

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

(1) OWASSO KIDS FOR CHRIST,

Plaintiff,

v.

(1) OWASSO PUBLIC SCHOOLS;

Defendant.

Case No.

VERIFIED COMPLAINT FOR
INJUNCTIVE AND DECLARATORY
RELIEF

This action is not related to any previously filed case in this Court. Pursuant to the Federal Rules of Civil Procedure, Plaintiff Owasso Kids for Christ alleges as follows:

I. INTRODUCTION

1. This is a civil rights action under 42 U.S.C. § 1983 and the First and Fourteenth Amendments to the United States Constitution brought to remedy a violation of the constitutional rights of Owasso Kids for Christ (“Plaintiff” or “Kids for Christ”), a community-led, before-school Bible club that meets at Northeast Elementary School (the “School”) in the Owasso Public Schools District (the “District”).
2. Plaintiff brings this action challenging the District’s censorship of Plaintiff’s religious flyers and denial of the use of communicative mediums at the School on an equal basis with other community organizations.
3. First, the District, by policy and practice, permits community groups to distribute flyers and advertisements which are sent home with students.
4. Under the District’s take-home flyer forum, school employees distribute flyers from community groups to students to take home and give to their parents for review and consideration.

5. The flyers distributed by community groups include information concerning, inter alia, sports programs, YMCA activities, craft fairs, Boy Scout meetings, science camp, tutoring opportunities, and art classes.
6. Second, the District, by policy and practice, permits community groups to post signs and flyers on a bulletin board and literature table located in the lobby of the School.
7. Third, the District, by policy and practice, permits community groups like the Boy Scouts and Girl Scouts to post signs on school property announcing membership opportunities and weekly meetings, as well as set up information tables at the School's annual open house.
8. Fourth, the District, by policy and practice, permits community groups like the Boy Scouts to use the School's public address system to make announcements concerning their activities
9. Pursuant to its Policy and practice, the District prohibits Plaintiff from (1) distributing its religious flyers at District schools through the take-home flyer forum, (2) utilizing posting opportunities at the School,(3) participating in the School's open house, and (4) using the School's public address system on an equal basis with other community organizations, based solely on the religious content and viewpoint of Plaintiff's expression.
10. As a result, Plaintiff is deprived of the mediums other community organizations use to recruit members, remind students and parents of weekly meetings, and inform the public of its activities.
11. In denying Plaintiff access to the community flyer-forum, posting opportunities, annual open house, and public address system available to other community groups, the District acted pursuant to an unconstitutional policy.
12. Specifically, the District acted pursuant to Policy 1.05(F) of the Owasso Public Schools' Policy Manual, which states:

Correspondence/information that requires prior approval must be received and approved five (5) working days prior to the delivery date. Prior approval is required for literature, posters/signs, announcements, and advertisements by outside agencies and/or individuals.

1. Approved bulk material must be packaged and appropriately addressed to each individual school if the correspondence is district-wide, with final distribution being made by the agency and/or individual or through the school's delivery system if that is approved.

2. Correspondence/information on a district-wide level must receive prior approval from the Superintendent, or Superintendent's designee. Non-profit or for-profit advertising or fundraising materials for distribution to students will not be approved. Correspondence/information disseminated on a building level that affects only the employees of the building, needs only the approval of the building principal.

3. No literature will be distributed that contains primarily religious, objectionable, or political overtones which may be beneficial to any particular group or business at the expense of others.

13. Plaintiff challenges Policy 1.05(F)(3) of the Owasso Public Schools' Policy Manual (hereinafter the "Policy") both on its face and as-applied to Kids for Christ's distribution of flyers, posting of signs, participation in the open house, and use of the public address system.
14. The District's censorship of Plaintiff's religious speech violates the First and Fourteenth Amendments to the United States Constitution.

II. JURISDICTION AND VENUE

15. This action arises under the United States Constitution, particularly the First and the Fourteenth Amendments, under federal law, particularly 28 U.S.C. §§ 2201-02, 42 U.S.C. §§ 1983 & 1988.
16. This Court possesses original jurisdiction over Plaintiff's claims by operation of 28 U.S.C. §§ 1331 and 1343.
17. This Court is vested with authority to issue the requested declaratory relief under 28 U.S.C. § 2201-02, and pursuant to Rule 57 of the Federal Rules of Civil Procedure.
18. This Court has authority to award the requested injunctive relief under Rule 65 of the Federal

Rules of Civil Procedure and 28 U.S.C. § 1343(3).

