

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

June 14, 2016

SENT VIA EMAIL & U.S. MAIL: commissioner@tea.texas.gov

Commissioner Mike Morath
Texas Education Agency
1701 N. Congress Avenue
Austin, TX 78701

Re: Newman International Academy

Dear Commissioner Morath:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert the TEA to constitutional concerns with charter schools run by Newman International Academy (NIA). We were contacted by a concerned Texan. FFRF is a national nonprofit organization with nearly 24,000 members across the country, including almost 1,000 in Texas. Our purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that in August Newman International Academy will be opening up a new charter school inside Walnut Ridge Baptist Church in Mansfield, TX. Our complainant brought to our attention some alarming details about the new charter school, which will be receiving public funds from the state of Texas. It appears that the new school, and Newman International Academy's current charter schools, operate in ways that unconstitutionally endorse religion.

When a public school chooses to endorse religion, it is a usurpation of parental authority—parents have the right to direct the religious, or nonreligious, upbringing of their children, not public schools. A public school-endorsed religious message alienates those non-Christian students, teachers, and members of the public whose religious beliefs are inconsistent with the message being promoted by the school. It is particularly inappropriate for the 23% of Americans who identify as non-religious, including 44% of the population under 30.¹

We ask that the TEA investigate the following issues and take action to ensure that all Newman International Academy charter schools are in compliance with the Establishment Clause of the First Amendment. If NIA is unwilling to run its charter schools in a manner consistent with the Constitution, we ask that all of its current charters be revoked.

School Song

NIA has adopted a blatantly religious school song:

May God bless our school
As we march to our tomorrows
And stand tall today with

¹ *America's Changing Religious Landscape*, PEW RESEARCH CENTER (May 12, 2015), available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/.

Love, Faith and Hope
We rise to build our nation
With wisdom, statute and favor,
May God bless our school
Today and forever.

This school song is advertised on flyers advertising an open house for NIA at Walnut Ridge to families in the area. Please see the enclosed photo.

Courts have consistently held that schools may not demonstrate a preference for religion over nonreligion by endorsing religious messages. *See generally, Stone v. Graham*, 449 U.S. 39 (1980) (ruling that the Ten Commandments may not be displayed on classroom walls); *Washegesic v. Bloomingdale Pub. Schs.*, 813 F. Supp. 559 (W.D. Mi. 1993), *aff'd* 33 F. 3d 679 (6th Cir. 1994) (ruling that a picture of Jesus may not be displayed in a public school); *Ahlquist v. City of Cranston ex rel. Strom*, 840 F. Supp. 2d 507 (D.R.I. 2012) (striking down a prayer mural in a high school auditorium). The instant case is far worse than any of the previously cited cases. While the above examples constitute indirect endorsement of religion through religious imagery, NIA's school song contains a direct appeal to "God" to bless the school. This communicates an unambiguous preference for religion over nonreligion and Christianity's "God" over the god or gods of minority religions.

Promotion and Endorsement of Religious Events

NIA promotes and endorses religious events in its schools and on its website. NIA's 2015-2016 calendar includes a school holiday on March 25 for Good Friday, an explicitly Christian holiday,² a See You at the Pole event that NIA described as "a day committed to global unity in Christ and prayer for this generation,"³ and a school-wide assembly for the National Day of Prayer.⁴ NIA has also promoted a baccalaureate service for graduating students.⁵ Please see the enclosed photos and footnoted links.

Charter schools, like public schools, have a constitutional obligation to remain neutral toward religion. This obligation requires public school employees to abstain from organizing religious events while acting in their official capacities as school employees or from participating in the religious activities of their students. *See, e.g., Borden v. Sch. Dist. of the Twp. of East Brunswick*, 523 F.3d 153 (3rd Cir. 2008), *cert. denied*, 129 S.Ct. 1524 (2009) (declaring a coach's organization of, participation in, and leading of prayers before games unconstitutional); *Doe v. Duncanville Indep. Sch. Dist.*, 70 F.3d 402 (5th Cir. 1995) (declaring coach's participation in student prayer circles an unconstitutional endorsement of religion).

