a student religious club in the past cannot be trusted to supervise student religious activities in a non-participatory capacity in the future.

Further, significant training for school administrators and other school staff on this issue is clearly warranted, especially given that this is the second incident this school year that FFRF received complaints of District employees flagrantly using their government position to promote religion to their students. Absent some meaningful corrective action, District administration will appear complicit in its employees' defiance of the Establishment Clause.

Please investigate these concerns and provide written assurances that in the future Daniel Wertz staff will not organize, lead, or participate in school religious clubs, and that the FCS club will be disbanded. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan D. Jayne".

Ryan D. Jayne
Staff Attorney