19. This Court is authorized to award nominal damages under 28 U.S.C. § 1343(4).
20. This Court is authorized to award attorneys' fees under 42 U.S.C. § 1988.
21. Under 28 U.S.C. § 1391, venue is proper in the United States District Court for the Northern District of Oklahoma because these claims arose there and all parties reside within the Northern District of Oklahoma.

III. IDENTIFICATION OF THE PLAINTIFF

22. Plaintiff is a community-led Bible club that holds weekly, before-class meetings at the School, which is located in the District.
23. Plaintiff is a Christian organization that desires to share its religious views with students and parents at District schools.
24. Plaintiff desires to distribute religious flyers inviting students to its activities, post signs regarding those activities on school property and on the community bulletin board and literature table, participate in the school's annual open house, and make announcements over the public address system on an equal basis with other community organizations in the District without facing censorship or punishment.
25. Plaintiff, pursuant to its sincerely held religious beliefs, desires to use the communicative mediums available to other community organizations, including the School's take-home flyer forum, signage areas, bulletin boards, open house, and public address system.
26. Plaintiff desires such communicative opportunities for the same reason other community groups desire to have their information made publicly available—to promote its activities and facilitate voluntary student/parent involvement in its activities.

IV. IDENTIFICATION OF THE DEFENDANT

27. Defendant District is a body corporate and politic organized under the laws of the State of Oklahoma and may sue and be sued. 70 Okla. St. Ann. § 5-105 (providing that school districts “may sue and be sued”); *see also Dowell v. Bd. of Educ.*, 71 F.R.D. 49, 57 (W.D. Okla. 1976).
28. The District is charged, *inter alia*, with the administration, operation, and supervision of all District schools, including Northeast Elementary.
29. The District is charged with the formulation, adoption, implementation, and enforcement of District policies, including the Policy challenged herein.
30. The District is responsible for its employees’ enforcement of its policies.
31. The District is responsible for the enactment, enforcement, and existence of Policies and practices related to community groups’ access to the take-home flyer forum, signage areas, bulletin boards, literature tables, open house, and public address system.
32. The District excluded Plaintiff from distributing information through these mediums pursuant to its Policy and practice.
33. The District is responsible for District officials’, including the District Superintendent’s and local principals’, application of its Policy and practices pertaining to the distribution of flyers, posting of signs, participation in the School’s open house, and use of the School’s public address system.
34. The District is also responsible for delegating to the Superintendent, District officials, and local principals final authority to approve or deny the distribution of flyers, posting of signs, participation in the School’s open house, and use of the School’s public address system, and is thus responsible for the refusal to allow Plaintiff equal access to these communicative

mediums.

V. ALLEGATIONS OF FACT

35. Northeast Elementary is a public elementary school located in Owasso, Oklahoma, which includes grades K-5.
36. The School is under the direction of the District.
37. The District is the official policy maker and as such has enacted the Policy challenged herein.
38. The District, pursuant to its Policy and practice, generally permits community organizations to distribute flyers through the take-home flyer forum.
39. Local community groups, for example, regularly distribute literature with all types of messages promoting events held by, *inter alia*, sports clubs, the community theater, a science camp, the YMCA, Children's Miracle Network, the Owasso Chamber of Commerce, the Rotary Club of Owasso, Young Rembrandts, and the Boy Scouts.
40. The District further permits community organizations to post signs on bulletin boards and near the entrance of the school, where most students enter and exit, and use the School's public address system to make announcements to remind students and parents of weekly meetings.
41. Similarly, the District allows community groups such as the Girl Scouts to set up a table at the School's annual open house to solicit student and parent participation in its activities.
42. The District also allows the Boy Scouts to visit the school in order to invite students to sign up for its activities.
43. In November 2010, Plaintiff established a weekly Bible club that meets at the School before the commencement of classes.
44. Over 100 students are enrolled in the Plaintiff's program, weekly attendance averages 60-65 students, and in excess of 100 students attend special events organized by the Plaintiff, such

as See You at the Pole.

