



March 23, 2010

*VIA ELECTRONIC AND FIRST CLASS MAIL*

Jon D. Fishbane, Esq.  
District General Counsel  
The School Board of Collier County  
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Dear Mr. Fishbane:

I am writing this letter in response to a recent denial of access to the District's community flyer distribution forum of a church's Easter service flyer. As you will see, the egregiousness of the flyer's denial is only surpassed by the fact that ADF sued the District last year on behalf of the same church and for the same reason.

Only a few months ago, in November of 2009, the District settled a lawsuit brought by ADF on behalf of Cypress Wood Presbyterian Church. In that case, the District denied the church's religious flyer announcing its summer Vacation Bible School based on a District Policy that prohibited flyers containing "a proselytizing message (i.e. promote the benefits of a specific religion)" and those that "overtly advocate or entice support for any religious organization." District Policy 9700(C)(5)(b) & (d). As part of the settlement agreement, the District not only agreed to distribute the Church's flyers, it adopted Resolution 09-08 which (supposedly) revised the challenged Policy to remove the prohibitive language.

Just a few days ago, I was again contacted by the same church and informed that its Easter Worship Service flyer was denied for the stated reason that it has a "clear Religious message which would entangle the district in religion in violation of the first Amendment" (sporadic upper case in original). As if this denial was not bad enough, according to the District's policies on its website, the same Policy that was allegedly revised last year was not revised at all—it still contains the same unconstitutional language challenged in last year's lawsuit.

While I understand that not all school officials may have gotten the memo, how is it possible that the committee who decides whether to approve or deny flyers was not informed of the "new" Policy that prohibits discrimination against religious community groups, such as the church? And how is it possible that the same Policy is still included on the District's website?

Please respond immediately whether this is just a case of bureaucratic missteps, or whether you intend to defend these recent actions. If the former, please notify me immediately that the District will distribute the church's flyers, that the Policy has indeed been changed to reflect our settlement of last year (with appropriate documentation), and that the revised Policy will be posted in all appropriate locations, including the District's website. If the latter, please notify me upon which version of the Policy your denial is based and whether Policy 9700 is still active in its former version. Also, please include a copy of the current version of the Policy.

Thank you for your immediate attention to this matter.

Sincerely,



David A. Cortman

cc: Pastor Loerop, CWPC  
James Fox, Esq. (jfox@ralaw.com)