



AMERICAN ATHEISTS LEGAL CENTER

718 7th Street NW, Washington DC 20001



September 19, 2019

Via Regular Mail & Email

Rob Busch
Edgewood-Colesburg Community School District
409 East Main St.
Colesburg, IA 52035

Re: Ed-Co CSD sponsorship of “Faith on the Field” event; request for records pursuant to the Iowa Open Records Law

Dear Superintendent Busch:

Several members of the Edgewood-Colesburg (Ed-Co) community have contacted Eastern Iowa Atheists (EIA) and the American Atheists Legal Center (AALC) with concerns about the upcoming “Faith on the Field” event. According to our complainants, the event is being organized by the Fellowship of Christian Athletes in conjunction with several local churches and is scheduled to include performances by the Ed-Co Jr/Sr High band and cheerleaders as part of the school’s homecoming events. The school’s football team and athletic staff will reportedly be attending as well. These reports have raised concerns that Ed-Co Community School District has organized and endorsed the “Faith on the Field” event in violation of the Establishment Clause of the First Amendment, Article 1, section 3 of the Iowa state constitution, and several Ed-Co CSD policies. The AALC respectfully requests that you take steps to avoid any potential violations in connection with the event. The AALC also requests the production of the public records listed below pursuant to the Iowa Open Records Law.

American Atheists, Inc., is a national nonprofit organization dedicated to protecting the separation of religion and government and elevating the voices of atheists in our nation’s public discourse. American Atheists is based in Cranford, New Jersey, and has more than 350,000 members and supporters across the country, including in Edgewood, Iowa, and Clayton and Delaware counties.

The Eastern Iowa Atheists (EIA) is an advocacy group for atheists and other non-religious Iowans with roots in Eastern Iowa. EIA works to protect the separation of religion from government in local city governments and public schools across Eastern Iowa while promoting positive atheism. The EIA serves Eastern Iowa through various volunteer and activism opportunities as well as through community outreach and education efforts.

The Establishment Clause of the First Amendment of the U.S. Constitution requires that government make no law respecting an establishment of religion, a prohibition which extends to state governments via the Fourteenth Amendment.¹ The Iowa state constitution’s establishment

¹ *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 205 (1963).

clause imposes the same requirements.² At a minimum, the Establishment Clause prohibits the government from coercing anyone into participating in religious exercises.³ Even in the absence of coercion, the Establishment Clause limits government actions to those undertaken with a secular purpose, that do not advance or inhibit a particular religious viewpoint, and that do not result in excessive government entanglement with religion.⁴ These principles are explicitly reiterated in Ed-Co CSD Policy # 603.8, Religion and Public Schools.⁵

In the context of elementary and secondary education, the Establishment Clause demands that school district officials be “particularly vigilant” in ensuring schools do not promote religious viewpoints.⁶ “Families entrust public schools with the education of their children” with the understanding that schools and the opportunities they provide to students will not be used to impose on them the prevailing religious beliefs of the community, administrators, or faculty.⁷ This includes prohibiting policies and practices that permit teachers and coaches to require students to participate in prayers, sectarian songs, or other religious exercises.⁸ The Supreme Court has also concluded that organized prayers at public school extracurricular events, whether staff- or student-led, constitute an impermissible government establishment of religion.⁹ The Ed-Co CSD Board acknowledged these decisions in Ed-Co CSD Policy # 603.8, Religion and Public Schools, stating that “no religious belief or nonbelief should be promoted by the school district or its employees.”¹⁰

Both Congress and the Supreme Court have made it clear that school districts and their personnel are similarly limited when it comes to events organized by student groups and community organizations. Congress passed the Equal Access Act¹¹ (EAA) in order to ensure that school districts meet these obligations with regard to student-led groups. The EAA requires that:

1. Meetings be voluntary and student-initiated;
2. There is no sponsorship of the meeting by the school, the government, or its agents or employees;

² *Americans United for Separation of Church & State v. Prison Fellowship Ministries, Inc.*, 509 F.3d 406, 423 (2007)

³ *Lee v. Weisman*, 505 U.S. 577, 587 (1992).

⁴ *Lemon v. Kurtzman*, 403 U.S. 602, 612 (1971).