45. Plaintiff's meetings typically include a Bible story, religious songs, snacks, and games.
46. Initially, Plaintiff was able to distribute flyers and permission slips to students, display signs, and make announcements over the School's public address system like other community groups.
47. However, beginning in the spring of 2011, Plaintiff began to face censorship and denial of its flyers from inclusion in the take-home flyer forum and other mediums of communication open to the community.
48. In April, 2011, Plaintiff requested permission to distribute a flyer promoting a special Owasso Kids for Christ event involving a Christian martial arts group known as the Combat Team.
49. The flyer included photographs of the Combat Team performing karate demonstrations, gave the date, time, and location of the event, referenced that attendees would learn about "Life / Growth / Character," and stated the Combat Team's motto, "One Dream, One Vision, Reaching the World for Christ!"
50. However, after discussing the request with Dr. Clark Ogilvie, the District Superintendent, Principal Janell Trimble informed Plaintiff that Superintendent Ogilvie had denied Plaintiff's request to distribute the flyer through the School's take-home flyer forum because the flyer contained the phrase "Reaching the World for Christ."
51. Plaintiff offered to remove the phrase "Reaching the World for Christ," nonetheless Superintendent Ogilvie refused to grant permission to circulate the flyer.
52. In the summer of 2011, Plaintiff was informed by Superintendent Ogilvie that it would no longer be permitted to distribute any flyers, post signs, or make announcements over the public address system because it is a "religious organization."

53. When Plaintiff asked why these restrictions were not placed on other community groups, the Superintendent replied that it was because Kids for Christ is a religious organization.
54. The Superintendent also stated that such restrictions were necessary to keep “bad clubs” like the Ku Klux Klan out of the school.
55. Plaintiff informed the Superintendent in the summer of 2011 that it wished to distribute flyers concerning the formation of new Bible clubs in other District schools.
56. The Superintendent denied Plaintiff’s request to distribute flyers based on the rationale that allowing Plaintiff to participate in the take-home flyer forum would show preference for one religion over another.
57. The Superintendent further stated that Plaintiff’s student members would not be allowed to hand out flyers before or after school.
58. The Superintendent’s refusal to allow Plaintiff’s student members to hand out flyers before or after school was contrary to Owasso Public Schools Policy 5.07, which states not only that “[s]tudents may distribute written material at any entrance or exit to a school building for a period not to exceed thirty (30) minutes prior to the commencement of the earliest class and not to exceed thirty (30) minutes after the end of the last instructional class,” but also that “[t]he distribution of written material shall not be restricted or denied solely because of the political, religious, or philosophical content of the material.” (emphasis added)
59. The Superintendent actively discouraged Plaintiff from publicizing its activities in the community through signs and banners and through local media and advertising outlets because he believed such publicity would “stir up trouble.”
60. At the beginning of the 2011-2012 school year, Plaintiff requested permission to place a flyer promoting Owasso Kids for Christ on a bulletin board and table in the school lobby that is

designated for use by community organizations.

61. The flyer stated:

OWASSO KIDS FOR CHRIST

Starts Wednesday, September 7, 2011

Time: 8:15-8:45 AM

Place: Music Room

Open to all students grades K-5

We will meet EVERY Wednesday before school!

Games-Music-Message

TELL YOUR FRIENDS!

Parents are welcome to attend as well!

Find us and “like” us on facebook to keep up with what is happening with Owasso Kids for Christ this year!

62. Although Superintendent Ogilvie initially approved the request, after speaking with the District’s attorney, he withdrew his approval and denied Plaintiff from placing its flyers on the community bulletin board or the literature table.
63. Plaintiff also requested permission to participate in the School’s Open House where groups such as the PTO and Girl Scouts are permitted to place a table in the lobby and provide information to parents attending the event regarding each organization’s activities.
64. Superintendent Ogilvie denied Plaintiff from having a table in the lobby at the School’s Open House as these other groups were permitted to do.
65. Plaintiff is not aware of any other community organization the District has prohibited from functioning on an equal basis with other community organizations in District schools.
66. On September 7, 2011, Plaintiff’s counsel faxed and mailed a letter to the District informing it that the “refusal to grant equal access to Owasso Kids for Christ violates the organization’s constitutional rights and ... request[ing] that [the District] immediately permit Owasso Kids

for Christ to use District facilities and distribute literature to students on the same terms as other organizations.”

