

FREEDOM FROM RELIGION *foundation*

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February 8, 2023

SENT VIA U.S. MAIL AND EMAIL: info@svcsb.ok.gov

Oklahoma Statewide Virtual Charter School Board
2501 N. Lincoln Blvd., Suite 301
Oklahoma City, OK 73105

Re: Religious Charter School Application

Dear Board Members:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding your consideration of an application to establish a Catholic charter school in contravention of the U.S. Constitution, the Oklahoma Constitution, and the Oklahoma Charter Schools Act, 70 O.S. § 3-130 *et seq.* FFRF is a national nonprofit organization with more than 39,000 members, 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. We previously submitted a memorandum rebutting former Attorney General John O'Connor's opinion regarding the legality of establishing a religious charter school.

In response to an open records request, we received confirmation that you recently received an application from a Catholic organization to establish a Catholic school to teach a Catholic curriculum. Additionally, the applicants declare that, if established, the public charter school will only follow federal and state laws, including nondiscrimination requirements, that coincide with their Catholic beliefs.

The joint application from the Archdiocese of Oklahoma City and Diocese of Tulsa to establish the St. Isidore of Seville Catholic Virtual School is clear in its intent to establish a Catholic charter school. Although the application states “[t]he School will operate as an Oklahoma virtual charter school established pursuant to the Oklahoma Charter School Act,” the very establishment of a religious school for religious purposes is prohibited by the Charter Schools Act. To be clear, Oklahoma law does not allow establishment of such a school, regardless of the former attorney general's advisory opinion to the contrary.

The vision and purpose for the proposed school is “[t]o create, establish, and operate the School as a Catholic School.” The School “will admit any and all students” provided it has the capacity, but “[a]dmission assumes the student and family willingness to adhere with respect to the *beliefs*, expectation, policies, and procedures of the school as presented in the

handbook.” (emphasis added) The Handbook included in the appendices confirms that the curriculum will be “infused with Catholic faith and traditions.” Religion/theology classes are a requirement of the School.

In the introduction to the Title IX policy in Section 1511 of the Handbook, the School acknowledges that it “fully embraces the teachings of the Catholic Church’s Magisterium, and the School fully incorporates these into every aspect of the School.” To this end, the Title IX “policy is not indented (sic) to conflict with any of the School’s religious tenants (sic) of teachings of the Catholic Church” and “[t]his specifically includes Catholic teachings on modesty, sanctity of life, sanctity of marriage, the theology of the body, sexual orientation, and gender identity.”

The School “retains its right to consider religion as a factor in employment-related decisions” and will “compl[y] with all applicable state and federal laws and statutes *to the extent* the teachings of the Catholic Church allow.” (emphasis added) Employees are to “carry out their employment duties in a manner consistent with the teachings and traditions of the Roman Catholic Church and must “refrain from actions that are contrary to the teachings.”

The signed and notarized Statements of Assurances by the School’s Board Members, assure that the School will comply with Oklahoma public charter school regulations, state and federal laws, rules and regulations “to the extent required by law, including the First Amendment, religious exemptions, and the Religious Freedom Restoration Act, *with priority given* to the Catholic Church’s understanding of itself and its rights and obligations pursuant to the Code of Canon Law and the Catechism of the Catholic Church.” (emphasis added)

The St. Isidore of Seville Catholic Virtual School will be a religious public charter school operated “under the umbrella of the Oklahoma Catholic Conference.” As you are aware, an Oklahoma charter school cannot be “affiliated with a nonpublic sectarian school or religious institution” and must “be nonsectarian in its programs, admission policies, employment practices, and all other operations.” § 3-136(A)(2). The applicants for St. Isidore are not hiding their intentions, nor will they be liable for the Statewide Virtual Charter School Board’s decision to violate the Charter Schools Act, the Oklahoma Constitution, and the U.S. Constitution. Also, as the applicants have made clear, once established, the School will only follow the rules, regulations, and laws it feels comply with Catholic law.

As members of the Oklahoma Statewide Virtual Charter School Board, you are obligated to follow the Charter Schools Act. The St. Isidore of Seville Catholic Virtual School applicants do not represent a religious operator that suggests it will follow applicable rules and laws as required for public charter schools; they represent a religious organization that is clear in its intent and mission to establish a Catholic public charter school that will prioritize Catholic law. Oklahoma law protects its citizens and schoolchildren from establishing public schools that require adhering to any religious belief system.

The best action is to follow the law and deny the application for the St. Isidore of Seville Catholic Virtual School.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen M. Heineman". The signature is fluid and cursive, with a long horizontal line extending to the right.

Karen M. Heineman
Patrick O'Reiley Legal Fellow
Freedom From Religion Foundation

cc: rebecca.wilkinson@svcsb.ok.gov