

FREEDOM FROM RELIGION *foundation*

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April 26, 2017

SENT VIA EMAIL AND U.S. MAIL:
finfr@onalaskaschools.com

Dr. Fran Finco
Superintendent
School District of Onalaska
1821 E. Main St.
Onalaska, WI 54650

Re: Teacher participation in student religious clubs

Dear Dr. Finco:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to a constitutional violation in your district. FFRF is a Madison-based national nonprofit organization that works to protect the constitutional principle of separation between state and church. We represent more than 28,000 members across the country, including more than 1,400 in Wisconsin.

A concerned member contacted us to report that District employees participate in the student religious club, Fellowship of Christian Athletes (FCA) at Onalaska High School. Local media reported that both Josh Lichy, freshmen football coach and fifth-grade teacher at Northern Hills Elementary, and high school teacher Amanda Steele “participated in the discussions” about prayer with students at a recent Tuesday morning FCA meeting in Steele’s classroom.¹ Lichy reportedly asked students “how and why they prayed,” and counseled them that “a big step is praying before an event with your team. Then you as a team are playing for something bigger than a ‘W’. What you are doing is showing His light everywhere.”² Lichy went on to recommend that students pray in the morning rather than getting extra sleep.³

It is unconstitutional for District employees to participate in student religious clubs, even if those clubs meet during noninstructional time. We request assurances that Lichy and Steele will not be present at future FCA meetings, and that any staff who chaperone club meetings in the future will not participate.

As an initial matter, it is well settled 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); *Sch. Dist. of Abington*

¹ lacrossetribune.com/news/local/evangelical-organizations-use-students-to-spread-the-good-news-

² *Id.*

³ *Id.*

Twp. v. Schempp, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962). Students are permitted to form religious clubs, but the District may not endorse, or appear to endorse, those clubs.

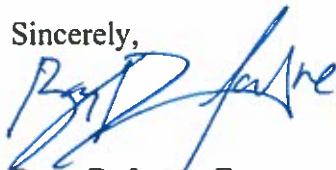
To avoid the appearance of endorsing a religious club, the District may not allow teachers or outside adults to be involved in student religious clubs beyond a supervisory capacity. Courts have maintained that “the preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere.” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 310 (2000) (quoting *Lee v. Weisman*, 505 U.S. at 589). If Lichty or Steele organize or participate in FCA meetings in any way, they impermissibly appear to endorse the religious club on behalf of the District.

The Equal Access Act, which allows the FCA club to form, requires that “employees or agents of the school or government are present at religious meetings only in a nonparticipatory capacity.” 20 U.S.C. § 4071(c)(2). We often hear from students that public school teachers are participating in or directing the activities of FCA clubs. This is illegal. Any school religious groups must be bona fide student clubs that are both student-initiated and student-run.

The EAA was written to apply to noncurricular clubs meeting during non-instructional time, which means the staff participation restriction was written to apply during non-instructional time too. In *Sease v. Sch. Dist. of Philadelphia*, a school secretary sponsored and participated in a school gospel choir. The secretary argued that the choir met after hours and that, as a secretary, her school duties were never meant to be supervisory and therefore she was not prevented from participating. 811 F. Supp. 183 (E.D. Pa. 1993). The court wrote that the “suggestion that Mrs. Safford ceases to be a school employee within the meaning of the Act because her role as leader of the Gospel Choir is assumed after school hours, and is outside the scope of her employment as a school secretary, defies logic and flies in the face of the manifest purpose of the Equal Access Act.” *Id.* at 192.

Please investigate these concerns and respond in writing at your earliest convenience with assurances that adults and District staff will not organize or participate in any religious student clubs in the School District of Onalaska in the future. Since Lichty and Steele freely admitted to participating in the club to local media, we request that the club be assigned a new faculty sponsor who will abide by restrictions imposed on them by the Equal Access Act and the U.S. Constitution.

Sincerely,



Ryan D. Jayne, Esq.
Elaine & Eric Stone Legal Fellow
Freedom From Religion Foundation