67. Plaintiff’s counsel requested a response by September 14, 2011.
68. On October 5, 2011, nearly a month after Plaintiff’s counsel sent the letter, the District’s counsel responded, stating:

The members of [Kids for Christ] will not be allowed to place posters in the hallways or have School officials make announcements over the School’s PA system. The allowing of such activities to impressionable elementary students during the regular school day and while school is in session would certainly raise the issue as to endorsement of religion by the School District. In fact, it is difficult to see how an elementary student could discern that [Kids for Christ] is not endorsed by the School District when such activities on behalf of [Kids for Christ] would be occurring by the School District to a captive elementary student audience during the regular school day.

69. Plaintiff is a Bible-believing organization that desires to share its Christian faith and beliefs with students and parents at District schools and to invite them to events and activities it sponsors on an equal basis with other community groups.
70. The religious beliefs of Plaintiff’s members compel them to share their Christian faith and beliefs with students and parents at District schools.
71. Plaintiff accomplishes this goal by inviting children, with their parents’ written consent, to activities and events that take place outside of the school day.
72. In the future, Plaintiff desires to engage in religious speech through the distribution of religious flyers, posting of signs both on school property and on the community bulletin board and literature table, participation in the School’s open house, and use of the School’s public address system to inform students and parents of its activities on an equal basis with other community organizations.
73. In particular, Plaintiff has several events scheduled for the upcoming school year that it

desires to promote to students.

- a. “Daddy and Me” Date Night for grades K-2 scheduled for December 9, 2011;
- b. “Mom and Son Science Night” scheduled for February 3, 2012; and
- c. “Father-Daughter Dance” for grades 3-5 scheduled for April 27, 2012.

For each of the events, Plaintiff has already reserved space and obtained the necessary permits and permission to hold the events at the School. However, it will continue to be denied the opportunity to promote these events to parents and students on the same basis and through the same channels as all other community groups are permitted to do.

VI. ALLEGATIONS OF LAW

74. Private speakers are entitled to equal access to public fora, free of content- and viewpoint-based discrimination.
75. Religious speech is fully protected by the First Amendment.
76. Policies establishing prior restraints on speech may not delegate overly broad discretion to government decision-makers or allow for content- and viewpoint-based restrictions, and must be narrowly tailored to serve a significant governmental interest, as well as leave open ample alternatives for communication.
77. The government may not discriminate against private speech based on its viewpoint, regardless of the forum.
78. Content-based restrictions on speech in a public forum are presumptively unconstitutional and are subject to strict scrutiny.
79. Time, place, and manner restrictions on speech must be content-neutral, narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication.

80. All of the acts of the District, its officers, agents, employees, and servants were executed and are continuing to be executed by the District under the color and pretense of the policies, statutes, ordinances, regulations, customs, and usages of the State of Oklahoma.
81. Plaintiff is suffering irreparable harm as a result of the District's conduct.
82. Plaintiff has no adequate or speedy remedy at law to correct or redress the deprivation of its rights by the District.
83. Unless the District's Policy and practices are enjoined, Plaintiff will continue to suffer irreparable injury.
84. Plaintiff continues to hold events and activities at the School and desires to share its information through flyers, signs, participation in the open house, and announcements over the public address system immediately.

FIRST CAUSE OF ACTION: VIOLATION OF THE FREE SPEECH CLAUSE OF THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

85. Plaintiff re-alleges and incorporates herein, as though fully set forth, paragraphs 1 through 84 of this Complaint.
86. The First Amendment's Freedom of Speech Clause, incorporated and made applicable to the states by the Fourteenth Amendment to the United States Constitution, prohibits censorship of religious expression.
87. The District's Policy and practices allow secular community groups to access the take-home flyer forum and distribute flyers to students and parents that promote recreational, community, charitable, and educational activities.
88. The District's Policy also permits secular community groups like the Boy Scouts and Girl Scouts to access the School's bulletin boards and literature table, signage areas in the front of the School, annual open house, and public address system to promote their activities.

