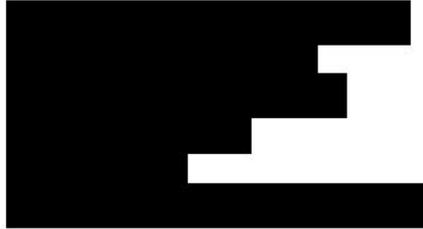




March 20, 2026

VIA EMAIL & FEDEX



Re: [REDACTED] Middle School's Violation of [REDACTED] [REDACTED] First Amendment Rights

Dr. [REDACTED],

The American Center for Law and Justice ("ACLJ") represents Mr. & Mrs. [REDACTED] on behalf of their minor daughter, [REDACTED] regarding the decision to prohibit [REDACTED] from discussing her faith and distributing Christian tracts to her friends and classmates during non-instructional time while in attendance at [REDACTED] Middle School ("the School"). This is the second time it has been necessary for the ACLJ to send a letter to you; this same prohibition took place at [REDACTED] Elementary School several years ago. We have attached to this letter our previous demand letter and the previous agreement that we reached with your district, an agreement that has now been breached.

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 a number of significant cases involving the freedoms of speech and religion.¹

STATEMENT OF FACTS

For several years, [REDACTED] [REDACTED] has engaged in quiet, student-initiated religious expression at school by offering Christian gospel tracts to fellow students during non-instructional time. [REDACTED]

¹ See, e.g., *Pleasant Grove City v. Sumnum*, 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).

obtains these tracts in batches from the Gospel House Tract Society and distributes them during breaks and lunch. Consistent with an agreement previously reached with school officials during her time at ██████ Elementary School (also in the ██████ School District), ██████ asks each student for consent before offering a tract. She does not impose materials on anyone who does not wish to receive them.

That prior agreement, attached, was signed by ██████, Chief Policy & Strategy Officer for the ██████ Public Schools. In this letter, the District agreed with our letter's statements regarding "government neutrality to religion, avoidance of discrimination against religious viewpoints, and allowing students to express themselves at school, including potentially through the distribution of religious materials." The District also expressly agreed to allow our client "to distribute materials at school going forward, including religious materials." That agreement has now been breached.

On or about February 18, 2026, while ██████ was attending her math class at ██████ Middle School, Vice Principal ██████ entered the classroom, removed ██████ from class, and told her that she was not permitted to distribute religious gospel tracts at school. When ██████ asked why other students are allowed to express their viewpoints while she is not, Vice Principal ██████ drew an explicit and constitutionally impermissible distinction: she told ██████ that students may share opinions, but they may not share religious beliefs.

Vice Principal ██████ specifically pointed to the school's permission for students to leave campus during school hours to participate in anti-ICE protests as an example of permissible expression, while simultaneously maintaining that ██████ distribution of religious literature is not permitted. These events make plain that the District is applying a double standard — secular and political expression is welcomed, while religious expression is singled out for suppression.

During the same encounter, ██████ asked whether she could start a Christian student club. Vice Principal ██████ told her that she could, but that the club would be required to have a teacher sponsor. This statement misrepresents the applicable legal and policy framework.

The prohibition against the mere discussion of God or the giving of an item displaying a religious reference to a friend and classmate blatantly interferes with ██████ First Amendment rights as a student.

STATEMENT OF LAW

THE FIRST AMENDMENT

It is well-settled law that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." *Tinker v. Des Moines Indep. Community Sch. Dist.*, 393 U.S. 503, 506 (1969). 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.

Within *Tinker*’s framework, students are free to express their religious views while at school. Such expression includes sharing a Bible or an invitation to an event that contains Bible verses or religious references with other students who are willing recipients of such a gift or invitation. It is well settled that religious speech is protected by the First Amendment and may not be singled out for disparate treatment. *See Good News Club*, 533 U.S. 98; *Rosenberger*, 515 U.S. 819; *Mergens*, 496 U.S. 226; *Widmar v. Vincent*, 454 U.S. 263, 269 (1981).

Viewpoint discrimination, treating speech less favorably because of the particular perspective it expresses, is among the most egregious forms of content-based restriction and is subject to strict scrutiny. Here, the District’s own officials have articulated a policy of viewpoint discrimination with unusual candor. Vice Principal ██████ explicitly told ██████ that students may share opinions but not religious beliefs. She then contrasted political protest — which the school permits and apparently facilitates by allowing students to leave campus during school hours — with ██████ religious expression, which she forbade. This is not a close case. The school has opened a forum for student expression during non-instructional time and has selectively excluded a religious viewpoint from that forum.

