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REPLY TO FLORIDA

June 18, 2023

By E-mail Only

Sheila Soule, Superintendent
Addison Northwest School District
11 Main Street, Suite B100
Vergennes, VT 05491
[REDACTED]

RE: Tuesday, June 20th 2023 PRE Event – “Transgender ‘Care’ Helpful or Harmful”

Dear Superintendent Soule:

Liberty Counsel writes regarding the above-captioned event sponsored by Parents’ Rights in Education (PRE), to 1) caution the Addison Northwest School District (“ANWSD” or “the District”) against cancelling the above event based on reports of planned protests; and to 2) request that the District announce the PRE Event via electronic means. The District announced the event of another non-school organization on June 15 via email to the students and parents. **The District should provide an email announcement distributing the attached PRE Event flyer, regarding the June 20 event.**

By way of introduction, Liberty Counsel is a national litigation, education, and public policy organization, not for profit, with an emphasis on First Amendment liberties. In 2020 and 2021, Liberty Counsel’s groundbreaking lawsuits coast-to-coast freed houses of worship in numerous states from discriminatory COVID-19 restrictions, with several cases reaching the United States Supreme Court. *See Harvest Rock Church, Inc. v. Newsom*, 141 S. Ct. 1289 (2021), and a subsequent final judgment requiring attorney’s fees and costs of \$1,350,000 to Liberty Counsel. *See Harvest Rock Church, Inc. v. Newsom*, No. 2:20-cv-06414, C.D. Cal. (May 14, 2021).

In 2022, the national press wrote about our unanimous, 9-0 Supreme Court victory in [Shurtleff v. City of Boston](#), 142 S. Ct. 1583 (2022), which struck down the City of Boston’s religious discrimination against Christians.¹ The City of Boston recently paid Liberty Counsel more than \$2,100,000 in attorney’s fees.

In April 2023, the Tampa City Council unanimously passed a resolution approving the settlement of Liberty Counsel’s attorney’s fee claim against the City of Tampa following Liberty Counsel’s victory in striking down Tampa’s speech ban that prevented licensed counselors from providing

¹ (*See, e.g.,* Adam Liptak, *Supreme Court Rules Against Boston in Case on Christian Flag*, New York Times (May 2, 2022) <https://www.nytimes.com/2022/05/02/us/supreme-court-boston-flag-free-speech.html>).

voluntary talk therapy to minors seeking help to reduce or eliminate unwanted same-sex attraction, behavior, or identity. The City of Tampa will pay Liberty Counsel \$950,000 as a result of [Vazzo v. City of Tampa](#), No. 19-14387, 2023 WL 1466603 (11th Cir. Feb. 2, 2023), and the City of Boca Raton and Palm Beach County will likewise soon pay significant attorney’s fees to Liberty Counsel as a result of our victory in the similar case [Otto v. City of Boca Raton](#), 981 F.3d 854 (11th Cir. 2020), *reh’g denied*, 41 F.4th 1271 (11th Cir. 2022).

In general, Liberty Counsel has a strong interest in matters involving First Amendment rights, including issues involving the fundamental rights of parents; as well as speakers who wish to speak on issues of sexuality, identity, religion, and a variety of others.

ANWSD and Parental Rights

In the last year, parents in ANWSD have contacted Liberty Counsel about their experiences with the District. Parents report that ANWSD has fostered a particular viewpoint on issues of sexuality and identity and has denied multiple requests to opt their children out of certain portions of Comprehensive Sex Education (CSE) instruction. Yet, parents have the fundamental right to direct their children’s education and their parental rights are protected by the U.S. Constitution and Vermont law. The District’s refusal to honor parental opt-out requests regarding sexuality and identity is a subject for another time but is relevant background to this matter.

ANWSD and Parents’ Rights in Education (PRE)

In addition to parents, representatives of the Vermont chapter of Parents’ Rights in Education have contacted Liberty Counsel. The PRE Vermont chapter has received District facilities use approval to hold an event on June 20, 2023, featuring Walt Heyer and other speakers, on the subject of “TRANSGENDER ‘CARE’ HELPFUL OR HARMFUL?” (hereinafter, “PRE Event” or “Event”). I understand the PRE Event is intended to discuss whether affirming minors in the belief that they may, can or should “transition” to the opposite sex, or otherwise engage in opposite sex “gender identity or expression” is helpful or harmful. PRE Event speaker Walt Heyer has lived experience that is relevant to these important decisions. Opposition group “Outright Vermont” does not want Mr. Heyer to share his story.

Contrary to Outright Vermont’s claims of “hate,” PRE organizers and attendees hate no one and love all children (including those who identify as “transgender” or who do not identify with their natal sex). PRE Event organizers are concerned with efforts to encourage children in false identities that too often have resulted in mutilating surgeries. *See, e.g., [the story of Chloe Cole](#).*² Gender ideology is not harmless. [A baby died because doctors were told his mother was a man](#). [Female athletes have been unjustly deprived](#) by male athletes of the recognition they earned in women’s high school and college sport events. Other examples abound.