89. For example, the District has permitted signs involving a wide range of secular events, including martial arts, before school programs, sports training, theater productions, craft fairs, spring festivals, science camp, art and cooking classes, and charity fundraisers, to be distributed through the take-home flyer forum.
90. However, the District prohibits the Plaintiff's religious flyer promoting its before school activities.
91. This unequal treatment of Plaintiff's religious expression is a content-based restriction in an otherwise open fora.
92. Flyers the YMCA and Boy Scouts circulate through the take-home flyer forum advertise activities aimed at inculcating values and developing character through educational opportunities, crafts, and games.
93. For example, the District permitted YMCA to distribute a flyer promoting "YMCA Martial Arts" that sought to "improve your children's self-esteem, confidence & self-discipline." The same flyer included YMCA's mission: "To Put Christian principles into practice through programs that build healthy spirit, mind, and body for all."
94. However, the District denied Plaintiff's religious flyer for the Combat Team event where students would learn about "Life / Growth / Character" and including the Combat Team's mission of "One Dream, One Vision, Reaching the World for Christ!"
95. Although Plaintiff's flyers, signs, and announcements promote activities that also inculcate values, develop character, provide educational opportunities, and involve games, music, and messages—albeit from a religious perspective—Plaintiff is barred from utilizing the School's take-home flyer forum, signage areas, open house, and public address system.

96. Barring Plaintiff from communicating its religious speech promoting community and educational activities, while permitting similar speech from other community organizations, constitutes viewpoint discrimination, which is unconstitutional in any type of forum.
97. The District's Policy 1.05, which prohibits the distribution of "literature ... that contains primarily religious ... overtones which may be beneficial to any particular group ... at the expense of others," is both content-based and viewpoint-based on its face due to its censorship of "religious" materials.
98. The District's Policy and practice additionally impose an unconstitutional prior restraint because they vest District officials with unbridled discretion to approve or deny protected religious speech by community groups.
99. The District's Policy further allows District officials to act with unbridled discretion deciding if materials from community groups "contain[] [a] primarily religious ... overtone which may be beneficial to any particular group ... at the expense of others."
100. The District's Policy and practices, on their face and as applied, give District officials unbridled discretion to prohibit certain community groups from distributing flyers through the take-home flyer forum, posting signs, participating in the open house, and using the public address system, while providing other community groups access to these communicative mediums.
101. The District's policies contain no specific guidelines or limitations concerning the circumstances in which District officials may ban or prohibit communications by community groups.
102. The District's Policy and practices are also overbroad because they sweep within their ambit protected First Amendment expression.

103. The overbreadth of the District's Policy and practice chills the speech of community groups who seek to engage in private religious expression through the distribution of flyers, posting of signs, participation in the open house, and making of announcements.
104. For example, the District's Policy and practice chill, deter, and restrict Plaintiff from freely expressing its religious beliefs.
105. The Policy, as interpreted and applied by the District to prohibit religious speech, is not the least restrictive means required to serve any compelling interest the District seeks to promote.
106. The District's Policy and practice burden more of Plaintiff's speech than is necessary because they foreclose Plaintiff from using religious content and viewpoints in its speech, even though this content is not disruptive.
107. The District's Policy and practice are furthermore not reasonably related to any legitimate pedagogical concern.
108. Censoring community groups' and individuals' religious speech *per se* is not and cannot be a legitimate pedagogical concern.
109. The District's official Policy and practice, both facially and as applied, accordingly violate Plaintiff's right to Free Speech as guaranteed by the First and Fourteenth Amendments to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays the Court grant the declaratory and injunctive relief set forth hereinafter in the Prayer for Relief.

SECOND CAUSE OF ACTION: VIOLATION OF THE FREE EXERCISE CLAUSE OF THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

110. Plaintiff re-alleges and incorporates herein, as though fully set forth, paragraphs 1 through 84 of this Complaint.

111. The District's Policy and practice of expressly targeting Plaintiff's private religious expression for special disability violates Plaintiff's constitutional right to the free exercise of religion.
112. Plaintiff desires to engage in the expressive activities described above on the basis of its sincerely held religious beliefs.
113. The District's Policy and practices explicitly exclude – and thus discriminate against – religious expression.
114. The District's Policy and practice substantially burden Plaintiff's free exercise of religion by conditioning its ability to speak on foregoing its free exercise rights.
115. The District's Policy and practice force Plaintiff to choose between engaging in religious speech and being censored, or foregoing its free exercise rights in order to speak without censorship or punishment.
116. The District's Policy and practice thereby substantially burden Plaintiff's free exercise of religion by denying it the ability to include private religious speech in the District's communicative fora.
117. The District's Policy and practice constitute the imposition of special disabilities on Plaintiff due to its religious beliefs and its intent to include private religious expression in the School's communicative fora.
118. These special disabilities placed on Plaintiff are neither neutral nor of general applicability, as they are not applied to other community groups.
119. The District's Policy and practice of barring Plaintiff from distributing religious flyers, posting signs, and making announcements on the School's public address system selectively imposes a burden on religious expression by singling it out for discriminatory

treatment.

