

FREEDOM FROM RELIGION *foundation*

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October 5, 2020

SENT VIA EMAIL AND U.S. MAIL

TBowers@WASD.org

Dr. Timothy S. Bowers
Superintendent
Williamsport Area School District
2780 West Fourth Street
Williamsport, PA 17701

Re: Unconstitutional partnership with religious organization

Dear Dr. Bowers,

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation involving the partnership between Williamsport Area School District (“District”) and Camp Susque. FFRF is a national nonprofit organization with more than 32,000 members across the country, including nearly 1,000 members in Pennsylvania. 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 understand that to cope with the Covid-19 pandemic, the District has implemented a hybrid schedule such that students are required to attend school in-person at their respective school building on select days and learn remotely on others. During a recent school board meeting, you reportedly announced a partnership with Camp Susque whereby K-3 students may attend Camp Susque on remote-learning days.¹ During these remote learning days, students will only have about two hours of school-authorized learning and the additional 4-5 hours will be provided by Camp Susque.

Camp Susque is a nondenominational Christian camp “with the goal of introducing campers of all ages to our God and Creator, the Lord Jesus Christ, as proclaimed in His Word, the Bible.”² The mission, which drives all programming, “is Biblical evangelism and growth in Christian character.” According to Peter J. Swift, Director of Camp Susque, religious programming will

¹ September 1, 2020 School Board Meeting Minutes, WASD, <https://www.wasd.org/data/StreamFile.aspx?loc=secureFiles&file=September%201%202020.pdf>; see also *WASD, Camp Susque partner on learning sites*, Williamsport Sun-Gazette, Sept. 24, 2020, https://www.sungazette.com/news/top-news/2020/09/wasd-camp-susque-partner-on-learning-sites/?fbclid=IwAR2F3GHJJiZfVeAiIxB_z5gUYsUYIQ8VG4eOwpB2aNv_OCbOubrfl_INIM.

² *Our Ministry*, Camp Susque, <https://www.susque.org/about-us/mission-beliefs>.

“definitely” be a part of programming offered to students during these remote learning school days, and programming will “certainly use [Camp Susque’s] core competencies.” Please see the enclosed screenshot.

The relationship between the District and Camp Susque raises grave First Amendment concerns. This relationship impermissibly promotes religion and unlawfully shows the District’s preference for Christianity. The partnership between the District and Camp Susque leads any reasonable student, parent, teacher, faculty or staff member, or visitor to conclude that the District not only endorses religion over non-religion, but also favors Christianity over all other faiths.

This partnership sends a strong message that the District endorses both Camp Susque and its Biblical evangelism. Your direct involvement in your capacity as a superintendent, as well as the approval of the Williamsport Area School District Board of Directors, reinforces that message.

The District cannot allow its schools to be used as recruiting grounds for religious organizations. It is well settled that public schools may not advance 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); *McCullum v Bd. of Ed.*, 333 U.S. 203 (1948). It is inappropriate and unconstitutional for the district to offer a religious organization unique access to its students during the school day, and signal endorsement of that organization’s religious programming.

Courts have repeatedly struck down public school practices that affiliate public schools with religious groups and religious instruction. *See, e.g., Doe ex rel. Doe v. Beaumont Indep. Sch. Dist.*, 173 F.3d 274 (5th Cir. 1999) (ruling that school partnership with clergy for counseling purposes violated Establishment Clause); *HS v. Huntington Cnty. Cmty. Sch. Corp.*, 616 F. Supp. 2d 863 (N.D. Ind. 2009) (issuing preliminary injunction against school that allowed trailers on school property for religious instruction because to do so conveyed a message of support and endorsement of religion); *Doe by Doe v. Shenandoah Cnty. Sch. Bd.*, 737 F. Supp. 913 (W.D. Va. 1990) (issuing temporary restraining order against school finding that buses used for religious instruction parked in front of the school gave the appearance of school involvement and that school employees took part in recruitment efforts); *Doe v. Human*, 725 F. Supp. 1499 (W.D. Ark. 1989), *aff’d without opinion*, 923 F.2d 857 (8th Cir. 1990) (issuing preliminary injunction against school practice of having outsiders teach voluntary bible instruction in school)

This “[s]chool sponsorship of a religious message is impermissible because it sends the ancillary message to . . . 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 668 (O’Connor, J., concurring)).

The partnership between Camp Susque and the District impermissibly advances religion, communicates a message of school district endorsement of religion and is marked by excessive entanglement between the school district and the religious camp. Public schools have an obligation to stay separate from religion because “the preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere.” *Id.* at 310 (quoting *Lee*, 505 U.S. 577, 589 (1992)).

It is irrelevant that participation in this program is voluntary. It makes no difference how many parents and students do not mind or even prefer that a constitutional violation continue. Courts have summarily rejected arguments that voluntariness excuses a constitutional violation. *See Lee*, 505 U.S. at 596 (“It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice.”); *Schempp*, 374 U.S. at 288 (Brennan, J., concurring) (“Thus, the short, and to me sufficient, answer is that the availability of excusal or exemption simply has no relevance to the establishment question”); *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003) (“VMI cannot avoid Establishment Clause problems by simply asserting that a cadet’s attendance at supper or his or her participation in the supper prayer are ‘voluntary.’”); *Jager v. Douglas County Sch. Dist.*, 862 F.2d 825, 832 (11th Cir. 1989), *cert. denied*, 490 U.S. 1090 (1989) (“ . . . whether the complaining individual’s presence was voluntary is not relevant to the Establishment Clause analysis . . . The Establishment Clause focuses on the constitutionality of the state action, not on the choices made by the complaining individual.”).

To preserve the First Amendment rights of the District’s nonreligious students and their parents, we request that Williamsport Area School District immediately discontinue the hybrid learning partnership with Camp Susque. Please notify us promptly in writing about the steps that you are taking to end this violation.

Sincerely,

A handwritten signature in cursive script that reads "Madeline Ziegler". The signature is written in black ink and is positioned below the word "Sincerely,".

Madeline Ziegler
Staff Attorney

MEZ:jfm

Enclosure



 Top Fan

Joseph Wells

Is religious programming part of this at all?

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Peter Swift

Joseph Wells definitely. We are concerned not just for the physical and mental needs of all the students, but also their spiritual needs. Our application and registration makes this clear, and it does have an opportunity to opt out of any specifically religious programming....though from my perspective as a Christian, providing the space, love, and attention to the students is "religious" - but that would be the same for me whether I'm working here or elsewhere.

Not to mention, the remote learning time is expected to take up about 2 hours of the day. We are planning up to 6 hours of programming during the day. We're gonna certainly use our core competencies.

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