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April 28, 2016

Patrick C. Elliott
Staff Attorney
Freedom from Religion Foundation
P.O. Box 750
Madison, WI 53701

Re: Mingo Central High School

Dear Mr. Elliott:

First, thank you for your letter dated April 18, 2016. The activities that took place at Mingo Central High School during the week of April 13-16 were unauthorized and conducted without the input of the superintendent, board of education, or central office administration for Mingo County Schools. We agree with you that certain aspects of the student prayer group's activities that week have created serious issues regarding potential violations of both state and federal law.

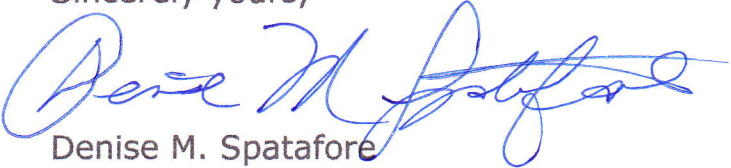
Steps have already been taken by the superintendent to ensure that such events will not occur in the future and that all staff are educated regarding the legal obligations of school systems when such issues arise. The attached document is being distributed to all school administrators, and a training session for all staff on the same subject matter will be conducted this summer. Confirmation of these training session(s) will be provided to you following completion. Also, the principal of Mingo Central has been individually counseled about the events which occurred at her school earlier this month and provided with information regarding student religious groups, the Equal Access Act, and the Establishment Clause. In addition, the subject of guest speakers and their permissible role in such student organizations has been addressed with the principal and all school administrators.

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Again, thank you for bringing this matter to our attention. Continued efforts will be made to ensure that all school personnel and students are fully educated regarding the issues at hand.

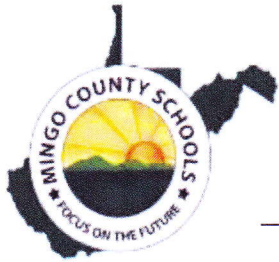
Sincerely yours,



Denise M. Spatafore
Counsel for Mingo County Schools

Enclosure

cc: Dr. Robert Bobbera, Superintendent



Mingo County Schools

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STUDENT RELIGIOUS GROUPS Information for School Principals

The following information is provided to give general information regarding the formation of student religious groups within Mingo County Schools. If, however, there are any questions regarding whether a group may form, meet, or have access to school facilities, please direct those questions to the Central Office.

1. The First Amendment to the United States Constitution contains the so-called "Establishment Clause" which prohibits all governmental entities from endorsing or encouraging religion in any way. This applies to our public schools, when a student wants to form a student group with a religious focus or theme.

2. Students have a constitutional right to free exercise of religion, which may occur in the form of activities such as quiet prayer or bible reading (alone or in groups), during non-instructional time, which does not interfere with the educational environment or cause disruption. The only kind of prayer that is forbidden in public schools is institutionalized prayer (prayer required, encouraged, organized, endorsed, or led by educators).

3. The Equal Access Act is a provision in federal law which requires that, if non-curricular¹ student groups are allowed to conduct activities within a school, student religious groups must be afforded the same access as secular non-curricular student groups.. However, this access applies only to activities conducted during NON-instructional time, such as before and after school, during lunch, or during designated "activity" periods which are not used for class instruction.

4. In order to avoid violations of federal law, the following rules apply to all non-curricular student groups (whether religious-based or not):

- **The group MUST be student-initiated.** A group formed by the school or an individual educator on behalf of students does not constitute a student-initiated group.

¹ This refers to clubs or organizations that are not related to curriculum, subject content, or provide academic credit.

- **The group's activities and meetings MUST be led by students, rather than by teachers or any other outsiders or adults.** The mere presence and/or participation of students in a meeting led and conducted by others would not constitute a student-led group.
- **While guest speakers MAY be allowed if also allowed for other secular student groups, such individuals must be excluded if they direct, conduct, control or regularly attend the student group's meetings.** Again, saying that a student club meeting will take place, but then allowing a guest speaker to conduct the entire meeting, would not be a permitted activity.
- **If a student prayer group meeting takes place during non-instructional time, only students may attend, and school employees may NOT participate.** While acting in their official capacities, school personnel must remain neutral regarding religious activities of any type, in order to avoid violations of the Establishment Clause. Attendance of a faculty member for supervisory purposes would not be illegal.
- **Student attendance at religious group meetings must be voluntary.** While group members may tell other students about upcoming meetings or activities, they must still comply with all laws and policies prohibiting discrimination, harassment, and bullying in schools. For example, "targeting" of a particular student because of perceived gender identity, sexual orientation, or race, would be blatantly illegal. Actions which violate state law/policy will subject students to disciplinary action, and visitors may be removed and excluded from school property.
- **Student club activities may NOT disrupt the educational environment or take place during instructional time, even with teacher approval.**

5. These laws apply only to secondary students. Elementary age students are considered to not have the legal ability to make voluntary decisions regarding religious preferences or choices, so schools do not have to allow such organizations to operate in their facilities.