

FREEDOM FROM RELIGION *foundation*

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August 10, 2016

SENT VIA EMAIL AND U.S. MAIL:
gnyen@waupacaschools.org

Mr. Greg Nyen
Superintendent
School District of Waupaca
515 School Street
Waupaca, WI 54981

Re: Fee waivers for religious events

Dear Superintendent Nyen:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding the unconstitutional waiver of fees for religious events at Waupaca Learning Center Elementary School ("WLC"). A concerned local resident contacted us about this matter. FFRF is a Madison-based national nonprofit organization with nearly 24,000 members across the country, including more than 1,300 members in Wisconsin. FFRF's purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that Mission of Hope ("MoH") has held several events at Waupaca schools and intends to hold another event at WLC in May of 2017. MoH events include both charitable secular services and religious activities. MoH's website lists services offered at its events, which include "Prayer: Members of our faith community are offering a prayer tent where servant volunteers are willing to listen to your prayer requests and pray with and for you. It is here where people simply love to listen and encourage."¹

On May 23, we submitted an open records request regarding MoH events at CHS. The records we received included MoH's previous applications, in which they requested use of food service facilities, custodial services, and the school's gym. We also received the District's Facility Fee Schedule, which lists \$180 for WLC's field house/gym and \$100 for WLC's kitchen for non-profit rentals. We received no records indicating that these fees were charged to MoH, so we assume the fees were waived.

¹ <http://mission-of-hope.com/services/>.

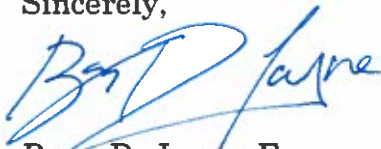
It is unconstitutional for a public school district to waive ordinary fees for an event that includes religious exercises, but not for all other non-profit events. This preferential treatment for MoH's event gives the appearance that the District endorses the event, including the prayer tent. We request written assurances that, in the future, MoH will be charged according to the District's fee schedule for non-profit events.

As an initial matter, it is well settled that public schools may not advance, prefer or promote religion. *See 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). Waiving rental fees for an event that includes a prayer tent promotes religion on behalf of the District, no less than directly funding the event.

The Wisconsin State Constitution specifically contemplates school districts renting their facilities when school is not in session, but *assumes* that "reasonable compensation" will be charged.² If the District selectively waives its posted fees, it may only do so on the basis of written secular criteria. Favoring religious events with selective fee waivers is particularly exclusionary to the 23% of the U.S. population who identify as nonreligious, including 35% of millennials.³

As long as Mission of Hope events promote religion and prayer by running a prayer tent, the events are ineligible for aid from the Waupaca School District, including discretionary fee waivers. Please inform us in writing at your earliest convenience of the steps the District is taking to remedy this violation.

Sincerely,



Ryan D. Jayre, Esq.
Diane Uhl Legal Fellow
Freedom From Religion Foundation

² "Nothing in this constitution shall prohibit the legislature from authorizing, by law, the use of public school buildings by civic, religious or charitable organizations during nonschool hours upon payment by the organization to the school district of reasonable compensation for such use." Wis. Const. art. I, § 24.

³*America's Changing Religious Landscape*, PEW RESEARCH CENTER (May 12, 2015), available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/.