⁵ Edgewood-Colesburg Community School District, Board Policy, Code No. 603.8, Religion and Public Schools (2014), available at <https://www.edge-cole.k12.ia.us/vimages/shared/vnews/stories/5419f11cd0d38/603.8.pdf>.

⁶ *Edwards v. Aguillard*, 482 U.S. 578, 583 (1987); see also *Widmar v. Vincent*, 454 U.S. 263, 274, n.14 (1981).

⁷ *Edwards*, 482 U.S. at 584.

⁸ *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 311-12 (2000); *Wallace v. Jaffree*, 472 U.S. 38, 44, n.23 (1985).

⁹ *Santa Fe*, 530 U.S. at 311-12.

¹⁰ Edgewood-Colesburg Community School District, Board Policy, Code No. 603.8, Religion and Public Schools (2014), available at <https://www.edge-cole.k12.ia.us/vimages/shared/vnews/stories/5419f11cd0d38/603.8.pdf>.

¹¹ 20 U.S.C. § 4071.

3. Any teachers, employees or other school officials who attend the meetings for such a group may only observe the meeting. They cannot participate;
4. The meetings cannot disrupt the orderly conduct of educational activities within the school; and
5. No one from outside the school may direct, conduct, control, or regularly attend activities of student groups.¹²

These requirements are reflected in Ed-Co CSD Policy # 504.2, Student Organizations, which states that “[o]nly students may attend and participate in meetings of noncurriculum-related groups” and that district personnel “shall not participate in the meeting or assist in planning, criticizing, or encouraging attendance.”¹³ The policy further directs that “attendance shall be strictly voluntary and student-initiated” and that a “principal may require parental consent for the student to attend the meetings” in order to insure that attendance is voluntary.¹⁴

Similarly, the U.S. Supreme Court has ruled that if a school district chooses to make its facilities available to the broader community, it may do so, but a school district may not give any community group special access to the students or the school that other non-school-sponsored organizations do not receive.¹⁵

The event reported by our complainants appears to implicate all of the restrictions laid out above. According to the reports, the event is being organized by the Fellowship of Christian Athletes—ostensibly a student-led organization—in cooperation with half a dozen local churches, as well as the teachers and coaches responsible for the Ed-Co Jr/Sr High football team, cheerleading team, and band. The main point of contact for the event is neither a school official nor a student, but rather Karen Everett, an area resident. In prior years, the event has included Christian music and a sermon from a local preacher. Although the event is scheduled to take place at Edgewood’s Community Dreams athletic field, in the case of inclement weather, the event will reportedly be moved to Ed-Co Jr/Sr High.

This event, if permitted to take place as currently planned, violates the law in a myriad of ways. The involvement of the Ed-Co Jr/Sr High football team, cheerleading team, band, and several members of staff, coupled with the school’s promotion of the event alongside its own Homecoming events and the use of the school’s facilities as a venue in case of inclement weather, indicate that “Faith on the Field” is a school-sponsored activity. As such, it is subject to the requirements imposed by Policy # 603.8, in addition to being subject to the Establishment Clause of the First Amendment and Article 1, section 3 of the Iowa state constitution. Yet the event violates all three prongs of the Lemon test. The event lacks any secular purpose. It is, in fact, explicitly sectarian, as evidenced by its title, “Faith on the Field,” and the fact that it has been organized by the Fellowship of Christian Athletes and several local churches. For the same reasons, it is evident that the primary effect of the event is to advance a Christian

¹² 20 U.S.C. § 4071(c).

¹³ Edgewood-Colesburg Community School District, Board Policy, Code No. 504.2, Student Organizations (2019), available at <https://www.edge-cole.k12.ia.us/vimages/shared/vnews/stories/53c551447b998/504.2.pdf>.

¹⁴ *Id.*

¹⁵ *Good News Club v. Milford Cent. Sch.*, 553 U.S. 98 (2001).

viewpoint. Lastly, organizing the event and arranging the participation of the Ed-Co Jr/Sr High football team, cheerleading team, and band creates an excessive entanglement between Ed-Co CSD and the religious organizations behind the event.

In addition to the violation resulting from “Faith on the Field” being a school-sponsored event, the involvement of the Fellowship of Christian Athletes further exacerbates the issue. Under the Equal Access Act, a school district cannot sponsor an event organized by a noncurriculum-related student group and attendance must be voluntary. These requirements are reiterated in Policy #504.2, which also states that district employees cannot assist in planning such an event. Yet here, teachers and coaches are coordinating with FCA in planning the event as part of the school’s homecoming celebration and coercing student athletes and musicians to participate.

