

FREEDOM FROM RELIGION *foundation*

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

April 13, 2023

SENT VIA EMAIL & U.S. MAIL: rstreeter@usd246.org

Ray Streeter
Superintendent
Northeast USD 246
1001 East South Street
Arma, KS 66712

Re: Unconstitutional teacher-led religious club

Dear Superintendent Streeter:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in Northeast USD 246 ("the District"). FFRF is a national nonprofit organization with over 40,000 members across the country, including members in Kansas. 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 District parent reported that staff members at Northeast Junior High School have started a Fellowship of Christian Athletes club. In an email sent to parents, [REDACTED] stated that:

[REDACTED] and myself are starting a FCA group here at our Junior High. We will meet on Friday mornings at 7:25 in the Junior High Library. Our first meeting will be next Friday, Feb. 3rd. We will start slow...and try to grow our group. Those meetings will not interfere with the school day whatsoever.

When we get our group going, we are looking for Adults who want to share their faith with the group by signing up to speak. I will send the sign up separately. In your speech you will simply share your favorite Bible verses and why it is special to you. You will end by leading the group in prayer to close. Nothing too major.

Lastly, You are welcome to attend and not speak. You can simply come and listen to the message.

If interested in speaking please sign up on the form when you receive it. I'll try and get you a reminder as we get closer to your date.

If you have any questions please feel free to reach out.

Please see an enclosed screenshot of the email.

Additionally, our complainant reports that a local church donates donuts to the FCA in an effort to entice students to attend the morning meetings.

We write to request that the District immediately investigate this situation and ensure that [REDACTED] [REDACTED] are not organizing, leading, or participating in Northeast Junior High School's FCA club. The FCA club must be organized and run by students. Staff members may not organize, lead, or participate in any religious student clubs, including FCA.

It is well settled that public schools may not show favoritism towards or coerce belief or participation in religion. *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000); *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); *McCollum v Bd. of Ed.*, 333 U.S. 203 (1948). To avoid coercing students into participating in a religious club, the District may not allow staff 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*, at 310 (quoting *Lee*, at 589).

Furthermore, the Equal Access Act, which allows religious student clubs 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). Students in secondary schools may organize religious clubs but these must be entirely student-initiated and student-led and take place outside of instructional hours. *See Bd. of Educ. of the Westside Cty. Sch. v. Mergens*, 496 U.S. 226, 253 (1990) (holding the Equal Access Act constitutional). As the Supreme Court stated, "Under the [Equal Access] Act . . . faculty monitors may not participate in any religious meetings, and nonschool persons may not direct, control or regularly attend activities of student groups." *Id.* at 253 (citing 20 U.S.C. §§ 4071(c)(3) and (5)).

Any school religious clubs must be bona fide student clubs that are both student-initiated and student-run. Here, it is clear that staff members rather than students initiated the Northeast Junior High School FCA club, and staff members continue to lead, organize, and participate in the club. Moreover, outside adults have been explicitly invited to regularly attend and participate in the FCA club's meetings.

We request that the District investigate this matter in order to ensure that it complies with the Equal Access Act and the First Amendment's Establishment Clause. Staff members may no longer organize, lead, or participate in the FCA club other than in a purely supervisory capacity. Please inform us in writing of the steps you are taking to remedy this violation and ensure it does not continue.

Sincerely,

A handwritten signature in cursive script that reads "Samantha F. Lawrence". The signature is written in black ink and is positioned above the typed name.

Samantha F. Lawrence
Anne Nicol Gaylor Legal Fellow
Freedom From Religion Foundation

Enclosure

On Thu, Jan 26, 2023 at 2:30 PM [REDACTED] wrote:

Good afternoon,

[REDACTED] and myself are starting a FCA group here at our Junior High. We will meet on Friday mornings at 7:25 in the Junior High Library. Our first meeting will be next Friday, Feb. 3rd. We will start slow... and try to grow our group. These meetings will not interfere with the school day whatsoever.

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[REDACTED]