

FREEDOM FROM RELIGION *foundation*

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July 26, 2016

SENT VIA EMAIL & U.S. MAIL
presidents.office@sdsu.edu

Elliot Hirshman
Office of the President
San Diego State University
5500 Campanile Drive
San Diego, CA 92182-8000

Re: Required Choir Performance During Church Service

Dear President Hirshman:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a mandatory San Diego State University (SDSU) choir performance in a church. A concerned family member contacted us about this matter on behalf of a student. FFRF is a nationwide nonprofit organization with nearly 24,000 members across the country, including more than 3,200 members in California. FFRF's purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that SDSU offers a choir course, taught by Dr. Patrick Walders, which is required for certain degrees. Our complainant informs us that Professor Walders required a choir performance during a church service at College Avenue Baptist Church on May 1, 2016 in order to pass his course. Two students told Professor Walders that they did not want to perform during a church service, to which Professor Walders responded that he would fail them if they did not participate. Neither student attended and both received failing grades at least in part because of their failure to participate in the church service. Professor Walders gave them no alternatives to make up the performance. Furthermore, our complainant reports that the choir had to sit through a sermon after their performance.¹ Enclosed are screenshots of a Facebook post and an e-news story advertising the choir's church performance.

As a state-run institution, SDSU is bound by the Constitution's Establishment Clause, which "mandates governmental neutrality between religion and religion, and between religion and nonreligion." *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968). SDSU's choir violates that constitutional mandate when it requires students to participate in choirs that perform at church services in order to pass the class. *See Lee v. Weisman*, 505 U.S. 577, 587 (1992) ("It is beyond dispute that, at a minimum, the constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise."); *Everson v. Bd. of Educ.*, 330 U.S. 1, 15 (1947) ("The 'establishment of religion' clause of the First Amendment means at least this: neither a state nor the Federal Government can . . . force nor influence a person to go to or remain away from church against his will . . ."). Holding a required performance in a church during a religious service amounts to compelling church attendance of all students in the course. It is unnecessary and also insensitive to the diverse religious views of the student body.

Furthermore, courts have reviewed religious music in public schools and held that its use must comport with the Establishment Clause. *See Nurre v. Whitehead*, 580 F.3d 1087, 1097 (9th Cir. 2009) (school

¹ http://www.cabc.org/content.cfm?id=2020&download_id=624#attached_content

² *America's Changing Religious Landscape*, PEW RESEARCH CENTER (May 12, 2015), available at

district was permitted to disallow the playing of “Ave Maria” at graduation because an observer could have viewed it as the district’s preference for one religion over another); *Sease v. Sch. Dist. of Philadelphia*, 811 F. Supp. 183, 192 (E.D. Pa. 1993) (“Clearly, a school employee’s participation in, or sponsorship of, a public school gospel choir during school hours would be a violation of the Establishment Clause.”).

The selection of a Baptist church as the site for a SDSU choir performance demonstrates the school’s preference for religion over nonreligion, and Christianity over all other faiths. The church’s facility is undoubtedly full of religious messages and iconography, and the performance was part of the service itself. Any reasonable SDSU student, faculty member, or guest can only conclude that the school endorses the religious, Christian messages espoused by the church. This “sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are nonadherents ‘that they are outsiders, not full members of the political community and an accompanying message to adherents that they are insiders, favored members of the political community.’ ” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309-10 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. at 688 (O’Connor, J., concurring)). The school’s endorsement of the church’s religious message alienates nonbelievers and other non-Christians.

SDSU’s choir should be particularly sensitive to respecting the rights and conscience of the nonreligious, given that nationally, about 35% of millennials are nonreligious.² SDSU is obligated to provide these students an advanced education free from religious endorsement. SDSU is a secular university and should not be mandating religious choir performances, which alienates secular students.

Finally, we are disturbed by the reported actions of Professor Walders, who the College Avenue Baptist Church claims to have a relationship with. He is a professor at a public, secular university, and he should not promote any churches or religious viewpoints, nor should he blatantly disrespect the freedom of conscience of his students. Failing students in a course required for their degree because they did not attend his unconstitutional choir performance is unacceptable behavior for a professor.

We respectfully request that SDSU select more appropriate, secular locations to hold its choir concerts. We also request that you investigate the actions of Professor Walders and discipline him appropriately. Please inform us in writing, at your earliest convenience, of what actions SDSU is taking to respect the religious and nonreligious beliefs of its students.

Sincerely,



Madeline Ziegler, Esq.
Cornelius Vanderbroek Legal Fellow
Freedom From Religion Foundation

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Enclosure

² *America’s Changing Religious Landscape*, PEW RESEARCH CENTER (May 12, 2015), available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/.



College Avenue Baptist Church

April 28 · 🌐

THIS WEEK @CABC: Sunday brings a closer look at our hearts and worship led by the SDSU Aztec Concert Choir... more thoughts on Rest... Bethel Seminary Lecture Series invites you to listen to Justo Gonzalez (in English and Spanish)... and more



[CABC] Our Hearts > SDSU Choir > Rest > Generous Living

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SUNDAY, MAY 1

- [9 AM Classes and seminars for all ages](#)
- 10:30 AM Corporate Worship

The most important biblical term for a person's nature and actions is the heart. The heart is the control center of your life. It is the very place God works to change us and the place we must work if spiritual growth is to take place. The heart is one's core. So this begs a question: What do our hearts do in directing our lives, and what do we do in directing our hearts? This Sunday's sermon "It Comes from Within" addresses the crucial commitment of guarding our hearts. In preparation for the preaching of the Word, please memorize Proverbs 4:23.



In recent years, CABC has been forging connections with the faculty and administration of SDSU. One relationship that we have been able to build is with Dr. Patrick Walders. As Associate Professor, and Director of Choral Studies and Vocal Arts Coordinator within the SDSU School of Music and Dance since the fall of 2011, Dr. Walders conducts the Aztec Concert Choir and the SDSU Chamber Choir, and carries a teaching load consisting of undergraduate and graduate conducting classes, literature courses, and ear training. On Sunday, Dr. Walders and a group of his choral students will be singing for us and with us during our corporate worship service. Please be sure to extend a very warm College Ave. welcome to Dr. Walders, his students, and their guests.

[**Listen to Sunday's Playlist**](#)

Don't forget that Sunday morning starts on Saturday night.