



May 8, 2009
Via U.S. Mail and Facsimile

Dr. Clint Harwick, Superintendent
Charter Oak Unified School District
20240 E. Cienega Ave.
Covina, CA 91724

Re: *Discriminatory Treatment of Student Club*

Dear Dr. Harwick:

Jose Gonzalez, on behalf of his daughter Patricia, has asked the Alliance Defense Fund to notify you about unlawful discrimination against Patricia's student club, the Spiritual Place of Teens ("S.P.O.T."), by officials at Royal Oak Middle School ("School"). Please send all correspondence about this matter to my attention.

At the School, numerous curriculum and non-curriculum related student clubs meet, including Chess Club, Skate Board Club, Robotics Club, and Drama Club. These clubs receive numerous benefits and privileges, including, among other things, the opportunity to post and distribute flyers related to club events and activities at various places around the School and to use School copy machines to reproduce these materials.

Unfortunately, School officials appear to have denied Patricia's S.P.O.T. Club the same rights and benefits that other student clubs receive, all because of the religious nature of its speech. For example, during recent planning efforts for their yearly National Day of Prayer gathering at the School flag pole, S.P.O.T. members were told by Principal Mary Martinez that due to purported concerns about "promoting religion," S.P.O.T. was (1) prohibited from referring to the event as the National Day of Prayer, and instead must refer to it as the National Day of *Reflection*, and (2) prohibited from posting or distributing any flyers or posters about the event at the School. Ms. Martinez eventually agreed not to enforce these restrictions – the likes of which are not imposed on other student groups – but only at S.P.O.T.'s repeated urging.

However, Ms. Martinez then proceeded to tell S.P.O.T. that while they could post and distribute flyers about the event, they were prohibited from including the Bible verse Psalm 33:12 on these materials. She also prohibited any reference on the materials to President Obama's stated acknowledgment of the National Day of Prayer, which was, in fact, accurate. She additionally informed S.P.O.T. that they could not make any copies of flyers or posters at school, even though other clubs are permitted to do so. Ms. Martinez even went so far as to instruct S.P.O.T. members several times that they could not "talk about religion" with other students. And finally, Ms. Martinez told S.P.O.T. that they must submit a facility use request to continue meeting on campus during non-instructional time, even though no other student clubs must submit such a request.

The federal Equal Access Act (20 U.S.C. § 4071 *et seq.*) and the First Amendment of the United States Constitution require the School to provide Patricia's S.P.O.T. Club the exact same rights, benefits, and privileges that all other clubs receive. The slightest deviation in treatment violates Patricia's rights. Unfortunately, deviation is exactly what's occurring here. Ms. Martinez appears to be censoring the speech of S.P.O.T. members in ways that she is not censoring other student groups and their members.

Please respond to this letter in writing by Thursday, May 14, 2009 and provide assurances that School officials will immediately cease from:

- censoring S.P.O.T.'s religious speech on posters and flyers;
- prohibiting S.P.O.T. from posting or distributing flyers that include religious speech;
- prohibiting any student at the School from talking about religion with other students;
- prohibiting S.P.O.T. from using School copy machines to reproduce posters or flyers – even when these materials contain religious speech; and
- requiring S.P.O.T. to submit a facility use agreement in order to meet at the School.

Please also explain in your letter the School's policies and practices regarding the existence of student clubs, and identify the rights and benefits student clubs receive. Please also enclose the School's and/or the School District's policies regarding student club formation, recognition, and benefits and privileges, and any other policies dealing with the free speech rights of students.

In sum, Patricia's S.P.O.T. Club is indeed allowed to "promote religion" at school, and its members have federal statutory and constitutional rights to be treated exactly the same as all other student club members at the School, and to receive the same rights, benefits, and privileges afforded to other clubs. The School's apparent disparate treatment of the S.P.O.T. Club must be remedied for the School to be in compliance with federal law.

Sincerely,



David A. Cortman
Senior Legal Counsel

cc: Mary Martinez, Principal, Royal Oak Middle School
Tim Chandler, Legal Counsel, ADF Sacramento Office
Jose and Patricia Gonzalez