The First Amendment precludes any government effort to single out and censor or otherwise burden the speech of private parties solely because that speech is religious. *See Rosenberger*, 515 U.S. at 828 (noting that “the government may not regulate speech based on its substantive content or the message it conveys” and that “in the realm of private speech or expression, government regulation may not favor one speaker over another.”). Indeed, “discrimination against speech because of its message is presumed to be unconstitutional. The government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.” *Id.*

Importantly, concerns relating to compliance with the Establishment Clause are invalid here. “[T]here is a crucial difference between *government* speech endorsing religion, which the Establishment Clause forbids, and *private* speech endorsing religion, which the Free Speech and Free Exercise Clauses protect.” *Mergens*, 496 U.S. at 250.

The DOE has issued guidelines to assist school officials in the proper treatment of student religious expression. It issued new guidance on prayer in schools where it reiterated:

public schools cannot subject religious speech, including prayer, to more onerous restrictions than similar secular speech. That is, a school may not discriminate against religious expression by subjecting it to different restrictions than it imposes on secular expression. If a student wanted to pray with a classmate during a time when students were permitted to talk amongst themselves, a teacher would not be entitled to require the praying students to stop or step outside.²

² U.S. Dept. of Educ., *Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools*, (Feb. 5, 2026), available at https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html.

Even the Board Policy on Freedom of Expression in the Schools states [REDACTED]

[REDACTED] In sum, the District’s conduct constitutes a clear and serious violation of [REDACTED] First Amendment rights. By permitting secular and political expression — including students leaving campus to engage in anti-ICE protests during school hours — while simultaneously forbidding [REDACTED] from quietly distributing religious tracts to consenting classmates during non-instructional time, school officials have engaged in the paradigmatic form of viewpoint discrimination the Constitution forbids. The District cannot identify any material and substantial disruption caused by [REDACTED] consent-based, student-initiated religious expression, and its own Board Policy demands more than undifferentiated concern about the content or viewpoint of a student’s speech. Nor may the District invoke the Establishment Clause as a shield: the Supreme Court has made abundantly clear that permitting private student religious expression is not only constitutionally permissible, it is constitutionally required. *See Good News Club*, 533 U.S. at 107; *Mergens*, 496 U.S. at 250. The District’s actions are unlawful and must be corrected immediately.

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 upheld the Equal Access Act as constitutional and explained that the Establishment Clause, rather than requiring the exclusion of religious clubs, 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.” *Mergens*, 496 U.S. at 248 (quoting *McDaniel v. Paty*, 435 U.S. 618, 641 (1978) (Brennan, J., concurring in judgment)). The Supreme Court’s holding in *Mergens* affirms that schools must afford religious clubs the same privileges as other clubs on campus.

[REDACTED] School District receives federal financial assistance, and [REDACTED] Middle School maintains a limited open forum. Accordingly, the Equal Access Act compels the school to permit [REDACTED] to form and operate a Christian student club on the same terms applicable to other non-curriculum-related student groups.

With respect to the faculty sponsor requirement: the Equal Access Act provides that school employees may be present at student religious group meetings only in a non-participatory, custodial capacity. 20 U.S.C. § 4071(c)(3). The school may not require a teacher to “sponsor” or

³ [REDACTED]

endorse a religious student group as a precondition of its recognition. Such a requirement would violate the Establishment Clause. Furthermore, the District’s own student activities policy, Policy 2153, does not require students to independently recruit a willing teacher sponsor — rather, it provides that the Principal shall assign a faculty monitor where one is needed, stating expressly: “The principal shall be responsible for the assignment of a room and for the approval and/or assignment of a staff member to monitor the meeting.”

DEMAND

The situation described herein is of serious importance, not just to [REDACTED] 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).

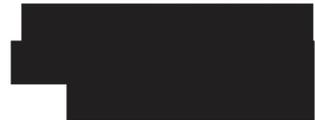
Given the nature of the rights involved, we request your immediate written assurances that School officials will comply with the requirements of the First Amendment, by permitting [REDACTED] to distribute her religious tracts to her classmates and discuss her faith during non-instructional time, without further interference from school officials. We also demand confirmation of [REDACTED] right to form and operate a Christian student club on the same terms and conditions applicable to all other non-curriculum-related student groups. We trust that this matter can be resolved swiftly and that the [REDACTED] option of taking legal action will not be necessary. Please direct your response to me in writing by Friday, March 27, 2026.

Thank you for your prompt attention to this important matter.

Sincerely,

Nathan Jeremiah Moelker

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