



CONGRESSIONAL PRAYER CAUCUS FOUNDATION

CONGRESSIONAL ADVISORY MEMBERS

Congressman Randy Forbes
Senator James Lankford
Congressman Mark Walker
Senator John Boozman
Congressman Robert Aderholt
Congressman Brian Babin
Congresswoman Marsha
Blackburn
Congressman John Carter
Congressman Mike Conaway
Congressman Kevin Cramer
Congressman Rick Crawford
Congressman Jeff Fortenberry
Congressman Trent Franks
Congressman Gregg Harper
Congressman Vicky Hartzler
Congressman Jody Hice
Congressman Richard Hudson
Congressman Bill Huizenga
Congressman Randy Hultgren
Congressman Doug Lamborn
Congressman Steve Pearce
Congressman Robert Pittenger
Congressman Paul Ryan
Congressman Chris Smith
Congressman Glenn Thompson
Congressman Tim Walberg
Congressman Joe Wilson
Congressman Robert Wittman

March 23, 2018

Dr. T.C. Chappellear
Superintendent
Indian Creek School District
587 Bantam Ridge Road
Wintersville, OH 43953

Re: Allowing Community People of Faith to Meet with Students

Dear Superintendent Chappellear:

I have the honor of serving as the Executive Director of the Congressional Prayer Caucus Foundation. The Foundation serves nearly 100 members of Congress who are part of the Congressional Prayer Caucus (the names of those members of Congress who serve on the Congressional Prayer Advisory Team are listed on the left).

In addition, the Foundation serves Legislative Prayer Caucuses in over 30 states, including Ohio, which have nearly 1,000 state senators and state representatives as members. These leaders are working together to preserve the integrity of our founding principles and to protect First Amendment rights for all. We recently learned that the Freedom from Religion Foundation ("FFRF") sent you a letter alleging that a pastor on Friday during lunch was leading an FCA Bible Study, was telling students about the Gospel, and was even handing out Bibles to these students. According to FFRF,

It is unconstitutional for the District to offer religious leaders access to befriend and proselytize students during the school day on school property. This predatory conduct is inappropriate and should raise many red flags. The District cannot allow its schools to be used as recruiting grounds for churches during the school day. It is well-settled that public schools may not advance or promote religion.

FFRF's letter further claims that "[i]t is illegal for public schools to allow adults to lead religious instruction on school property during the school day...

Allowing church representatives regular, or even one-time, access during school hours to proselytize is a violation of the Establishment Clause.”

FFRF, starting with its very name and in comments made to you and others, does not begin with what the Constitution says or the law requires, but instead with what it wishes were true, i.e., that a government must treat religious beliefs and organizations in a hostile way. To the contrary, the Constitution in the “Establishment Clause” of the First Amendment fosters religion by preventing the *government* from establishing a particular religion or treating one religion more favorably than others. The Constitution does *not*, as FFRF suggests, prohibit state action that facilitates religion, that recognizes the religious character and practices of its citizens, or that exempts religious individuals or organizations from generally applicable laws that might conflict with their religious beliefs and practices.

In fact, the “Free Exercise Clause” of the First Amendment only prohibits laws that *restrict* the free exercise of religion; it does not prohibit laws that *favor* religion and its exercise. As the Supreme Court reiterated just last year in *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012, 2021 (2017), state action that discriminates against a church or other religious organization just because it is religious violates the Free Exercise Clause. See also *Mitchell v. Helms*, 530 U.S. 793, 828 (2000) (plurality opinion) (noting “our decisions that have prohibited governments from discriminating in the distribution of public benefits based upon religious status or sincerity” (citing *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819 (1995); *Lamb’s Chapel v. Center Moriches Union Free School Dist.*, 508 U.S. 384 (1993); *Widmar v. Vincent*, 454 U.S. 263 (1981)); *Walz v. Tax Comm’r of the City of N.Y.*, 397 U.S. 664 (1970) (upholding municipal tax exemption for religious nonprofit organizations against an Establishment Clause challenge).

According to your website, the Indian Creek School District has “Belief statements [that] express our fundamental convictions, our values and character.” These belief statements include: “Parents, schools and the community should be active partners,” and “it is important to promote social, emotional, physical, intellectual, and moral development.” We commend you for these belief statements, since it considers the importance of parents and the community for the development of students, and it further recognizes that students (like all of us) are multi-dimensional, and need development socially, emotionally, physically, intellectually, and morally to be good citizens and neighbors for decades to come. As schools appear to be an increasing target for violence, moral principles like treating others like you want to be treated, and loving others as you love yourself are important to learn at home and reinforce in school.

Similar to other schools, we assume that the District has many volunteers that represent a broad spectrum of the community, and include volunteers who attend church and those who do not. We further assume that the District treats both church-going and non-church-going volunteers alike – volunteers are given an opportunity to meet with students during designated hours, and certain rules apply. We further assume that parental approval is necessary for scheduled meetings like the Friday lunch meetings to which FFRF refers, and that parents reserve the right to discontinue any meeting arrangement if the parents so decide.

With choices available to parents, they are the decision-makers. They determine first whether they want their children to attend meetings with community members, and, secondly, they decide what meetings best suit the needs of their children, not only academically, but emotionally. They can also determine what topics are off limits for community volunteers to discuss with their children. Some parents desire that community members discuss moral and spiritual matters with their children and appreciate information about church services or events their children bring home from their volunteer leaders. At any time, parents can determine if their child should no longer attend these meetings for any reason whatsoever. This is called parental choice, a key component of our educational system.

Parental choice was the principal element in the Cleveland school voucher case of *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002). In *Zelman*, the U.S. Supreme Court ruled that, as long as there is a valid secular purpose for providing educational assistance, the government is neutral toward religion, and parents are exercising "their own genuine and independent private choice," then any "incidental advancement of a religious mission, or the perceived endorsement of a religious message, is reasonably attributable to the individual recipient, not to the government" *Id.* at 652. Applying these principles to Indian Creek School District, if there is a valid secular reason for the program (such as moral development), the program does not favor or disfavor religion (it treats secular and religious volunteer programs equally), and the program is the choice of parents, the program meets constitutional requirements.

Indian Creek School District would, in our opinion, pose a greater constitutional risk if it yielded to the FFRF's demand. Its demand, on its face, is viewpoint discrimination because their goal is to bar any religious organization from providing volunteers for school students, while favoring non-religious volunteer programs. Such action would have the primary effect of showing hostility to religion, something the U.S. Supreme Court forbids. As the U.S. Supreme Court stated well in *Zorach v. Clauson*, 343 U.S. 306, 314 (1952), "we find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence." The religious community is just as much a part of your community as those who have no religious beliefs,

and the religious members of a community cannot be treated as "outsiders" any more than their secular neighbors.

In closing, our nation has enjoyed a cultural heritage of freedom that rests upon Judeo-Christian ethics. Americans have generally appreciated the contributions of religious organizations toward the strengthening of our society. Our government has had a history of benevolent accommodation of religion. It was not until the 1960s that the U.S. Supreme Court gave the Establishment Clause new interpretations that portended a stricter separation from religion would be required in the public sphere. The Supreme Court has backed away from those interpretations in the decades since, but organizations like the Freedom from Religion Foundation pretend that those earlier interpretations are still binding and should be extended to ever greater degrees, causing confusion in our public institutions to this day.

We hope that you will not yield to threats to rob you, your students, and your community of your rights and heritage. To protect our freedom, we must exercise that freedom.

May God bless you and your students,



Lea Carawan

Executive Director

Congressional Prayer Caucus Foundation