

FREEDOM FROM RELIGION *foundation*

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February 4, 2022

SENT VIA EMAIL & U.S. MAIL: sherrone.hornbuckle@k12.wv.us

Sherrone D. Hornbuckle, Esq.
General Counsel
Cabell County Schools
2850 5th Avenue
Huntington, WV 25702

Re: Unconstitutional Religious Assembly and Open Records Request

Dear Ms. Hornbuckle:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a serious constitutional violation that recently occurred in Cabell County Schools. We appreciated your August 4, 2021 response to our March 15, 2021 letter regarding a teacher proselytizing to students. I hope we can resolve this new matter, and that the District will take more seriously its obligation to remain neutral when it comes to religion. It seems there is a pattern emerging within the District.

Multiple people, including multiple District parents, have reported that on February 2, 2022, Huntington High School invited a preacher named Nik Walker to preach to and proselytize students at the school. It is our understanding that Nik Walker was allowed to preach to students during the school day, and one of our complainants reports that their child's teacher required students to attend this religious assembly. While we understand that this was supposed to be an FCA event, many staff members, teachers, and even the school's principal took part in this school-sponsored religious revival, and certain students who "needed it" were reportedly encouraged by teachers to attend. We have been provided videos from the assembly and have confirmed that this was a full on religious service led by Nik Walker during school hours that many students were required to attend. He talked about salvation through Jesus and that students who did not follow the bible would go to hell. Nik Walker led students in prayer and students were encouraged to attend Nik Walker's revival being held at a local church. We understand a similar event was held at Huntington East Middle School as well.

Our complainants' accounts are corroborated by a post Nik Walker has made on his social media pages. Walker bragged about converting District students: "What a morning! We just got back from Boyd County High School and Huntington High School where right at 50 students gave their lives to Jesus at their voluntary club meetings!" It is clear from our complaints' accounts that these were not voluntary club meetings, but school-sponsored religious assemblies taking place during the school day with school staff members present.

Please see the enclosed screenshots.

Nik Walker is the head of Nik Walker Ministries, a traveling evangelistic ministry based in Summersville, West Virginia. The purpose of Nik Walker Ministries is “to bring the fullness of God’s Spirit back to the 21st century church, expose young people to the saving power of Jesus Christ, to show people what God sees when He looks upon them. The heart of our ministry is bringing revival and fervor back to the body of Christ.”¹

The District must immediately cease allowing religious leaders to utilize its public schools to proselytize and recruit students. 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.” *McCullum v Bd. of Ed.*, 333 U.S. 203, 210 (1948).

It is inappropriate and unconstitutional for the District to offer religious leaders unique access to preach and proselytize students during school hours 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 have raised many red flags. The District cannot allow its schools to be used as recruiting grounds for churches. 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*, 333 U.S. 203.

Allowing evangelical pastors regular, or even one-time, access to proselytize and recruit students for religious activities is a violation of the Establishment Clause. The courts have protected public school students from overreaching outsiders in similar situations. *See, e.g., Berger v. Rensselaer School District*, 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. South 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 organizations to distribute bibles in school violated Establishment Clause).

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 to remain neutral toward 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 practice alienates those non-Christian students, teachers, and members of the public whose religious beliefs are inconsistent with the message being disseminated by the school, including the 38% of millennials who are nonreligious.²

¹ <https://www.nwministries.com/about/>

² Robert P. Jones & Daniel Cox, *America’s Changing Religious Identity*, PUBLIC RELIGION RESEARCH INSTITUTE (Sept. 6, 2017), available at www.ppri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.

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. 577, 589 (1992)). Students are young, impressionable, and vulnerable to social pressure, particularly pressure exerted by an adult. This practice usurps the authority of parents, some of whom surely do not want their children approached by religious leaders while they are in school.

We understand that some District administrators are claiming that this was a permissible, voluntary event held by the Fellowship of Christian Athletes. This was clearly not the case. Even if it were voluntary, a religious revival taking place during the school day violates the Establishment Clause, and courts have summarily rejected arguments that voluntariness excuses a constitutional violation. *See Lee*, 505 U.S. at 596 (“It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice.”); *Schempp*, 374 U.S. at 288 (Brennan, J., concurring) (“Thus, the short, and to me sufficient, answer is that the availability of excusal or exemption simply has no relevance to the establishment question”); *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003) (“VMI cannot avoid Establishment Clause problems by simply asserting that a cadet’s attendance at supper or his or her participation in the supper prayer are ‘voluntary.’”); *Jager v. Douglas County Sch. Dist.*, 862 F.2d 825, 832 (11th Cir. 1989), *cert. denied*, 490 U.S. 1090 (1989) (“ . . . whether the complaining individual’s presence was voluntary is not relevant to the Establishment Clause analysis . . . The Establishment Clause focuses on the constitutionality of the state action, not on the choices made by the complaining individual.”).

We ask that the District immediately investigate this complaint and ensure that Mr. Walker, or any other religious leaders, are no longer allowed to proselytize to students on school property during the school day. The District should also consider reprimanding those staff members involved with allowing this school-sponsored religious worship services to take place. At the very least, all District staff members should be reminded of their constitutional obligations as public school employees given the pattern of school-sponsored proselytizing in the District. Please inform us promptly in writing of the steps the District takes to remedy this serious constitutional violation.

Open Records Request

Pursuant to the West Virginia Freedom of Information Act (West Virginia Code § 29B -1-3), I request the following:

Any records related to Nik Walker Ministries and the worship events held at Huntington High School and Huntington East Middle School, including but not limited to:

- a. Any contracts or agreements between the District and Nik Walker,
- b. Any records (including emails, brochures, letters, etc.) received by District staff from Nik Walker,
- c. Any records (including emails, letters, etc.) sent by District staff to Nik Walker,

- d. Any records (including emails, brochures, letters, etc.) sent to or from District staff regarding this event,
- e. Any other records in the District's possession regarding Nik Walker's presence at Huntington High School on February 2, 2022 and Huntington East Middle School on February 1, 2022.

Per West Virginia law, I respectfully request these copies within five (5) days. If you choose to deny the request, please respond in writing and state the statutory exception authorizing the withholding of all or part of the public record and the name and title or position of the person responsible for the denial.

If any of these records are available through electronic media, 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.

Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Line", with a long horizontal flourish extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation

Enclosures



Nik Walker Ministries

February 1 at 12:08 PM · 🌐



FIRST OF MANY SCHOOLS!

We just got back from Huntington East Middle School where we had the opportunity to speak with the school's FCA in a voluntary meeting! 101 students left the gym with Jesus! In awe of the saving power of Jesus!

See you tonight @ 7pm at Christ Temple Church!





Nik Walker Ministries

February 2 at 11:43 AM · 🌐



What a morning!

We just got back from Boyd County High School and Huntington High School where right at 50 students gave their lives to Jesus at their voluntary club meetings!

I expect to see these students and many others TONIGHT for the final service of the week at Christ Temple Church! Don't miss this incredible night of revival.

📍 2400 Johnstown Road, Huntington, WV

🕒 7:00pm

Do you see what I see?