Thus far with the PRE Event, I understand a) **the District falsely claimed space was not available** (and then recanted when Event organizers noted space WAS available); b) **the District refused to announce the Event via bulletin board postings** and email distribution (despite the organizers’ request, and despite the clear language of District Policy E21 providing for same); c) **the District denigrated the Event via an email that announced an event for opposition group**

²*See, e.g.,* Brad Jones, *Ex-transgender Teen Recounts ‘Horrible’ Experience of Transition, Surgery*, The Epoch Times (August 29, 2022) https://www.theepochtimes.com/ex-transgender-teen-recounts-horrifying-experience-of-transition-surgery_4694543.html

Outright Vermont on June 15; and d) **Outright Vermont and others are protesting the Event** “to show transphobia will not be tolerated” and hope to have the event cancelled.

Liberty Counsel therefore strongly cautions the District against cancelling the PRE Event on the basis of protests or claimed threats. Peaceful protest activity outside of District property is protected by the First Amendment; but disruptive activity on District property may not be used as a pretext to cancel the Event. The District has an obligation to retain additional security, if needed, and may not cancel the Event on the basis of “security;” nor may it burden protected speech with “security” fees based on the viewpoint of the speakers, or a threatened “heckler’s veto.”³

Liberty Counsel also urges the District to provide equal treatment to the PRE Event in terms of electronic announcements and (for future events) bulletin board announcements. On June 15, 2023, the District denigrated the PRE Event via an email to students, and made an announcement for an opposing (non-District) group’s “circles” event via that same email. The District sent a “Dear VUMHS Students” lending the District’s official imprimatur to the false claim that the PRE Event would be “distressing” to students, “particularly those who may be directly impacted or feel targeted by the content being discussed.” The email suggested the PRE Event would make students “unsafe” and harm students’ “well-being” (i.e., “Our primary focus is on the safety and well-being of you all”).

In addition, and contrary to the treatment the District gave the PRE Event, the District announced the competing “circles” event **which was held by non-District adult opponents of PRE (Outright Vermont)** to “hold space” for students **“in the VUMHS library, from 9:00-11:00 a.m.”** On information and belief, no facilities use form was submitted by Outright Vermont for the “circles” event. The District announced Outright Vermont’s event via the entire District email distribution system, where the District previously denied electronic distribution of the PRE Event’s flyer; and denied posting of the PRE Event flyer on bulletin boards.

District Policy

ANWSD permits community members to inform parents and students about community events, consistent with Policy E21, [Distribution of Non-School Sponsored Literature in the Schools](#).⁴ In response to the request of a PRE Event organizer, on June 9, 2023 Superintendent Soule responded “We do not have bulletin boards for outside groups to post information.” Yet, Policy E21 clearly permits distribution of “Non-school sponsored literature” via “Distribution,” including on bulletin boards.

“**Non-school sponsored literature**” includes “printed, written, or **electronic materials** prepared by non-school organizations;” including [n]on-school sponsored “fliers, invitations, announcements...and **electronic messages.**”

³ Governments may not “recoup costs that are related to listeners’ reaction” to speech, *Long Beach Area Peace Network v. City of Long Beach*, 574 F.3d 1011, 1039-40 (9th Cir. 2009); overly-broad indemnity provisions raise “the possibility of a “heckler’s veto,” by which “[t]hird parties who disagree with the content of [an] organization’s speech could ... punish an organization after the event.” *Matter Utah v. Njord*, 774 F.3d 1258, 1271-72 (10th Cir. 2014); rules extending indemnity to all harm “arising out of or in any way connected with the use of the State Facilities by the user” are unconstitutional, *Watters v. Otter*, 986 F. Supp. 2d 1162, 1184-85 (D. Idaho 2013). A “**city cannot in lieu of denying the permit, charge the applicant for the expense to the city of reining in the hecklers.**” *Forsyth County v. Nationalist Movement*, 505 U.S. 123, 134-35 (1992).

⁴ Policy E21, available at <https://drive.google.com/file/d/17jTPfKfXkvaV4eEft1InXaZs-CCuJE/view> (last visited June 18, 2023).

“Distribution” includes “posting on school property such as walls, bulletin boards, and District web-sites,” as well as “making available in principal’s office; or engaging in any other manner of delivery of non-school sponsored literature to others...” (emphasis added). Thus, the District violated Policy E21, in denying bulletin board placement of the PRE Event flyers; and in not making the PRE flyers available electronically; and then making electronic announcement for the Outright Vermont “circles” event.

