



October 1, 2025

VIA EMAIL AND FEDEX

Chris Swenson
Superintendent of Schools
[REDACTED]
Holdingford Public School District
[REDACTED]
Holdingford, MN, 56340

RE: Holdingford Public School District's Violation of Emma [REDACTED] First Amendment Rights

Dear Mr. Swenson,

The American Center for Law & Justice¹ represents [REDACTED] and her minor daughter, Emma [REDACTED], a ninth-grade student at Holdingford High School. We write regarding the Holdingford Public School District's ("the District") egregious constitutional violation by not allowing Emma's Bible study to have equal access to school facilities as other groups like the Boy and Girl Scouts or 4-H clubs. Under the District's policies, nonprofit groups like the Boy Scouts can use classrooms for free, while religious groups are charged a fee. Discrimination against religious clubs constitutes a blatant violation of the First Amendment and the Equal Access Act.

Statement of Facts

Emma [REDACTED] is a ninth-grade student at Holdingford High School, the only high school within the District. In May of 2025, Emma contacted Principal Tom Cooper about starting a club. Emma stated that the purpose of this club was a Christian Bible study. Cooper questioned Emma

¹ 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. *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).

extensively about the purpose and meeting location for this club and ordered her to return and meet with him in September of 2025. In September as instructed, Emma reapproached Principal Cooper about the club and a “See You at the Pole” (SYATP) event. SYATP is a popular, nationwide gathering where students gather around the flagpole of their school to pray. Principal Cooper told Emma that a SYATP event would be “too soon” to be approved, organized, or advertised. He also told her that it was possible she would need to *pay a fee for the usage of the external area where the flagpole was located*. Because of these instructions, Emma was unable to express her religious faith and did not get to host a SYATP event. In addition to SYATP, Principal Cooper indicated that, for Emma to use the library—her original chosen location for the Bible study—there would be a fee for each time the facilities were used, initially estimated at \$30.00.

Emma sent an email to Principal Cooper on September 10, 2025, asking several questions about her ability to advertise the Bible study. She sent a follow up email on September 12, 2025, asking why her Bible study was to be charged \$30.00 per meeting for the use of the library. Principal Cooper replied on September 15, 2025, that Emma’s Bible study for students would be charged this amount because it was classified as “Group D.”² Her religious club is being singled out, placed in Group D rather than Group B like other student groups or non-profits. As a result, Emma’s Bible study would have to pay for a classroom, even though Group B groups may use them free of charge. While she did not initially request a classroom, Emma would accept one if it were available on the same free basis granted to Group B.

Under the District’s Student Activity and District Fees Policy, the District discriminates, on the face of the policy, based on the viewpoint and content of the speaker. In paragraph XI, that policy divides all groups using school facilities into four groups, and “Any fees associated with the use of school facilities shall be determined on the basis of the Group Classification and the purpose for which the facilities will be used.” *Id.* In other words, the District classifies speech based on the viewpoint and content of the speaker. The classifications at issue here are Group B and Group D. Group B includes “Non-exclusive, community-based groups such as Boy and Girl Scouts, 4-H Club” and “Non-profit, district based civic groups, political subdivisions, and the like.” *Id.* Group D is “Exclusive, district based groups such as churches, fraternal or service organizations” and “District based political organizations, and the like.” *Id.* The policy then sets different costs for group use of school space, depending upon the classification. This classification discriminates on its face based on the viewpoint and content of the speaker, thereby violating the First Amendment and the Equal Access Act. In particular, Emma’s club has been misclassified and mislabeled as Group D, rather than Group B, and charged the higher rate applicable to Group D. Group D is charged \$10 per use of a classroom, while Group B is not charged any fee for the same use. Group D is charged \$27.50 per use for the use of the library, while Group B is only charged \$22.50 per use.

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. By discriminating against student and community groups based on the content of the message, the District has violated both.

² Holdingford Public Schools Student Activity and District Fees Policy, <https://www.isd738.org/fees-schedule.html>.

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, stating that “[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)). 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 Emma’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, the District has singled out religious groups for disparate treatment by classifying them as Group D. Under the policy discussed above, other voluntary student groups, such as 4-H and the Boy and Girl Scouts, are classified as Group B, where they received favorable treatment and free usage of classrooms, while Emma’s religious club is punished and required to pay a classroom fee and increased fees for other spaces because of its religious message.

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 Court 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).

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. Further, “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)).

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)). Also applicable here is the Supreme Court’s decision in *Widmar*, where unequal access to facilities was found unconstitutional because it was “content-based exclusion of religious speech.” *Widmar*, 454 U.S. at 277.

The activity of school officials here, discriminating against Emma’s religious speech by treating her club, a student-based club, differently than other clubs, such as the Boy and Girl Scouts, is an impermissible violation of the First Amendment and the Equal Access Act in a manner the Supreme Court has found unconstitutional. The District charges a higher fee for all facilities to religious groups than to nonreligious groups. And nonreligious groups are permitted to use classrooms for free, while religious groups are charged. This is a blatant violation of the First Amendment. Once a school opens a limited public forum, it must allow religious viewpoints to be expressed in the same manner as secular viewpoints. Disparate treatment because of religious activity is anathema to the Constitution. School officials illegally discriminated against Emma’s speech by not allowing her the same access at the same fee rate as other clubs.

Demand

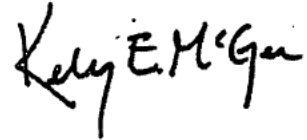
The situation described here is of serious importance, not just to Emma, but to all students attending the school who are entitled to the full protection of their First Amendment liberties. As you are undoubtedly aware, the violation of an individual’s constitutional rights, even for a moment, results 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 treat Emma’s club with the same treatment other clubs such as the Boy and Girl Scouts receive and not burden her religious exercise. Chiefly, Emma should be subject to the same rule listed in Group B for other similarly situated student clubs and able to use the school facility of her choosing—including a classroom or the library—according to the fee schedule for Group B. Similarly, should Emma’s Bible study decide to host a SYATP event next year, that she will not be prohibited from doing so. We trust that this matter can be resolved swiftly. Please direct

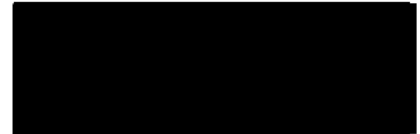
your response in writing or by phone immediately. If we do not hear from you before COB on October 8, 2025, we will assume that you intend to resolve this matter through litigation.

Thank you for your prompt attention to this important matter.

Sincerely,



Kelsey E. McGee*
Associate Counsel
American Center for
Law & Justice



** Admitted to practice law in Missouri*



Theodore C. Landwehr

