

FREEDOM FROM RELIGION *foundation*

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**SENT VIA U.S. MAIL & EMAIL:
natalie.johnson@lausd.net**

David R. Holmquist, Esq.
Office of the General Counsel
c/o Natalie Ann Johnson
Los Angeles Unified School District
333 S. Beaudry Avenue, 23rd Floor
Los Angeles, CA 90017

Re: Unconstitutional religious club

Dear Mr. Holmquist:

Thank you for your office's assistance in resolving an issue we brought to your attention earlier this year regarding church banners at University High School. We understand those banners have been removed. I am writing again on behalf of the Freedom From Religion Foundation to alert you to another constitutional violation in LAUSD. We were contacted by a concerned community member.

It is our understanding that Sun Valley High School hosts "The TRUTH (Teens Reaching U Through Him) Club," which is advertised on the school's website as a bible club with lessons taught by Jesses Montes, the school's football coach.¹ We understand the club meets in the school during lunch every week.

This club is in violation of the Equal Access Act because it is clearly not student-run. We request that the club be disbanded and Montes be instructed that he cannot promote religion to students while acting in his official capacity as a representative of LAUSD.

As you are certainly aware, school employees may not run or even participate in religious clubs in public schools, nor can they promote religious clubs or invite students to attend. Even though public secondary schools cannot discriminate against student organizations based on their religious, political, philosophical, or other beliefs, under *Bd. of Educ. of the Westside Cmty. Sch. v. Mergens*, 496 U.S. 226, 235 (1990) (holding the Equal Access Act constitutional), it is illegal for school employees to actively participate in or organize religious organizations at school. "Under the [Equal Access] Act . . . faculty monitors may not participate in any religious meetings, and nonschool persons may not direct, control or regularly attend activities of student groups." *Id.* at 253 (citing 20 U.S.C. §§

¹ https://sunvalleyhs-laUSD-ca.schoolloop.com/cms/page_view?d=x&piid=&vpid=1409206528921.

4071(c)(3) and (5)). The Court continued, "Moreover the Act prohibits school 'sponsorship' of any religious meetings . . . which means that school officials may not promote, lead, or participate in any such meeting." *Id.* (citing U.S.C. § 4071(c)(2)). Staff participation in religious activities at school leads any reasonable student to see the club's religious message as sponsored by the school.

In addition, federal courts have held that public school employees may not participate in the religious activities of students. *See, e.g., Borden v. Sch. Dist. of the Township of East Brunswick*, 523 F.3d 153 (3rd Cir. 2008), *cert. denied*, 129 S.Ct. 1524 (2009) (declaring a coach's organization, participation in, and leading of prayers before football games unconstitutional); *Doe v. Duncanville Indep. Sch. Dist.*, 70 F.3d 402 (5th Cir. 1995) (declaring basketball coach's participation in student prayer circles an unconstitutional endorsement of religion). In *Borden*, the Third Circuit Court of Appeals held the high school football coach, who had a history of organizing, leading and participating in prayers before games, was unconstitutional because it violated the Establishment Clause. *Borden*, 523 F.3d at 174. In that case, the court stated that the coach's involvement in the prayer by 'taking a knee' and 'bowing his head' during the prayers, even when student-led, "would lead a reasonable observer to conclude he was endorsing religion." *Id.* at 176. The court continued, "if while acting in their official capacities, [school district] employees join hands in a prayer circle or otherwise manifest approval and solidarity with the student religious exercises, they cross the line between respect for religion and the endorsement of religion." *Id.* at 178 (quoting *Duncanville*, 70 F.3d at 406).

We request that you investigate these allegations of "The TRUTH Club," and Jesses Montes' involvement in it. If confirmed, the club is in violation of the Equal Access Act and should be disbanded. Montes must be instructed to refrain from sponsoring, leading, or participating in religious activities in the public school setting, and may only be present at student religious meetings in a supervisory capacity. We also request that the advertisement for the club be removed from the school's website. We would again appreciate hearing the results of your investigation and any action taken. Thank you for your time and attention to this matter.

Sincerely,



Andrew L. Seidel
Staff Attorney

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