Baccalaureate programs are religious services that include prayer and worship. Schools may not in any way plan, design, or supervise them. *See, e.g., Warnock v. Archer*, 443 F.3d 954 (8th Cir. 2006) (upholding injunction prohibiting school district from orchestrating or supervising prayers at school graduation or baccalaureate ceremonies). NIA's role in promoting a baccalaureate service on its website would cause any reasonable graduating student or parent to conclude that the school endorses the religious messages espoused at the service. NIA cannot be permitted to organize or promote future religious events.

² 2015-2016 Calendar, Newman International Academy, <http://www.newmanacademy.org/wp-content/uploads/2015/08/NIAA-2015-2016-Calendar.pdf>

³ Secondary News, Newman International Academy, <http://www.newmanacademy.org/wp-content/uploads/2015/09/NICH-918.pdf>

⁴ Upcoming Events, Newman International Academy, <http://www.newmanacademy.org/up-coming-events>

⁵ 2014-2015 Calendar, Newman International Academy, <http://www.newmanacademy.org/wp-content/uploads/2015/02/Secondary-Calendar-of-Events-2014-2015.pdf>

As for NIA's endorsement of the See You At The Pole event and the National Day of Prayer, is well settled that a public school employee may not lead, direct, or encourage students to engage in prayer. The Supreme Court has continually struck down formal and teacher or school-led prayer in public schools. *See, e.g., Engel v. Vitale*, 370 U.S. 421 (1962) (holding teacher-led prayer in public schools unconstitutional); *Abington Twp. Sch. Dist. v. Schempp*, 374 U.S. 203 (1963) (holding devotional Bible reading and recitation of the Lord's Prayer in public schools unconstitutional); *Lee v. Weisman*, 505 U.S. 577 (1992) (ruling prayers at public school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturning law requiring daily "period of silence not to exceed one minute . . . for meditation or daily prayer.").

Because See You At The Pole and the National Day of Prayer are inherently religious events, NIA staff cannot plan or participate in school-endorsed celebrations of them. Doing so alienates non-Christian students, teachers, and parents whose religious beliefs are inconsistent with the message being promoted by the school. Any religious events must be entirely student-initiated and student-run. While the NIA cannot prohibit students from organizing or participating in a prayer event, the Supreme Court has stated that public school staff members must refrain from participating in the religious activities of students while acting within their governmental roles to avoid any perception of government endorsement of religion. *See Bd. of Educ. of the Westside Cmty. Sch. v. Mergens*, 496 U.S. 226, 253 (1990).

Even See You at the Pole's official website recognizes that adults should not be involved in their events:

See You at the Pole™ is a student-led event. Strong student leadership is crucial. Adult volunteers and parents should not lead the See You at the Pole™ gathering. Many well-meaning adults take over and take away from the students by trying to lead out in the prayers at the flagpole. This is not the intention for See You at the Pole™, nor is it legal for adults to lead. Please step back or stay away and let the students grow and learn in their faith by leading.

The best place for an adult to pray on the day of See You at the Pole™ is not on campus with the students, but at alternate locations.⁶

Newman International Academy can either receive state funding and operate as a public charter school subject to constitutional restrictions on religious promotion, or it can choose to operate as a private Christian school and not receive state funding. But it cannot operate as a state-funded religious school. Please respond in writing to outline what steps the TEA is taking to ensure that NIA either complies with the Constitution or no longer receives state funds.

Sincerely,



Sam Grover
Staff Attorney

STG:cal

Enclosures

cc: Sheba George, Superintendent/CEO

⁶ <http://syatp.com/>.

