AMERICAN CENTER
*for* LAW & JUSTICE

June 9, 2025

**VIA EMAIL AND FEDEX**

Dr. Erin Meehan-Fairben
Superintendent of Schools
[redacted]
Carmel Central School District
[redacted]

***RE: Carmel Central School District's Violation of Jenna [redacted]'s First Amendment Rights***

Dear Dr. Meehan-Fairben,

The American Center for Law & Justice represents [redacted] and their minor daughter, Jenna [redacted], a ninth-grade student at Carmel High School. We write regarding the egregious constitutional violations that took place when school officials censored Jenna's posters and prohibited Jenna's group of students from viewing a faith-based video series. Government officials acting as a censor and director of religious activities constitutes a blatant violation of the First Amendment and the Equal Access Act.

By way of introduction, the ACLJ is an organization dedicated to the defense of constitutional liberties secured by law. ACLJ attorneys have argued before the Supreme Court of the United States in several significant cases involving the freedoms of speech and religion.[1]

## Statement of Facts

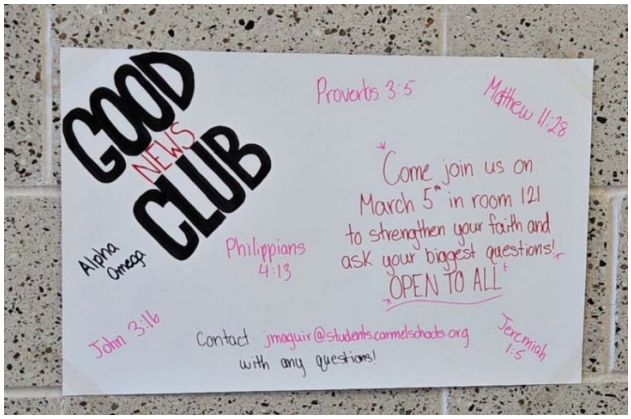
Jenna [redacted] is a ninth-grade student at Carmel High School (Carmel), the only high school within the Carmel Central School District (CCSD). Student-led groups, clubs, and

[1] *See, e.g., Pleasant Grove City v. Summum*, 129 S. Ct. 1523 (2009) (unanimously holding that the Free Speech Clause does not require the government to accept counter-monuments when it has a war memorial or Ten Commandments monument on its property); *McConnell v. FEC*, 540 U.S. 93 (2003) (unanimously holding that minors enjoy the protection of the First Amendment); *Lamb's Chapel v. Center Moriches Sch. Dist.*, 508 U.S. 384 (1993) (unanimously holding that denying a church access to public school premises to show a film series on parenting violated the First Amendment); *Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990) (holding by an 8-1 vote that allowing a student Bible club to meet on a public school's campus did not violate the Establishment Clause); *Bd. of Airport Comm'rs v. Jews for Jesus*, 482 U.S. 569 (1987) (unanimously striking down a public airport's ban on First Amendment activities).

extracurricular activities are an essential component to a student's high school tenure, allowing students a unique opportunity to develop and express his or her voice with others beyond the classroom. Carmel allows various student-led clubs and activities including Art Club, Book Club, Film Club, Equity Club, Gay Straight Alliance, and many others. Jenna's deep Christian faith led her to re-start a faith-based, student-led group that would meet on Carmel's campus after school. Jenna initiated the process at the end of her eighth-grade year, but at that time, school officials would not allow her to create a faith-based group.

She continued to pursue creating a faith-based group when she began her ninth-grade school year at Carmel in the fall of 2024. In early October, Jenna met with Assistant Principal Allison Golan to speak about starting the faith-based club. Soon after this meeting, Jenna began working on the club's bylaws. The faculty sponsor of the club was Mrs. Tasha Cucinelli. After much correspondence between Jenna and the school board regarding revisions, the bylaws were finally approved on February 4, 2025. Jenna originally named the club Good News Club.

