

# FREEDOM FROM RELIGION *foundation*

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**SENT VIA U.S. MAIL AND EMAIL:**

**kerrith.griffin@k12.memphis.edu**

Kerrith Griffin  
Executive Director  
University Middle School  
Fogelman Executive Center  
330 Deloach St.  
Memphis, TN 38152

Re: Unconstitutional Religious Club Endorsement and Access

Dear Director Griffin:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in University Middle School. FFRF is a national nonprofit organization with more than 37,000 members, including more than 450 members and a chapter in Tennessee. 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 parent contacted us regarding the new “offering” of WyldLife to University Middle School students. It is our understanding that this was introduced by way of an email from you to parents via a school listserv. The email did not reference that WyldLife is a religious organization but did provide a website to obtain more information about the Christian organization. The email indicated that the school is “excited” to offer WyldLife, which was in response to “student and parent request.” WyldLife meetings are planned for Friday Flex time, which is during the school day. It is also our understanding that the gatherings are led by a student’s parent.

It is well-settled law that public schools may not advance, prefer, 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). The director of a school cannot promote a religious club to the student body or its parents or include such activities in the school day.

As the Supreme Court has recognized, “[f]amilies entrust public schools with the education of their children, but condition their trust on the understanding that the classroom will not purposely be used to advance religious views that may conflict with the private beliefs of the student and his or her family.” *Edwards v. Aguillard*, 482 U.S. 578, 584 (1987). “[T]he 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 v. Weisman*, 505 U.S. at 589). Given the promotion of meetings of this religious organization by the school during school

hours, any reasonable student or parent will perceive this religious club as “stamped with her school’s seal of approval.” *Id.* at 307. This leads to the inevitable conclusion that the school impermissibly endorses religion over nonreligion, and specifically Christianity over all.

Students in secondary schools may organize religious clubs, but these must be entirely student-initiated and student-led and take place outside of school hours. *See Bd. of Educ. of the Westside Cmty. Sch. v. Mergens*, 496 U.S. 226, 253 (1990) (holding the Equal Access Act constitutional). The Supreme Court prohibits participation of public school staff and outsider involvement in the religious activities of students. “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)). The Equal Access Act and the First Amendment are violated when a school recruits for a religious club led by an outside adult. The email invitation supports that WyldLife is not entirely student-initiated nor will it be student-led. The constitutional violation is more egregious when the meetings occur during school hours when students are a captive audience.

A case decided by a Tennessee district court found that a parent prayer group that convened during the first hour of school in a partitioned area of the cafeteria separated from students and school staff violated the Establishment Clause. *Doe v. Wilson County School System*, 564 F.Supp. 2d 766 (M.D. Tenn. 2008). The school effectively gave the group “a platform from which to assert its Christian values.” *Id.* at 794. “[B]y allowing these activities, the school tacitly or overtly endorsed the group and its activities.” *Id.* at 793. This violated the requirement of “strict neutrality.” *Id.* at 790. If allowing a group of parents to convene during school hours for a religious activity violates the required neutrality, allowing a Christian group access to students during the school day is also a violation.

Schoolchildren feel significant pressure to conform from their peers. They must not be subjected to similar pressure from their school and outsiders, especially on religious matters. The inherent authority in a school environment prevents a student from distinguishing a school lesson from proselytization when the religious lesson is given by an adult during school hours. For this reason, federal courts have been particularly vigilant in enforcing the Establishment Clause in public schools. As a Sixth Circuit case emphasized, there are two takeaways from federal case law regarding the Establishment Clause in schools: “‘coercion’ of impressionable young minds is to be avoided, and . . . the endorsement of religion is prohibited in the public schools context.” *Coles v. Cleveland Bd. of Educ.*, 171 F.3d 369, 379 (6th Cir. 1999).

Promoting and allowing a Christian organization access to public school students alienates those who have different religious beliefs or are not religious. About thirty percent of Americans today are nonreligious.<sup>1</sup> The Establishment Clause guarantees that taxpayers do not have to fund any religious belief; taxpayer-funded public schools must be religiously neutral.

WyldLife cannot have access to University Middle School students during the school day and the school cannot promote its meetings. Any religious club must be initiated by students and led by

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<sup>1</sup> Gregory A. Smith, *About Three-in-Ten U.S. Adults Are Now Religiously Unaffiliated*, Pew Research Center (Dec. 14, 2021), available at [www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/](http://www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/).

students, not students' parents, and must take place during non-instructional time. Please inform us in writing of the steps the school is taking to remedy this constitutional violation so that we can inform our complainant.

Sincerely,

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

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