Newman International Academy at Walnut Ridge
FREE TUITION CHARTER SCHOOL



SCHOOL SONG

*May God bless our school
As we march to our tomorrow
And stand tall today with
Love, Faith and Hope
We rise to build our nation
With wisdom, stature and favor,
May God bless our school
Today and forever.*



NEW ELEMENTARY SCHOOL TO BEGIN IN YOUR NEIGHBORHOOD
OPEN HOUSE DATES:
Tuesday, May 10 & Thursday, May 12 at 6:30 PM
Newman International Academy at Walnut Ridge • 1201 SH 360, Mansfield, TX 76063

Student Holidays

September 7

October 12

November 23-27

December 21-January 4

January 18

March 14-18

March 25

May 30

15-Feb

30-May

Labor Day

Columbus Day

Thanksgiving Holiday

Christmas Break

MLK Day

Spring Break

Good Friday

Memorial Day

Inclement Weather Make-up Day

Inclement Weather Make-up Day

See You at the Pole

SEE YOU AT THE POLE day is on Wednesday, September 23, at 7:15 a.m. All around the globe, in every time zone, students will be gathering at their flagpoles, praying for their school, friends, families, churches, and communities. SEE YOU AT THE POLE is a day committed to global unity in Christ and prayer for this generation.



Arlington (817) 459-8555

Cedar Hill Campus (972) 213-5490



NEWMAN
INTERNATIONAL ACADEMY OF ARLINGTON

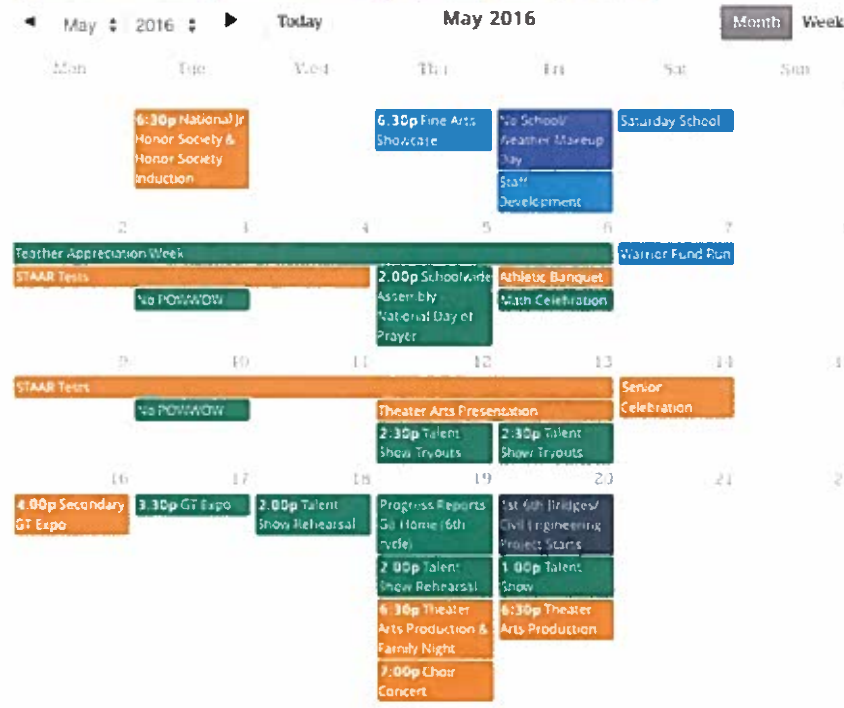
Home | About Us | Administration & Staff | Academics | Athletics | Admission Form | News & Stories

Contact Us | Parent Portal

Add Events

Show Type: All | Event | PSC Event | Special Event | Secondary Event | Elementary Event

Holiday/Early Dismissal | School Wide Event | Fundraiser | Athletics Calendar



Open Enrollment / Admission Forms

NOW ENROLLING
SPACE IS LIMITED
ACT QUICKLY

[LINK TO APPLICATION](#)

Up Coming Events

- May 31, 2016
Senior Led Field Day
- May 31, 2016
6th Grade - Special Event
- May 31, 2016
1:00 pm Kindergarten - GRADUATION
- May 31, 2016, 8:00 am
Pre-K Crossover
- May 31, 2016, 9:00 am
1st-3rd Grade End of Year Awards
- May 31, 2016, 10:00 am
4th-6th Grade End of Year Awards
- June 1, 2016
End of Year Parties (all grades)