



October 24, 2011

VIA FACSIMILE (817-215-0170) AND U.S. MAIL

Dr. Karen G. Rue  
Superintendent of Schools  
Northwest Independent School District  
P.O. Box 77070  
Forth Worth, TX 76177-0070

**Re: Response to FFRF Letter**

Dear Dr. Rue:

It has come to our attention that the Freedom from Religion Foundation recently requested that the Northwest Independent School District cancel a Seven Project assembly, which Byron Nelson High School hosted as part of its character initiative, based on the presenters' religious background. We write in support of Northwest Independent School District's conclusion that the fact that "a presenter at a curriculum-based program has sincerely held religious beliefs is . . . insufficient to cancel the assembly and/or bar the presenter." In advocating for the wholesale exclusion of people of faith from public life, or even participation in public schools, the Freedom from Religion Foundation demonstrates that its actions are based not on law, but on an obvious hostility to religion that is in direct conflict with the First Amendment's guarantee of free exercise rights. Canceling the Seven Project assembly based on the presenters' Christian faith would clearly violate the First Amendment and the principles of individual liberty our Constitution was designed to protect. *See McDaniel v. Paty*, 435 U.S. 618, 626 (1978) (plurality opinion) ("The Free Exercise Clause categorically prohibits government from regulating, prohibiting, or rewarding religious beliefs as such").

In this case, Byron Nelson High School invited the Seven Project to present a secular program promoting character development and good citizenship. None of the information in the presentation was religious in nature and the program's content was consistent with the school's character-building curriculum. The Northwest Independent School District therefore rightly refused to cancel the assembly or exclude speakers with a religious background from participating therein. *See Church of the Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 532 (1993) ("At a minimum, the protections of the Free Exercise clause pertain if the [government] regulates or prohibits conduct because it is undertaken for religious reasons").

Although a school is free to limit participation in assemblies to certain groups and particular topics, its power to restrict speech is "not without limits." *Good News Club v. Milford*

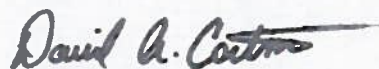
*Cent. Sch.*, 533 U.S. 98, 114 (2001); see *City of Hialeah*, 508 U.S. at 532 (“[T]he First Amendment forbids an official purpose to disapprove . . . of religion in general”). The “government . . . cannot in a selective manner impose burdens only on conduct motivated by religious belief” without running afoul “of the rights guaranteed by the Free Exercise Clause.” *City of Hialeah*, 508 U.S. at 543. “[T]o condition the availability of benefits [including access to the assembly] upon [the Seven Project’s] willingness to violate a cardinal principle of [its] religious faith [by surrendering its religious identity] effectively penalizes the free exercise of [its] constitutional liberties.” *McDaniel*, 435 U.S. at 626. Consequently, Northwest Independent School District merely complied with its constitutional obligations in allowing the Seven Project assembly to go forward.

The cancellation of the Seven Project assembly would have contrariwise demonstrated “animosity to religion,” *id.* at 547, and compromised the “neutrality between . . . religion and nonreligion” the First Amendment requires. *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968). As the Supreme Court has explained, “religious people (or groups of religious people) cannot be denied the opportunity to exercise the rights of citizens simply because of their religious affiliations or commitments, for such a disability would violate the right to religious free exercise.” *Bd. of Educ. of Kiryas Joel Vill. Sch. Dist. v. Grumet*, 512 U.S. 687, 698 (1994) (plurality opinion). Government entities are thus generally prohibited from “impos[ing] special disabilities on the basis of religious views or religious status.” *Employment Div., Dept. of Human Res. of Ore. v. Smith*, 494 U.S. 872, 877 (1990).

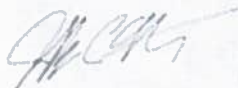
Speech underpinned by religious beliefs or values may not be singled out for exclusion absent extraordinary circumstances. See *City of Hialeah*, 508 U.S. at 533 (“[I]f the object of a law is to infringe upon or restrict practices because of their religious motivation, the law is not neutral, and it is invalid unless it is justified by a compelling interest and is narrowly tailored to advance that interest.”) (internal citation omitted). In this case, government neutrality towards religion is respected, not offended, by including religious and secular perspectives on important topics affecting our nation. See *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 839 (1995) (“More than once have we rejected the position that the Establishment Clause even justifies, much less requires, a refusal to extend free speech rights to religious speakers who participate in broad-reaching government programs neutral in design.”). Any concern the Seven Project presentation would venture off-topic into religious subject matter was adequately addressed by the written confirmation the district obtained from the presenters that the program would cover secular material, the inquiry the district conducted into the content of past Seven Project presentations, and the provision of a district official to supervise the event.

In sum, the First Amendment categorically prohibits excluding individuals or groups from public life based on their religious faith. If you should have any questions relating to the participation of religiously-affiliated, private speakers in this or any other school event, please do not hesitate to contact us. We would be happy to speak with you or your counsel and offer any assistance we could provide.

Sincerely,



David Cortman, ADF Senior Counsel  
Jeremy Tedesco, ADF Legal Counsel  
Matthew Sharp, ADF Litigation Staff Counsel



Jeffrey C. Mateer, General Counsel, Liberty Institute



Gregory Perrone, Belair & Perrone LLP

CC: Charles J. Crawford  
Abernathy Roeder Boyd & Joplin P.C.