

February 28, 2019

CAMP VERDE UNIFIED SCHOOL DISTRICT BOARD

The Administrative Office,
410 Camp Lincoln Rd., Camp Verde, AZ

Via email:

Board President: Tim Roth, troth@campverdeschools.org

Helen Freeman, hfreeman@campverdeschools.org

Bob Simbric, bsimbric@campverdeschools.org

Carol German, cgerman@campverdeschools.org

Christopher Eric Lawton, elawton@campverdeschools.org

Re: Board Meeting Minutes of January 8, 2019: Item number 24, Information only (2)
Upcoming discussion on potential Bible instruction at CVHS

Dear Board Members:

I'm writing on behalf of the Secular Communities of Arizona (SCA) regarding a potential constitutional violation in your district. SCA is a statewide non-profit organization whose purpose is to protect the constitutional principle of separation between church and state. We have been contacted by Camp Verde residents concerned about the upcoming discussion on potential Bible instruction.

As you are likely aware, 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). The government must not encroach on personal religious freedom, which necessarily includes both the right to choose a religion or no religion at all. The Supreme Court has held that "the preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere." *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 310 (2000) (quoting *Lee*, 505 U.S. at 589).

Please note that school involvement in religious activity remains illegal even though the students' attendance is "voluntary." The Supreme Court has 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, 373 (4th Cir. 2003) ("VMI cannot avoid Establishment Clause problems by simply asserting that a cadet's attendance at supper or his participation in the supper prayer are 'voluntary.'")

Allowing access to schoolchildren during school hours to proselytize and recruit for religious activities is a violation of the Establishment Clause. The courts have protected public schools students from overreaching outsiders in similar situations. See e.g. *Berger v. Rensselaer School District*, 928 F. 2d 1160 (7th cir. 1993) (holding that distribution of bibles by Gideons in school violated Establishment Clause). Courts have granted injunctions against school for their complacency in such situations. See e.g. *Roark v. Smith Iron R-I Sch. Dist.* 540 F. Supp.2d 1047, 1059 (E.D. Mo., 2008); upheld in relevant part by 573 F.3d 556 (8th Cir. 2009) (holding that school policy allowing evangelical Christian organization to distribute bibles in school violated Establishment Clause). Public schools are not an appropriate place for adults to convince students to attend church. This recruitment constitutes “a utilization of the tax-established and tax-supported public school system to aid religious groups to spread their faith.” *McCullum*, 333U.S. at 210.

The State of Arizona Constitution has even stronger provisions ensuring the separation of church and state. The State Constitution provides in Article XX §1:

First. Toleration of religious sentiment

First. Perfect toleration of religious sentiment shall be secured to every inhabitant of this state, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship, or lack of the same.

The state constitution makes it perfectly clear that no one should be molested or harassed because they do or don't belong to a specific religion or any religion at all. By promoting a specific church and a specific religion, you are violating the constitutional rights of every child in the school, but especially the child and their parents who do not believe in or attend that specific church or religion.

We understand that A.R.S. §15-362 (B) (2) excludes from school libraries all books, publications and papers of a sectarian, partisan or denominational character. This paragraph does not prohibit any materials for the elective course permitted by section A.R.S. §15-717.01.

A.R.S. §15-717.01 states that concepts from the old and new testament may be included in history or English or both. Section B specifically states that schools shall not require that pupils who do not enroll in the elective course prescribed in this section receive instruction on the historical study of biblical text. Any elective course may pertain to how the bible has influenced western culture for pupils in grades nine through twelve. It shall not teach Bible studies. Section D requires “Before a school offers a course under this section, a legal review shall be conducted to ensure that the course complies with the first amendment to the United States Constitution.”

Ensuring that the course complies with the U.S. Constitution will be very difficult. In 2013, March Chancey, a religious studies professor at Southern Methodist University, surveyed courses in sixty districts around Texas. Only 11 displayed academic rigor and a

constitutionally sound approach. Religious scholars agree that most books of the bible were not written by the people whose names are on them, most are filled with discrepancies large and small, and that the bible itself is bad history and even worse theology.

Any such course must limit itself to the concepts outlined in Section F of the statute and must follow applicable law and all federal and state guidelines in maintaining religious neutrality and accommodating the diverse religious or nonreligious views, traditions and perspectives of pupils. Under Section G of the statute students may not be required to use a specific translation of the old or new testament since there are dozens of different versions, all with different stories, thus limiting its utility.

You mentioned that you know of four people who could teach the course. Those personnel shall not be chosen based on any religious or nonreligious test or any profession of faith or lack of faith or prior or current religious affiliation or lack of religious affiliation according to Section H of the statute. Is teacher training going to be provided? The research above found an appalling lack of teacher training. Rather what was being taught was Christian Nationalism, which is forbidden.

As you can see, there are many ways you can run afoul of the Federal and State Constitution and parental and children's rights with such a course. The best course is to leave the religious education to the parents in the home.

Further, Article II section 12 of the State Constitution provides: 12. Liberty of conscience; appropriations for religious purposes prohibited; religious freedom

Section 12. The liberty of conscience secured by the provisions of this constitution shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of the state. No public money or property shall be appropriated for or applied to any religious worship, exercise, or instruction, or to the support of any religious establishment. No religious qualification shall be required for any public office or employment, nor shall any person be incompetent as a witness or juror in consequence of his opinion on matters of religion, nor be questioned touching his religious belief in any court of justice to affect the weight of his testimony.

The Constitution also says in Article 9, section 10:10. Aid of church, private or sectarian school, or public service corporation: Section 10. No tax shall be laid or appropriation of public money made in aid of any church, or private or sectarian school, or any public service corporation. Thus you must be exceedingly careful that no public monies are spent in pursuit of any religious education. Again, the best way to avoid future problems is leave religious education to the parents in the home.

Having such classes alienates those non-Christian students, teachers, and members of the public whose religious beliefs are inconsistent with the message being disseminated by the school. Students are young, impressionable and vulnerable to social pressure, particularly pressure exerted from an adult. These classes usurp the authority of parents,

many who do not want their children exposed to religious concepts at their child's public school.

Please take steps to ensure that the district is not violating the Establishment Clause. Please inform us in writing of the steps the district takes to protect the rights of its students and their families so that we may notify our complainant. If you decide to go ahead with this idea, we would like to be included in the development of the curriculum, the teacher training and all other aspects. Thank you.

Sincerely,

Electronically signed

Dianne Post, Attorney
Chair, Legal Committee
602 271 9019
1826 E Willetta St
Phoenix, AZ 85006
Hard copy mailed