120. The District's Policy and practice are not justified by a compelling governmental interest and are not narrowly tailored to advance any such interest.
121. The District's application of its Policy unconstitutionally chills Plaintiff's freedom of religious exercise and expression, both of which are fundamental rights guaranteed to Plaintiff by the First Amendment.
122. The District's Policy, both facially and as applied, constitutes an excessive burden on Plaintiff's free exercise of religion and violates the Free Exercise Clause of the First Amendment to the United States Constitution, as incorporated by the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays the Court grant the declaratory and injunctive relief set forth hereinafter in the Prayer for Relief.

THIRD CAUSE OF ACTION: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

123. Plaintiff re-alleges and incorporates herein, as though fully set forth, paragraphs 1 through 84 of this Complaint.
124. The Due Process Clause of the Fourteenth Amendment prohibits the government from censoring speech pursuant to vague or overbroad standards that grant unbridled discretion.
125. The determination by the District of what is and what is not forbidden religious speech violates this norm.
126. The District's Policy is vague and allows for unbridled discretion in determining which community groups' speech transgresses its bounds.
127. The District's Policy lacks any guidelines or directives to guide the decisions of District officials when approving requests to distribute flyers and other literature sought to be

distributed by community groups.

128. Specifically, District Policy 1.05 bans the distribution of literature “that contains primarily religious, objectionable, or political overtones which may be beneficial to any particular group . . . at the expense of others,” but lacks any guidelines for determining whether literature is “religious,” or “objectionable.”
129. The District’s Policy similarly allows District officials to act with unbridled discretion in deciding whether the speech of a community group “benefi[ts] ... any particular group ... at the expense of others.”
130. The discretion given to District officials in the District’s Policy leaves the censorship of community groups’ speech to the whim of District officials.
131. The District’s Policy, both facially and as applied, accordingly violate Plaintiff’s rights under the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays the Court grant the declaratory and injunctive relief set forth hereinafter in the Prayer for Relief.

FOURTH CAUSE OF ACTION: VIOLATION OF THE ESTABLISHMENT CLAUSE OF THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

132. Plaintiff re-alleges and incorporates herein, as though fully set forth, paragraphs 1 through 84 of this Complaint.
133. The District’s Policy and practice embody hostility toward religious expression and require excessive entanglement with religion, both forbidden under the First Amendment’s Establishment Clause, incorporated and made applicable to the states by the Fourteenth Amendment to the United States Constitution.
134. The District’s Policy and practice of disallowing Plaintiff’s religious expression evinces a discriminatory suppression of private speech that is not neutral, but rather is hostile toward

religion.

135. The District, pursuant to its Policy and practice of suppressing private Christian religious expression, sends the message to students, community groups, and individuals that Christian organizations, like Plaintiff, are outsiders whose viewpoint should be excluded, rather than permitted along with all other points of view.
136. The District's Policy and practice compel District officials to classify the speech of private community groups according to its perceived religious-versus-nonreligious nature.
137. This distinction necessarily requires District officials to consider the meaning adherents of different faiths place on the words and events mentioned in their communications to students and parents.
138. Such inquiries entangle District officials in the interpretation of religious doctrine in a manner forbidden by the First Amendment.
139. For example, entanglement results from District officials attempting to discern which private community groups' expression is too "religious" in nature to be permitted.
140. District officials must also make theological interpretations in order to conclude that the speech of certain community groups has beneficial "religious" overtones, while the speech of other community groups is not.
141. In denying Plaintiff the right to distribute flyers, post signs, and use the School's public address system because its message contains religious content and a religious point of view, the District exhibited a hostility towards religion that is the antithesis of neutrality.
142. No compelling state interest justifies the District's censorship of Plaintiff's religious expression.
143. The District's Policy and practice therefore violate the Establishment Clause of the First

Amendment to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays the Court grant the declaratory and injunctive relief set forth hereinafter in the Prayer for Relief.

