

# FREEDOM FROM RELIGION *foundation*

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February 4, 2015

SENT BY MAIL AND EMAIL TO: mhalwachs@highmountschool.com

Mr. Mark Halwachs  
Superintendent  
High Mount School  
1721 Boul Ave.  
Swansea, Illinois 62226

Re: District Promotion of Religious Club

Dear Superintendent Halwachs:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to constitutional concerns over High Mount School's (HMS's) promotion of the Kids for Christ club. FFRF is a nationwide nonprofit organization with more than 21,500 members, including 800 members in Illinois. Our purpose is to protect the constitutional principle of separation of state and church.

A concerned HMS community member recently contacted FFRF to report that the district has been sending emails to students and parents to promote the new Kids for Christ bible club taking place at the school. The emails contain statements that create the impression that HMS is actively involved in running the club and that the district wishes for students to join the club. For instance, a February 3 email sent by school secretary Angie Downard states "*We* will be having an informational meeting" and that "*Our* Goal is to make learning the bible Fun!!" (emphasis added). The email describes Kids for Christ as "a permanent Program at High Mount School" and states that it "operates in cooperation with local schools."

We write to ask that HMS ensure that it is not unconstitutionally entangled in running or promoting the Kids for Christ bible club and that the district take steps to distance itself from club activities.

HMS has created the impression that it is sponsoring the Kids for Christ club through its announcements of club meetings and the explicit statements made in those announcements. FFRF has dealt with this club in other school districts and recommends that HMS review the following guidelines to ensure that it is not inappropriately involved in operating or promoting this religious club.

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

It is unconstitutional for HMS staff to sponsor, lead, or promote a Christian club. Outside the secondary school context, 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); *Engel v. Vitale*, 370 U.S. 421 (1962); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963). This means that HMS cannot be actively involved in running or promoting a religious club and cannot grant special privileges to any privately run religious club that meets in the school.

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. HMS employees, such as School Secretary Downard, cannot use their positions within the school to promote a religious club in a way that creates the appearance of district endorsement of that club's religious messages. *See Lemon v. Kurtzman*, 403 U.S. 602, 619 (1971) (finding that 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). Any religious club that meets at HMS must be privately operated and wholly separate from the district.

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

A public school cannot become directly responsible for the sale or promotion of religious t-shirts or other merchandise. The district must distance itself from the promotion of Kids for Christ merchandise, just as it would for any other privately operated group. Additionally, public school employees cannot distribute, sell, or wear religious t-shirts while at school. Teachers wearing club t-shirts in the classroom has been a problem in other school districts with the Kids for Christ club. When teachers wear a shirt that promotes a Christian club, they send a message to non-Christian and nonreligious students that they are outsiders in their own school community. This is especially true when elementary school students are involved, since they are least able to distinguish between what a teacher does in his or her personal capacity and what is officially endorsed by their school.

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). HMS should take steps to ensure that it does not become complicit in an egregious constitutional violation and breach of trust.

### **Teachers Cannot Distribute Bibles to Students at School**

In other school districts, FFRF has learned of at least one case where a teacher used her school's Kids for Christ club in order to distribute bibles to elementary school students during the school day. This is illegal. 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). Teachers may not distribute bibles to students and may not grant outside groups access to their students in order to distribute bibles.

### **Solutions**

Based on the club announcements sent by School Secretary Downard, a reasonable student or parent will perceive Kids for Christ as “stamped with her school’s seal of approval.” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 307 (2000) (quoting *Lee*, 505 U.S. at 589). This leads to the inevitable conclusion that HMS 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.

We ask that the district investigate the operation of Kids for Christ within its school to ensure that there is no faculty involvement in the organization, promotion, or running of this religious clubs. Furthermore, all HMS staff should be reminded that their duties under the Establishment Clause prohibit them from actively promoting a religious club 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