

FREEDOM FROM RELIGION *foundation*

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

June 17, 2021

SENT VIA U.S. MAIL AND EMAIL

khilts@wausauschools.org

Dr. Keith W. Hilts
Superintendent
Wausau School District
415 Seymour Street
P.O. Box 359
Wausau WI 54402-0359

Re: Religious favoritism in facilities rental agreement

Dear Dr. Hilts:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in the Wausau School District. FFRF, headquartered in Wisconsin, is a national nonprofit organization with more than 36,000 members across the country, including nearly 1,600 members and a local chapter in Wisconsin. 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 local citizen reported to FFRF that on Saturday May 22, 2021 from 4pm to 9pm, Wisconsin Family Council (WFC; formerly the Family Research Institute) rented and utilized the Wausau East High School auditorium to host Every Black Life Matters (EBLM), a “biblical alternative” to Black Lives Matter. EBLM promotes a Christian perspective in several of their guidelines (E.g. “God has placed intrinsic value on all lives . . . ,” and “The human race, endowed by the Creator”).¹ See enclosed screenshot.

It is our understanding that the District employs a three-tier system to determine fees for use of district facilities.^{2,3} Tier 1 events “benefit a significant majority of Wausau School District students.” Tier 2 events “benefit both Wausau School District Students and the hosting organization.” Tier 3

¹ <https://partners.everyblm.com/about-us/>

²

<https://docs.google.com/spreadsheets/d/1erjhgQEgN9vPzofe9JllbyT3BOgLdGFe-eDaHY7ivMc/edit?ts=609e85dd#gid=1455040677>

³ Note: While the District maintains a July 1, 2015 version of the Facility Rental Fee Schedule (see enclosed screenshot), the District, at the time of the organization’s application and event, published the above-linked three-tier fee structure dated 2020. Thus, it is our belief and knowledge that the District implemented the fee schedule as advertised.

events only benefit the hosting organization. Respectively, the Wausau East High School auditorium costs \$0, \$30, or \$200 per hour to rent, plus \$35 per hour for weekend custodian services and \$45 per hour for weekend A/V services. It is our understanding that was deemed a Tier 2 event and charged \$30 per hour. The District also waived the custodial and A/V service fees. See enclosed screenshot.

It is our estimate that, in incorrectly applying the Tier 2 fee structure instead of the Tier 3 fee structure, and in waiving ancillary services, the District has used public monies to subsidize religious programming in an amount nearing \$970. Further, it is our belief that, in applying the Tier 2 fee structure, the District implicitly endorses the Christian religious views held by EBLM, evidently viewing them as a benefit to students. This is an unconstitutional violation of the Establishment Clause and must be rectified.

It is a fundamental principle of Establishment Clause jurisprudence that the government cannot demonstrate a preference for religion. The Supreme Court has said, “The touchstone for our analysis is the principle that the ‘First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion.’” *McCreary County v. ACLU*, 545 U.S. 844, 860 (2005), (quoting *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15-16 (1947); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985)).

Public schools have a constitutional obligation to remain neutral toward religion. When a school subsidizes facility use fees for religious organizations, it has unconstitutionally entangled itself with a religious message, here a Christian message. This alienates those non-Christian students, teachers, and members of the public whose religious beliefs are inconsistent with the religious messages being promoted by the church. It is particularly exclusionary to the 24% of Americans, and 38% of Americans born after 1987, who are not religious.⁴

While the District may rent out its facilities for use by third parties pursuant to a neutral rental policy, it may not provide religious groups with special treatment. The government cannot subsidize religion or dispense special financial benefits to religious organizations. The U.S. Supreme Court has addressed a similar issue in *Texas Monthly Inc. v. Bullock*, 489 U.S. 1 (1989), when it ruled that an exemption from sales tax for only religious publications violated the Establishment Clause. Likewise, a special fee exemption for religious institutions renting BISD facilities fees is unconstitutional. If religious organizations are granted special exemption, any person or nonprofit organization paying the full price to rent the auditorium may have standing to bring legal action against the board. See *Arizona Christian Sch. Tuition Org. v. Winn*, 131 S.Ct. 1436, 1439 (2011), citing *Texas Monthly*, 489 U.S. at 8 (“Other plaintiffs may demonstrate standing on the ground that they have incurred a cost or been denied a benefit on account of their religion.”)