Once the bylaws were approved, the club could meet and advertise its meetings around campus. Within a couple of weeks of the club's formation, Jenna made a poster informing fellow students of the club's March 5, 2025, meeting. This poster contained the name of the club, Good News Club, and a short description "Come join us on March 5 in room 121 to strengthen your faith and ask your biggest questions! OPEN TO ALL." In addition, the poster contained cites to various Bible verses: Proverbs 3:5, Matthew 11:28, John 3:16, Philippians 4:13, and Jeremiah 1:5. These posters were quickly removed by school officials. Soon after their removal, Jenna met with Mrs. Golan and another assistant principal, Mr. Christoper O'Connor. During this meeting, Jenna was told by Mrs. Golan and Mr. O'Connor that the club could not be named Good News Club and that the poster had too many Bible verses on it. Jenna was then told the group must be referred to as the Alpha Omega Group.




Jenna then revised the posters for approval by Mr. O'Connor and Mrs. Golan, who insisted on reviewing her religious content before it could be disseminated. The new posters contained the group's new name, location and description of the meeting, and a cross and Bible verse. Mr. O'Connor and Mrs. Golan forced Jenna to remove the cross and Bible verse from the revised posters, censoring her religious content. Following the removal of the Bible verse and cross, Jenna revised the poster once more. The group then met on March 5 as planned. Eleven to twelve students attend the gatherings during any given week. The group meets in a classroom on Tuesdays or Wednesdays, after school from 2:00–3:00 p.m.

The group then wanted to begin a spiritual warfare video series titled "The Unseen War" which is a faith-based series that focuses on the battle in an individual's mind between God and Satan and the ability to fight back against Satan with Jesus on their side. For this series, Jenna made another poster which was titled "Spiritual Warfare Video Series," containing the dates and location along with the statement "Watch The Unseen War With the Alpha Omega Group." The group met on March 27, 2025, and watched the first video of the series. Shortly thereafter, on April 2, 2025, the posters were removed again by school officials. Mrs. Golan alleged to Jenna that some people had complained about the religious content of the video series. That same day, Mrs. Golan called Jenna to her office and prohibited Jenna from showing the series at all in her student group, banning the entire series.

## Statement of Law

A student's right to engage in religious speech and meet with fellow students in faith-based clubs is doubly protected by the Equal Access Act and the First Amendment.

### The Equal Access Act

Congress enacted the Equal Access Act "to address perceived widespread discrimination against religious speech in public schools." *Westside Bd. of Educ. v. Mergens*, 496 U.S. 226, 239 (1990). Congress's stated purpose of the Act included "[Public secondary schools may not discriminate against] any students who wish to conduct a meeting . . . on the basis of religious, political, philosophical, or other content of the speech at such meetings." 20 U.S.C. § 4071(a) (2006). Religious groups must be allowed to meet on campus without school officials censoring their religious beliefs or statements. In *Mergens*, a case argued by ACLJ Chief Counsel Jay Sekulow, the Supreme Court held that the Equal Access Act was constitutional because allowing equal access to religious clubs does not violate the Establishment Clause. In fact, the Court explained that the Establishment Clause mandates that government be neutral with respect to religion:

> [I]f a State refused to let religious groups use the facilities open to others, then it would demonstrate not neutrality but hostility toward religion. "The Establishment Clause does not license government to treat religion and those who teach or practice it, simply by virtue of their status as such, as subversive of American ideals and therefore subject to unique disabilities."

*Mergens*, 496 U.S. at 248 (quoting *McDaniel v. Paty*, 435 U.S. 618, 641 (1978) (Brennan, J., concurring in judgment)). As a result of the Supreme Court's holding in *Mergens*, schools must afford religious clubs the same privileges as other clubs on campus. These privileges include "access to the school newspaper, bulletin boards, the public address system, and the annual Club Fair." *Id.* at 247.