Finally, despite the requirement that school districts not provide community religious organizations with special access to students, the event is being organized in cooperation with several local churches and at least one church official will deliver a sermon to the students and families in attendance. This is in direct violation of the requirements laid out by the Supreme Court in *Good News Club*.

Students and their families are free to exercise their beliefs and American Atheists has no objection to a student group organizing an event. Atheist student groups at schools around the country benefit from those same constitutional protections. We do object, however, to a school district placing the weight of its authority behind a particular religious group. Ed-Co CSD has crossed that line in this instance and must take all necessary steps to ensure that it does not violate the constitutional rights of its staff, students, and families by promoting, participating in, or requiring the attendance of any student at the “Faith on the Field” event. If the event’s organizers plan to use any Ed-Co CSD facilities or equipment, they must request to do so through the proper procedures.

Request for Records

Pursuant to the Iowa Open Records Act,¹⁶ the AALC and EIA hereby requests that copies of the following public records be produced to the AALC via email to records@atheists.org or, if the records do not exist in electronic format, to the address listed below.

1. All emails containing “Fellowship of Christian Athletes” or “FCA” sent or received by any @edge-cole.k12.ia.us email account on or after August 1, 2017;
2. All emails containing “Faith on the Field” sent or received by any @edge-cole.k12.ia.us email account on or after August 1, 2017;
3. All emails containing “See You at the Pole” or “SYATP” sent or received by any @edge-cole.k12.ia.us email account on or after August 1, 2017;
4. All emails between any @edge-cole.k12.ia.us email account and Karen Everett on or after August 1, 2017;

¹⁶ Iowa Code § 22.1 et seq.

5. All emails between any @edge-cole.k12.ia.us email account and Mark Moyer on or after August 1, 2017;
6. All Community Use of School District Facilities & Equipment Application Forms signed on or after August 1, 2017;
7. All Community Use of School District Facilities & Equipment Indemnity and Liability Insurance Agreements signed on or after August 1, 2017;
8. All social media posts containing "Faith on the Field" published to any social media account controlled or operated by Ed-Co CSD on or after August 1, 2017;
9. All social media posts containing "Fellowship of Christian Athletes" or "FCA" published to any social media account controlled or operated by Ed-Co CSD on or after August 1, 2017; and
10. All social media posts containing "See You at the Pole" or "SYATP" published to any social media account controlled or operated by Ed-Co CSD on or after August 1, 2017.

For the purpose of these requests, the term "social media" is intended to refer to websites, apps, and other digital platforms through which users create online communities to share information, ideas, personal messages, and other content. Such platforms include, but are not limited to Facebook, Twitter, Instagram, and LinkedIn.

The AALC respectfully requests that all records responsive to the above requests be delivered via email to records@atheists.org or, if the records do not exist in electronic format, shipped to:

American Atheists Legal Center
718 7th St. NW
Washington, D.C. 20001

If you have designated a records custodian for your office, we respectfully request that you forward this request to that official and inform us of the proper recipient for any future communications.

If there are any fees for copying these records, please inform us if the cost will exceed \$20.00. However, the AALC requests a waiver of all fees because the disclosure of the requested information is in the public interest and is not being sought for commercial purposes.

The Iowa Open Records Act requires a response time within three business days.¹⁷ If access to the records requested above will take longer than three business days, please inform the AALC via email of when it should expect copies. If you require clarification regarding any of the above requests, please do not hesitate to contact us at records@atheists.org.

¹⁷ A.C.A. § 25-19-105(e).

If you should deny all or any part of this request, please cite each specific exemption you believe justifies the refusal to release the information and notify us of the appeal procedures available under the law.

Thank you for your time and assistance with this matter.

Sincerely,



Geoffrey T. Blackwell, Esq.
Litigation Counsel
American Atheist Legal Center
legal@atheists.org



Justin Scott
President, Eastern Iowa Atheists
Iowa State Director, American Atheist

CC: Robert Schilling, Ed-Co CSD Board President (*via fax*)
Melissa Conner, Ed-Co CSD Board Secretary (*via email*)
Dawn R. Voss, Ed-Co Jr//Sr High Principal (*via email*)