FIFTH CAUSE OF ACTION: VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

144. Plaintiff re-alleges and incorporates herein, as though fully set forth, paragraphs 1 through 84 of this Complaint.
145. The Equal Protection Clause of the Fourteenth Amendment requires the government to treat similarly situated groups equally.
146. Pursuant to its Policy and practice, the District allows other similarly situated community groups to utilize the School's take-home flyer forum, signage areas, open house, and public address system to communicate secular expression.
147. The District has treated Plaintiff disparately when compared to similarly situated community groups by banning only Plaintiff's religious expression
148. By discriminating against the content and viewpoint of Plaintiff's speech, the District is treating Plaintiff's religious speech differently than that of other similarly situated community groups.
149. The District's Policy and practice violates Plaintiff's fundamental rights, including the rights of free speech and free exercise of religion.
150. When government regulations, like the District's Policy and practice challenged herein, infringe on fundamental rights, discriminatory intent is presumed.
151. In this case, the presumption of discriminatory intent is born out by the District's Policy and practice of intentionally discriminating against Plaintiff's religious speech and free exercise of religion.

152. The District lacks a rational or compelling state interest for treating Plaintiff in such a disparate manner.

153. The District's denial of access to Plaintiff is not narrowly tailored in that the District's restriction of Plaintiff's speech and free exercise of religion are unrelated to any legitimate government interest.

154. The Policy, both facially and as applied, thus violates Plaintiff's right to equal protection of the laws as guaranteed by the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays the Court grant the declaratory and injunctive relief set forth hereinafter in the Prayer for Relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for judgement as follows:


- a. That this Court issue a Preliminary and Permanent Injunction restraining the District, its officers, agents, employees, and all other persons acting in active concert with it, from enforcing the Policy and practice challenged herein that infringe upon Plaintiff's constitutional rights by banning religious expression, and immediately allowing Plaintiff to distribute flyers, post signs, participate in the open house, and make announcements on the School's public address system in the same manner as other community organizations.
- b. That this Court render a Declaratory Judgment declaring Owasso Public Schools Policy 1.05(F)(3), which bans religious expression in violation of the First and Fourteenth Amendments to the United States Constitution, unconstitutional both facially and as applied to Plaintiff.

- c. That this Court render a Declaratory Judgment declaring unconstitutional the District's practice of banning religious expression in violation of the First and Fourteenth Amendments.
- d. That this Court adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter here in controversy, in order that such declarations shall have the force and effect of a final judgment;
- e. That this Court retain jurisdiction of this matter for the purpose of enforcing any Orders;
- f. That the Court award Plaintiff's costs and expenses of this action, including a reasonable award of attorney's fees, in accordance with 42 U.S.C. § 1988.
- g. That this Court award nominal damages for the violation of Plaintiff's constitutional rights;
- h. That this Court issue the requested injunctive relief without a condition of bond or other security being required of Plaintiff; and
- i. That the Court grant such other and further relief as the Court deems equitable and just in the circumstances.

Dated this 21st day of October, 2011.

Jeremy D. Tedesco*
AZ # 023497
Alliance Defense Fund
15100 N. 90th Street
Scottsdale, AZ 85260
(480) 444-0020
(480) 444-0028 Fax
jtedesco@telladf.org
Lead Counsel

David A. Cortman*
GA # 188810
J. Matthew Sharp*
GA # 607842
Alliance Defense Fund
1000 Hurricane Shoals Rd. NE, Suite D600
Lawrenceville, GA 30043
(770) 339-0774
(770) 339-6744 Fax
dcortman@telladf.org
msharp@telladf.org
*Application for Admission Pro Hac Vice
Submitted Herewith


By: 
Richard D. White Jr.
OBA # 9459
Barber & Bartz
525 S. Main, Ste. 800
Tulsa, OK 74103
(918) 599-7755
(918) 599-7750 Fax
RWhite@barberbartz.com
Local Counsel

Attorneys for Plaintiff

VERIFICATION

I, Jennifer Rhames, a citizen of the United States and a resident of the State of Oklahoma, have read the foregoing Verified Complaint for Declaratory and Injunctive Relief and declare under the penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed this 10th day of October, 2011.


Jennifer Rhames