The Equal Access Act does not just ask whether Jenna's group "has access to some avenues of communication but whether it has equal access to the same avenues of communication as other noncurriculum related groups." *Straights & Gays for Equality v. Osseo Area Schs.*, 471 F.3d 908, 912 (8th Cir. 2006). Each group, including religious groups, must be treated equally under the rules. *Prince v. Jacoby*, 303 F.3d 1074, 1094 (9th Cir. 2002) (holding that when a school district

implemented a policy which allowed religious student groups to be recognized, but restricted such groups' access to certain benefits, it unlawfully violated the Equal Access Act). Likewise, in *Hills v. Scottsdale Unified Sch. Dist.*, 329 F.3d 1044, 1051 (9th Cir. 2003), a school district which allowed distribution of literature regarding extra-curricular activities engaged in viewpoint discrimination by prohibiting a brochure on a camp that offered Bible classes. Instead of treating each religious group equally, as the Equal Access Act requires, CCSD employees have singled out religious groups for disparate treatment and unique rules about the content of their messages.

Moreover, the Equal Access Act says that it shall not be construed "to influence the form or content of any prayer or other religious activity[,]" 20 U.S.C. § 4071(d)(1), and requires that "the meeting is voluntary and student-initiated." 20 U.S.C. § 4071(c)(1). Instead of complying with these obligations, CCSD has unabashedly controlled the content these students are and are not allowed to access. CCSD's actions, determining which religious content is and is not acceptable, are a violation of the statute's prohibitions. As the Supreme Court emphasized, "a State may not influence the form of any religious activity, require any person to participate in such activity, or compel any school agent or employee to attend a meeting if the content of the speech at the meeting is contrary to that person's beliefs." *Mergens*, 496 U.S. at 236. Your decisions about the "form" of the religious meeting of this student group contravenes the demands of the Equal Access Act. It reflects directly the Supreme Court's warning that "a denial of equal access to religious speech might well create greater entanglement problems in the form of invasive monitoring to prevent religious speech at meetings at which such speech might occur." *Id.* at 253. When the Equal Access Act is followed, "students will reasonably understand that the school's official recognition of the club evinces neutrality toward, rather than endorsement of, religious speech." *Id.* at 251.

**The First Amendment**

While students have statutory rights under the Equal Access Act to form and participate in religious clubs, students also maintain a First Amendment right to engage in religious speech on campus. The Supreme has long recognized that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." *Tinker v. Des Moines Indep. Comm. Sch. Dist.*, 393 U.S. 503, 506 (1969).

> School officials do not possess absolute authority over their students. Students in school as well as out of school are persons under our Constitution. They are possessed of fundamental rights which the state must respect, just as they themselves must respect their obligations to the state. In our systems, students may not be regarded as closed-circuit recipients of only that which the state chooses to communicate. They may not be confined to the expressions of those sentiments that are officially approved.

*Id.* at 511.

In fact, school administrators can only prohibit student speech if it "'materially and substantially interfer[es]with . . . appropriate discipline.'" *Id.* at 513 (quoting *Burnside v. Byars*, 363 F.2d 744, 749 (5th Cir. 1966)). While school officials may apply "reasonable regulation[s]

[to] speech-connected activities in carefully restricted circumstances," they may not censor student expression unless the speech "impinge[s] upon the rights of others" or creates a material and substantial disruption to the school's ability to fulfill its educational goals. *Id.* at 509, 513. The law is quite clear, however, that "undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression." *Id.* at 508.

Concern that a substantial disruption *could* occur as a result of permitting students to exercise their First Amendment rights is insufficient to restrict student speech:

> But, in our system, undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression. Any departure from absolute regimentation may cause trouble. Any variation from the majority's opinion may inspire fear. Any word spoken, in class, in the lunchroom, or on the campus, that deviates from the views of another person may start an argument or cause a disturbance. *But our Constitution says we must take this risk . . . .*

*Id*. at 508–9 (citing *Terminiello v. Chicago*, 337 U.S. 1 (1949)) (emphasis added). Thus, school officials must be able to affirmatively establish that they have a substantial reason to interfere with Jenna's First Amendment rights:

> In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views. As Judge Gewin, speaking for the Fifth Circuit, said, school officials cannot suppress "expressions of feelings with which they do not wish to contend."

*Id.* at 511 (quoting *Burnside v. Byars*, 363 F.2d 744, 749 (5th Cir. 1966)).

