



FREEDOM FROM RELIGION FOUNDATION

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December 2, 2008

James M. Gibson
Superintendent
Castaic Union School District
28131 Livingston Ave
Valencia CA 91355

COPY

Dear Mr. Gibson,

Thank you for your response dated November 21, 2008, regarding the Good News Club at Live Oak Elementary. I appreciate hearing from you.

First of all, we understand and agree that the Civic Center Act allows school districts such as Castaic Union School District (hereinafter "the District") to permit outside groups to rent school property. The sections you cite are similar to state laws allowing local school boards to adopt reasonable regulations for the use of school property found across the country. In fact, it is similar to the New York state statute at issue in *Lamb's Chapel v. Center Moriches Sch. Dist.*, 508 U.S. 384 (1993) and *Good News Club v. Milford Sch. Dist.*, 533 U.S. 98 (2001). It is important to note, however, that in both of those cases, the Supreme Court clearly indicated that the school district's policy did not present an Establishment Clause concern because the activities were "held **after school hours**, not sponsored by the school, and open to any student who obtained parental consent, not just to Club members." *Good News Club v. Milford Sch. Dist.*, 533 U.S. at 113 (emphasis added); see also *Lamb's Chapel v. Center Moriches Sch. Dist.*, 508 U.S. at 395 ("The showing of this film **would not have been during school hours**, would not have been sponsored by the school, and would have been open to the public, not just church members... under these circumstances... there would have been no realistic danger that the community would think that the District was endorsing religion or any particular creed...")(emphasis added). We are unaware of any cases, and your response does not cite any, that allow the Good News Club to begin meeting prior to the conclusion of instructional classes.

We see no reason, especially in light of your "authority to manage, direct, and control school facilities," why the District could not simply require the Good News Club to begin their meetings after the entire student body has been dismissed. A later start time certainly would be in the District's best interest to avoid any perception that the District endorses the messages embodied in the religious program offered by the Good News Club. This change will bring the District into clear compliance with Supreme Court precedent and avoid any Establishment Clause violations.

Furthermore, you mention that these meetings do not impact the kindergarten students because they meet in facilities away from the kindergarten classrooms. Our complainant informs us, however, that the Good News Club meetings in the Multi-purpose room which is located right next door to the kindergarten classroom, which is Room 2. It is also our understanding that there is a “roll call” for Club members. The teacher requests all students involved in the Good News Club to line up to be escorted next door. Given these circumstances, and the fact that kindergarten students were expressly invited to attend these meetings, we find it difficult to conclude that these students are not impacted by the Good News Club meetings that begin prior to the end of their school day.

Secondly, I would like to take this opportunity to alert you to another state-church concern occurring at the elementary school. It is our understanding and information that Ms. Melissa Coyle is a substitute teacher at Live Oak. Our complainant informs us that Ms. Coyle regularly teaches at the school as a substitute. Ms. Coyle is also actively involved in the affairs of the Good News Club. It is our understanding that Ms. Coyle is an instructor at the meetings. On the day she substitute teaches, once the class is dismissed, she lines up the students for the Good News Club and escorts them over to the room in which the weekly meetings are held. Ms. Coyle then begins her instruction as a leader for the Good News Club. Our complainant also informs us that there are at least two parent volunteers for afternoon kindergarten who also actively participate in the Good News Club. On the days these parents volunteer, they also escort the children from their classroom to the Good News Club meetings and begin their instruction.

Ms. Coyle’s activities with the Good News Club combined with her role as a substitute teacher for the same students who may be involved with the Good News Club raises grave Establishment Clause concerns. The elementary school children, as young as five, who witness her uninterrupted transition from public school teacher to Good News Club instructor cannot possibly be able to discern that the school district does not endorse the religious program. *See Bell v. Little Axe Ind. Sch. Dist. No. 70*, 766 F. 2d 1391 (10th Cir. 1985)(“Elementary schoolchildren are vastly more impressionable than high school or university students and cannot be expected to discern nuances which indicate whether there is true neutrality toward religion on the part of a school administration. A child, for example, is unlikely to distinguish between school sponsorship and mere faculty supervision.”)

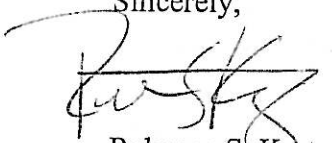
This situation at Live Oak Elementary is akin to a case arising out of Ohio. In *Quappe v. Endry*, 772 F.Supp. 1004 (S.D. Ohio 1991)(aff’d 979 F.2d 851)(6th Cir. 1992), the court upheld a school district’s decision to move the Good News Club meeting time from 3:45pm to 6:30pm to avoid Establishment Clause concerns. In that case, a public school teacher brought the Good News Club to the school at which she taught and was a leader during the Club’s after-school meetings. The school district decided to move the Good News Club’s meetings to a later time in the day because it “was necessary to demarcate clearly between school and non-school functions brought about by the symbolic nexus between the Club and the school forged by [the teacher’s] participation in Club activities.” *Quappe*, 772 F.Supp at 1007. The court held that the teacher’s “participation in the Club... created a substantial danger that Club members would view the Club as an

officially endorsed extension of the regular school day. The danger that the children...would understand the Club to be under the aegis of the school would be so great under such a circumstance, that allowing the Club to meet at 3:45 would constitute impermissible endorsement of religion." *Id.* at 1014.

Ms. Coyle should not be called to substitute at Live Oak Elementary on the same day she also leads the Good News Club, unless the District moves the time to evening hours as the Sixth Circuit approved in the same circumstances. The same demarcation is needed for the parent volunteers who lead the Good News Club meetings. Unfortunately, the parents' active participation and direction of the Good News Club after the students' dismissal paints a picture in the minds of the school children of school endorsement. This uninterrupted transition from public school employee or volunteer to proselytizing club leader cannot be seen as anything but the District's seal of approval for the Good News Club in the minds of the elementary school children and any reasonable observer from the District.

Castaic Union School District must modify its contract with Good News Club in order to avoid this impermissible endorsement of religion. Requiring the club to meet at 3:15pm or later, after the entire school has been dismissed, in no way prevents Good News Club from access to the school's facilities, while avoiding any perception of government endorsement. Therefore, we renew our request for the District to modify any contracts it has with the Good News Club to ensure that the meetings do not begin before the end of the school day for the entire school. We would appreciate a response at your earliest convenience so that we may notify our complainant.

Sincerely,



Rebecca S. Kratz
Staff Attorney

Cc: Rich Bolton, Boardman Law Firm