⁴ 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.


To further avoid creating the impression that the District endorses or promotes Christianity, the District must charge WFC and/or EBLM the Tier 3 rental rate. We request that you respond in writing detailing what steps the District is taking to resolve this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe McDonald', written in a cursive style.

Joseph McDonald
Patrick O'Reiley Legal Fellow
Freedom From Religion Foundation

22



**EVERYTM BLACK
LIFE
MATTERS**
**Leadership
Training**

SATURDAY, MAY 22, 2021 AT 6 PM CDT – 8:30 PM CDT

Every BLM Leadership Training

Wausau East High School Auditorium


About

Discussion

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Details

 32 people responded

 Event by Becky Livingston Teichroew

 Wausau East High School Auditorium

 Saturday, May 22, 2021 at 6 PM CDT – 8:30 PM CDT

 Price: Free · Duration: 2 hr 30 min

 Add to calendar





Permit # 2105-0015

Your insurance on file expires on 5/28/2022. If your policy expires before or during your event, please send an updated certificate.

Facilities Agreement

Last Edited: 5/12/21 at 8:09am

From: Wausau School District
650 S 7th Avenue
Wausau, WI 54401

Contact/Billing Person: Leslie Harrison
Mobile Phone: (989) 863-0115
Email: lharrison@wifamilycouncil.org

EVENT NAME: EVERY BLM: Ambassadors of Reconciliation Training
To: Wisconsin Family Council
PO Box 14440
Madison, WI 53708

Date/Time	Location/Activity/Detail	Units	Rate	Subtotal
Sat 5/22/2021	Wausau East - Auditorium			
4:00pm - 5:00pm	Setup	1.00	\$ 0.00	\$ 0.00
5:00pm - 8:40pm	EVERY BLM: Ambassadors of Reconciliation Training	3.67	\$ 30.00	\$ 110.10
8:40pm - 9:00pm	Teardown	1.00	\$ 0.00	\$ 0.00
Summary	Facilities Rental: \$ 110.10 Other Needs: \$ 0.00 Extra Charges: \$ 0.00			
	Estimated Total Charges:			\$ 110.10
	Balance Due:			\$ 110.10
	Total Amount Paid:			\$ 0.00
	Remaining Balance Due:			\$ 110.10

Set-Up Notes:

05/22/21:

We'll need audio for microphones (2) as well as capabilities for powerpoint presentation (screen and projector usage.)

The undersigned hereby applies for use of public school buildings as indicated. The rental rate stated and such services/charges for personnel are only an estimate. Actual charges will be invoiced after the event.

It is agreed that while being used by the Undersigned, proper control will be maintained over the building and any person who may be therein. It is agreed that any damage beyond normal use for the purpose requested will be the liability of the Undersigned.

The Undersigned agrees to indemnify, save, and hold free and harmless the Wausau School District and its officers, agents, and employees, from and against all claims, demands, loss liability, cost, or expense of any kind or nature whatsoever which the school district or its officers, agents, or employees, or any of them, may sustain or incur or that may be imposed upon them, or injury to, or death of, persons, damages or property arising out of, connected with, or attributable to the rental, use, and occupancy of the public school building provided herein.


I have received and read a copy of the Board Policy 1630, all statements herewithin, and agree to abide by them. I am aware that the use of or sale of intoxicants or controlled substances, smoking or the use of smokeless tobacco will not be allowed in school buildings or on school grounds at any time or under any circumstances. Users who violate this rule shall run the risk of having future applications for facilities usage denied.

Signed & Returned 05/12/2021

Signature
Larry Cihlar
Wausau School District

Attachments:

Signature
Leslie Harrison
Wisconsin Family Council

		NON-PROFIT GROUP & WSD INTERNAL USERS (to benefit school district programs through financial and/or instructional contributions)		NON-PROFIT GROUP ***		OTHER GOVERNMENTAL AGENCY USE		FOR-PROFIT GROUP		
		EXAMPLE GROUPS (As determined by the Superintendent or his/her designee)								
		ACT/PSAT/AP Testing, Booster Club Mtgs, Clinics (High Sch/Youth Sports), Concerts/Events (Fund-raising Musicals, Dramas, Pop Concerts, Talent Shows), Inst Camps (Band), PTO, WIAA Non-Dist Participatory Events		Boy Scouts, Girl Scouts, Church Groups, CWCT, Military Bands, Red Cross, TIDE, WAYFL, WAYSA, Special Olympics		Political Appearances, Public College/University, Vaccinations, Voting, Police/Fire Department, Marathon County Public Library and Branches, Wausau/ Marathon County Park Department		Drivers Education Classes, Private College/University Courses, Dance Studios, Scrapbook Studios		
SCHOOLS/AREA		Square Footage (approx.)	Hourly Operation Costs	Daily Rate	Hourly Operation Costs	Daily Rate	Hourly Operation Costs	Daily Rate	Hourly Operation Costs	Daily Rate
HIGH SCHOOLS										
Classroom	900-1100	No Cost	No Cost	\$20	\$100	\$10	\$50	\$125	\$625	
Lecture Room	1500	No Cost	No Cost	\$20	\$100	\$10	\$50	\$125	\$625	
Fieldhouse	West: 29,000 East: 32,000	No Cost	No Cost	\$40	\$200	\$20	\$100	\$250	\$1,250	
Gymnasium	15000	No Cost	No Cost	\$30	\$150	\$15	\$75	\$200	\$1,000	
Thom Field (Football Stadium)		No Cost	No Cost	\$20	\$100	\$10	\$50	\$125	\$625	
Practice Areas/Fields		No Cost	No Cost	\$10	\$50	\$5	\$25	\$75	\$375	
Auditorium (May Require District Special Lighting/Operating Technician)	West: 748 seats East: 900 seats	No Cost	No Cost	\$30	\$150	\$15	\$75	\$200	\$1,000	
Cafeteria/Commons	2500	No Cost	No Cost	\$30	\$150	\$15	\$75	\$200	\$1,000	
Kitchen Facilities	West: 2200 East: 2500	No Cost	No Cost	\$30	\$150	\$15	\$75	\$75	\$375	
Parking Lots		No Cost	No Cost	\$10	\$50	\$5	\$25	\$75	\$375	
MIDDLE SCHOOLS										
Classroom	900-1100	No Cost	No Cost	\$20	\$100	\$10	\$50	\$125	\$625	
Gymnasium	15000	No Cost	No Cost	\$30	\$150	\$15	\$75	\$200	\$1,000	
Football Field/Track		No Cost	No Cost	\$10	\$50	\$5	\$25	\$75	\$375	
Pool/Locker Rooms (Require Renter to Provide Lifeguards)	9320	No Cost	No Cost	\$40	\$200	\$20	\$100	\$250	\$1,250	
Auditorium (May Require District Special Lighting/Operating Technician)	8000	No Cost	No Cost	\$30	\$150	\$15	\$75	\$200	\$1,000	
Cafeteria	2400	No Cost	No Cost	\$30	\$150	\$15	\$75	\$200	\$1,000	
Kitchen Facilities	JMMS: 900 HMMS: 1300	No Cost	No Cost	\$30	\$150	\$15	\$75	\$75	\$375	
Parking Lots		No Cost	No Cost	\$10	\$50	\$5	\$25	\$75	\$375	
ELEMENTARY SCHOOLS										
Classroom	900-1100	No Cost	No Cost	\$20	\$100	\$10	\$50	\$125	\$625	
Gymnasium	3000-5000	No Cost	No Cost	\$30	\$150	\$15	\$75	\$200	\$1,000	
Cafeteria/Kitchen Facilities	1000	No Cost	No Cost	\$30	\$150	\$15	\$75	\$75	\$375	
DISTRICT FACILITIES										
School Forest		Separate Rental Schedule Available								
DISTRICT-WIDE CHARGES - In addition to rental fee										
Custodian		No Cost	\$22/hr weekday \$33/hr weekend	\$20/hr weekday \$30/hr weekend	\$33/hr weekday \$50/hr weekend					
Kitchen Staff / On-Call Catering		\$22/hr weekday \$33/hr weekend	\$22/hr weekday \$33/hr weekend	\$20/hr weekday \$30/hr weekend	\$33/hr weekday \$50/hr weekend					
Special Lighting / Operating Technician		\$33/hr	\$33/hr	\$33/hr	\$55/hr					
Computer Technician		\$33/hr	\$33/hr	\$33/hr	\$55/hr					
*** Non-Profit Organizations may apply for a waiver of rental fees and custodial fees if their rental occurs during normal operational hours.										