Complaints about the content of a student's speech, alone, does "not rise to the level of a 'disruption' much less a 'material or substantial interference'" warranting censorship or suppression of the student's speech. *K.D. v. Fillmore Central Sch. Dist.*, 2005 U.S. Dist. LEXIS 33871, at 21 (W.D.N.Y. 2005) (upholding student's right to wear a t-shirt proclaiming that "Abortion is Homicide" despite student complaints that they found the message offensive and disruptive); *Alabama & Coushatta Tribes v. Trustees of Big Sandy Indep. Sch. Dist.*, 817 F. Supp. 1319, 1334. (E.D. Tex. 1993) (Native American students have right to wear long hair in classroom because it would not disrupt the educational process.).

It is also well settled that religious speech is protected by the First Amendment and may not be singled out for disparate treatment. *See Good News Club v. Milford Cent. Sch.*, 533 U.S. 98 (2001); *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819 (1995); *Capitol Square Review & Advisory Board v. Pinette*, 515 U.S. 753 (1995); *Mergens,* 496 U.S. 226; *Widmar v. Vincent*, 454 U.S. 263, 269 (1981) (citing *Heffron v. Int'l Soc'y for Krishna Consciousness, Inc.*, 452 U.S. 640 (1981); *Neimotko v. Maryland,* 340 U.S. 268 (1951); *Saia v. New York,* 334 U.S. 558 (1948)).

For example, in *Widmar v. Vincent*, 454 U.S. 263, 276 (1981), the Supreme Court struck down a university policy which prohibited use of facilities for religious purposes. In that case, the University of Missouri at Kansas City (UMKC) encouraged an active campus life by opening its

facilities to over 100 registered student groups. *Id.* at 265. One of those student groups, an evangelical Christian group known as Cornerstone, initially received the same access to facilities accorded to all students. *Id.* However, UMKC later denied Cornerstone access to campus facilities, citing a university ban on the use of facilities "for purposes of religious worship or religious teaching." *Id.* The Supreme Court struck down UKMC's policy because it amounted to unconstitutional "content-based exclusion of religious speech." *Id.* at 277.

The activity of school officials here, directly censoring Jenna's religious speech and determining what religious speech is and is not acceptable, is a paradigmatic and blatant violation of the principle that Government must be neutral toward religion. The Supreme Court has regularly emphasized that the "government may not seek to define permissible categories of religious speech." *Town of Greece v. Galloway*, 572 U.S. 565, 582 (2014). Government officials must not "act as supervisors and censors of religious speech[.]" *Id.* at 581; *see Lee v. Weisman*, 505 U.S. 577, 590 (1992) ("The suggestion that government may establish an official or civic religion as a means of avoiding the establishment of a religion with more specific creeds strikes us as a contradiction that cannot be accepted."). The principle is clear: "[g]overnment may not mandate a civic religion that stifles any but the most generic reference to the sacred any more than it may prescribe a religious orthodoxy." *Town of Greece*, 572 U.S. at 581. But that is precisely what CCSD did here; CCSD employees decided what religious activities were acceptable and which were not.

In this case, CCSD school officials have engaged in precisely the type of viewpoint discrimination that the Supreme Court and federal circuit courts have repeatedly found unconstitutional. Once a school opens a limited public forum, it must allow religious viewpoints to be expressed in the same manner as secular viewpoints. School officials illegally targeted Jenna's speech by censoring club announcements and prohibiting her and fellow students from engaging in protected activity under the First Amendment.

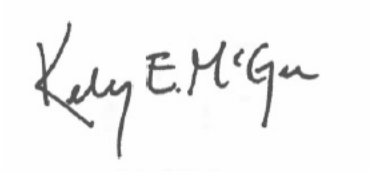
## **Demand**

The situation described here is of serious importance, not just to Jenna, but to all students attending the school who are entitled to the full protection of their First Amendment liberties. As you are undoubtedly aware, the violation of an individual's constitutional rights, even for a moment, results in irreparable injury. *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

Given the nature of the rights involved, we request your immediate written assurances that school officials will not censor Jenna's religious speech. We trust that this matter can be resolved swiftly. Please direct your response in writing or by phone immediately. If we do not hear from you before COB on June 16, 2025, we will assume that you intend to resolve this matter through litigation.

Thank you for your prompt attention to this important matter.

Sincerely,



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