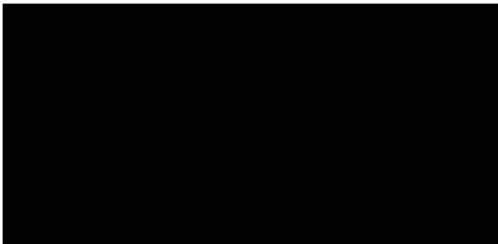
Legal Standard

The District’s email to students denigrating the PRE Event itself may be actionable. The Ninth Circuit Court of Appeals, for example, found standing for a group of Catholic San Francisco residents to challenge a non-binding resolution by the San Francisco Board of Supervisors condemning their beliefs regarding adoption and homosexuality. *See Catholic League for Religious & Civil Rights v. City & Cty. of S.F.*, 624 F.3d 1043, 1052–53 (9th Cir. 2010) (*en banc*).

The law is clearly established, however, that the District may not deny electronic announcements and others requested by organizers of the PRE Event, and then turn around and extend favorable treatment to another group’s event on the opposite side of the same subject matter (here, Outright Vermont on the issues of transgenderism or gender identity).

Unbridled discretion is always unconstitutional. It can occur without objective standards, or when objective standards are not applied consistently, allowing government officials “the ‘power to discriminate based on the content or viewpoint of speech by suppressing disfavored speech or disliked speakers.’” *Charette v. Town of Oyster Bay*, 159 F.3d 749, 754 (2d Cir.1998) (quoting *City of Lakewood v. Plain Dealer Publ’g Co.*, 486 U.S. 750, 759 (1988)). Furthermore, “[d]iscrimination against speech because of its message is presumed to be unconstitutional.” *Rosenberger v. Rector and Visitors of the Univ. of Va.*, 515 U.S. 819, 828 (1995). And, the government may not discriminate against private parties on the basis of government disfavor against the group’s viewpoint – religious or otherwise. *Good News Club v. Milford School District*, 533 U.S. 98 (2001); *Amandola v. Town of Babylon*, 251 F.3d 339, 344 (2d Cir. 2001); *Hills v. Scottsdale Unified School District*, 329 F.3d 1044 (9th Cir. 2003); *Child Evangelism Fellowship v. Montgomery County*, 373 F.3d 589 (4th Cir. 2004); *Child Evangelism Fellowship of New Jersey Inc. v. Stafford Township School District*, 386 F.3d 514 (3d Cir. 2004).

The District has discriminated here, by denigrating the PRE Event, and by allowing an announcement of an opposing group, while denying the announcement of the PRE group. Moreover, the District has not followed its own policies regarding announcements. For these reasons, Liberty Counsel strongly cautions the District against any calls to cancel the PRE Event, **and I request on behalf of Liberty Counsel that the District eliminate the disparate treatment between Outright Vermont and Parents’ Rights in Education, by making a (belated) email distribution of the PRE Event flyer**, which is attached for your ready reference. Thank you for your consideration.



c:

[REDACTED]

[REDACTED]

ANWSD School Board (by e-mail)

John Stroup, Chair

[REDACTED]

Chris Kayhart, V. Chair

[REDACTED]

Kristina MacKulin, Clerk

[REDACTED]

Erica Andrus

[REDACTED]

Nicole Bearor

[REDACTED]

Laurie Childers

[REDACTED]

Mimi Clark

[REDACTED]

Martha DeGraaf

[REDACTED]

Amy Kittredge

[REDACTED]

Mark Koenig

[REDACTED]

Michael Kane

[REDACTED]

Chrystal Little

[REDACTED]

[REDACTED]
[REDACTED]



TRANSGENDER “CARE” *HELPFUL or HARMFUL?*

TUESDAY, JUNE 20, 2023

6:30pm - 8:30pm

**Vergennes Union Middle and High School
50 Monkton Rd, Vergennes,
VERMONT 05491**

Don't miss this educational seminar!

Featured Speaker

Walt Heyer

International speaker with a compelling life story relevant to adults and children today - particularly for those who identify as transgender or those who seek to lovingly support them. In April of 1983, Walt had surgery to "transition" from male to female, but hormones and sex change genital surgery couldn't change his biological sex, nor solve the underlying issues driving his gender dysphoria. Walt de-transitioned more than 25 years ago. Walt's discussion will include:

- how the majority of gender-distressed children naturally desist from their dysphoria, meaning that they grow to accept their biological sex;
- how "affirming" children in social transition, including false names and pronouns is harmful;
- the devastating, permanent effects of mutilating "gender affirmation" surgeries.
- how the real message of the transgender movement to gender dysphoric children is: "something is wrong with who you are;"
- how to be a true ally through truth and compassion to those struggling with gender dysphoria.

NO CHARGE, DONATIONS ACCEPTED

www.ParentsRightsInEducation.com

RSVP: Vermont@ParentsRightsInEducation.org

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