

FREEDOM FROM RELIGION *foundation*

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March 20, 2019

SENT VIA EMAIL & U.S. MAIL: gistde@tulsaschools.org

Dr. Deborah A. Gist
Superintendent
Tulsa Public Schools
3027 S. New Haven Ave.
Tulsa, OK 74114

Re: Unconstitutional Proselytizing in School and Open Records Request

Dear Superintendent Gist:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a serious constitutional violation occurring in Tulsa Public Schools (TPS). FFRF is a national nonprofit organization with more than 31,000 members across the country, including members in Oklahoma. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

A concerned TPS community member has reported that Tulsa Public Schools allows religious leaders access to its elementary schools during the school day to proselytize to young students. Our complainant reports that a group called “Church on the Move” has been sending in youth pastors, which they refer to as “lunch buddies,” to befriend and proselytize students during the lunch hour in TPS elementary schools. It is our understanding that other churches are also sending pastors to TPS elementary schools to proselytize to children as well. Our complainant reports that many of these pastors have brought lunches and snacks for teachers and asked teachers whether they were currently attending church.

We write to ensure that TPS will no longer allow outside adults access to proselytize to its students during the school day.

It is inappropriate and unconstitutional for the district to offer religious leaders unique access to befriend and proselytize students during the school day on school property. No outside adults should be provided carte blanche access to minors—a captive audience—in a public school. This predatory conduct is inappropriate and should raise many red flags. The district cannot allow its schools to be used as recruiting grounds for churches during the school day. It is well settled that public schools may not advance 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 Twp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962); *McCullum v Bd. of Educ.*, 333 U.S. 203 (1948).

Allowing church representatives regular, or even one-time, access during school hours to proselytize and recruit students for religious activities is a violation of the Establishment Clause. Courts have protected public school students from overreaching outsiders in similar situations.

See, e.g., Berger v. Rensselaer Sch. Dist., 982 F.2d 1160 (7th Cir. 1993) (holding that distribution of bibles by Gideons in school violated Establishment Clause). Courts have granted injunctions against schools for their complacency in such situations. *See, e.g., Roark v. S. Iron R-1 Sch. Dist.* 540 F. Supp.2d 1047, 1059 (E.D. Mo., 2008); *upheld in relevant part by* 573 F.3d 556, (8th Cir. 2009) (holding that school policy allowing evangelical Christian organization to distribute bibles in school violated Establishment Clause). This active, in-person contact with students is different from cases in which religious groups have been allowed to passively distribute literature to students or to send flyers to parents. *See, e.g., Peck v. Upshur Cty. Bd. of Ed.*, 155 F.3d 274, 281 (4th Cir. 1998) (upholding school board's allowance of passive distribution of religious materials in part because the school board "preclude[d] religious speakers from delivering their messages to Upshur County students face-to-face.").

The District cannot allow non-school persons to treat schools as a recruiting ground for their religious mission. It demonstrates an unlawful preference not only for religion over non-religion, but also Christianity over all other faiths. Public schools have a constitutional obligation not to promote religion. When a school allows church representatives to recruit students for the church, it has unconstitutionally entangled itself with a religious message—in this case, a Christian message. This scheme alienates those non-Christian students, teachers, and members of the public whose religious beliefs are inconsistent with the message being disseminated by the school.

Public schools have an obligation to stay separate from religion because "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*, 505 U.S. at 589). Students are young, impressionable, and vulnerable to social pressure, particularly pressure exerted from an adult. Schemes to allow outside adults into public schools usurp the authority of parents, some of whom surely do not want their children approached by religious leaders at their child's public school lunch.

Public schools are not an appropriate place for outside adults to convince students to attend their church. This recruitment constitutes "a utilization of the tax-established and tax-supported public school system to aid religious groups to spread their faith." *McCollum*, 333 U.S. at 210.

TPS must immediately discontinue allowing pastors and other church representatives access to students during the school day. Please inform us promptly in writing of the steps the District takes to remedy this serious constitutional violation.

Open Records Request

Pursuant to the Oklahoma Open Records Act (Okla. Stat. tit. 51, §§ 24A.1-24A.24 (2000)), I request a copy of the following records:

1. Any records related to pastors being given access to TPS elementary schools during the school day, including "lunch buddy" programs;
2. Any communications (including emails) to or from TPS staff members regarding "lunch buddy" programs, or pastors being given access to students during the lunch period;

3. Any TPS policies related to outside adults being given access to students during the school day.

If you do not maintain these public records, please forward this request to the proper custodian and let me know the name and address of the custodians of these records. If you choose to deny this request, please respond with a written explanation of the denial, including any references to applicable statutory exemptions relied upon.

If any of these records are available through electronic media (preferred), they may be e-mailed to chris@ffrf.org. If I can provide any clarification that will help expedite your attention to my request, please contact me at 608-256-8900. I appreciate your time and attention to this request.

Sincerely,



Christopher Line
Patrick O'Reiley Legal Fellow
Freedom From Religion Foundation