



FREEDOM FROM RELIGION FOUNDATION

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October 1, 2010

SENT VIA U.S. MAIL & FAX
(909) 590-4911

Wayne Joseph
Superintendent
Chino Valley Unified School District
5130 Riverside Dr
Chino CA 91710

Re: September 22nd "See You At The Pole" Event – Staff Participation

Dear Mr. Joseph:

Our national organization, which works to protect the constitutional principle of separation between state and church, was contacted recently by a local member with a constitutional concern occurring in your district. Freedom From Religion Foundation (FFRF) represents over 16,000 supporters across the country, including 2,430 in California.

It is our information and understanding that on September 22, 2010, students at Chino High School participated in a "See You At The Pole" (SYATP) event. According to the enclosed article from Champion Newspapers, it appears that public school teachers and staff members participated in this event as well. There is a picture of the students and staff members praying around the flagpole in front of the school included in the article.

As you know, SYATP events occur annually and are ostensibly "student-initiated" and "student-run." However, even if SYATP events are student-initiated, faculty members are prohibited from participating. Their participation violates the Establishment Clause.

We understand that public schools cannot exclude student religious groups from meeting on school property after-school hours. Nevertheless, it is grossly inappropriate for teachers, other public school employees or outside adults to actively participate in or promote these student-run religious organizations. Federal law dictates that public secondary schools receiving federal funds cannot discriminate against student organizations based on their religious, political, philosophical or other beliefs. *See Bd. of Educ. of the Westside Cmty. Sch. v. Mergens*, 496 U.S. 226, 235 (1990) (holding the Equal Access Act constitutional). However, the Supreme Court also stated that public school employees, including teachers and principals, should refrain from actively participating in religious activities while acting within their governmental role to avoid any perception of government endorsement of religion and/or excessive entanglement with religion.

"Under the [Equal Access] Act, however, faculty monitors may not participate in any

religious meetings, and nonschool person[s] may not direct, control or regularly attend activities of student groups.” *Id.* at 253. The Court continued, “[m]oreover the Act prohibits school “sponsorship” of any religious meetings... which means that school officials may not promote, lead, or participate in any such meeting.” *Id.* It is clear from the article that the faculty members at Atlee High School are not acting as monitors of student group but are impermissibly participating in the prayer group.

It is unconstitutional for public school employees to participate in the religious activities of their students. *See, e.g., Bd. of Educ. of the Westside Cmty. Sch. v. Mergens*, 496 U.S. 226, 253 (1990)(indicating that public school faculty may not participate in any student-led religious meetings); *Culbertson v. Oakridge Sch. Dist.*, 258 F.3d 1061 (10th Cir. 2001)(held a school district policy allowing teachers to distribute religious literature violated the Establishment Clause because it creates an impression of school endorsement of religion). In fact, Supreme Court Justice Blackmun has stated, “it is not enough that the government restrain from compelling religious practices, it must not engage in them either...” *Lee v. Weisman*, 505 U.S. 577, 604 (1992)(Blackmun, J., concurring). It is clear that federal law dictates government employees should refrain from actively participating in religious activities while acting within their governmental role to avoid any perception of government endorsement of religion and/or excessive entanglement with religion.

On behalf of our complainant, I respectfully request that you conduct an immediate investigation into the participation of faculty members in student-run prayer groups. Faculty must be instructed that their involvement with the student-run prayer groups is a violation of the Establishment Clause and will not be tolerated. We would appreciate hearing from you in writing immediately regarding the steps the District is taking to resolve this matter.

Sincerely,



Rebecca S. Markert
Staff Attorney

Enclosure

Saturday, Sept. 25, 2010

www.ChampionNewspapers.com

Students gather at 'the Pole' to pray

By Brenda Dunkle

More than 40 Chino High students and staff members gathered around the school's flagpole early Wednesday morning to pray for their peers, the school and the nation as part of the nationwide See You at the Pole event.

Also participating in the half hour prayer circle at their respective schools were students and staff members at Ayala, Chino Hills and Don Lugo high schools, according to Dustin Harrison, a youth pastor at Calvary Chapel Chino Valley. Mr. Harrison, who attended Chino High's prayer circle, said he helps oversee Christian clubs at area high schools.

Lucas Heatherton, a member of Chino High's Christian Club, said those attending the event at his school prayed for "lost people who don't have Jesus in their life."

Lucas said the Christian Club helped promote the event at the Chino High campus. See You at the Pole began in April 1990, when a group of teen-agers at a religious retreat in Burleson, Texas, went to three schools to pray for their friends and fellow students around the schools' flagpoles, according to the website www.religioustolerance.org.

Later that year, teens in Dallas were challenged to organize prayer sessions at their schools and the movement went nationwide the following year, according to the website.



Chino High students and staff members pray around the school's flagpole as part of the nationwide "See You at the Pole" event. Champion photo by Brenda Dunkle

Schools alter rules on discrimination

Champion - B3

School employees who discriminate against students will be subject to disciplinary action up to and including dismissal, according to a policy revised by the school board on Aug. 5.

Before the revision, it was up to supervisors to decide if a school employee who discriminated against a student would be disciplined.

The policy has been strengthened in other ways, including naming the district's director of student support services as the person to handle complaints regarding discrimination and harassment, as well as questions regarding the district's nondiscrimination policies.

The revision also calls on any student or employee who observes discrimination or harassment to report the incident to the school's principal or the director of student support services, regardless of whether the victim files a complaint.

The revision also states that the superintendent of schools will make sure that the district's nondiscrimination policy, procedures for filing a complaint and resources available to students who feel they have been a victim of discrimination or harassment, will be clearly described in student handbooks.

The policy prohibits discrimination and harassment regarding a student's actual or perceived sex, gender, ethnic identification, race, national origin, religion, color, physical or mental disability, age or sexual orientation.

Harassment includes physical, verbal, nonverbal, or written conduct based on one of the categories listed.

Cable providers show school board meetings

Chino Valley School District at 7 p.m. Monday, Wednesday, Friday and Saturday. They are

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Ty Wallace

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