

## Incorporate Child Protection Provisions Into Your School's Facility Use Policy

In 2001, the Supreme Court held that the Good News Club, an evangelical Bible lesson program aimed at children ages 5-12, was entitled to have an after-school club at Milford Central School.<sup>1</sup> Milford Central School could not exclude the Good News Club merely because of its religious nature.

Today, there are reportedly nearly 4,000 after-school Good News Clubs in America's public elementary schools. The clubs tell children that they are desperately wicked and “**deserve to die.**”

These appalling facts were not presented to the Court when it decided *Milford*. *Milford's* decision is limited. It does **not** bar a school district from incorporating child protection provisions into their facility use policies.

The Supreme Court has upheld the right of schools to sanction students who direct obscene, vulgar and indecent speech toward fellow students.<sup>2</sup> Therefore, a thoughtful Facility Use Policy can protect public schools and their students from the intrusion of harmful outside organizations.

### Endnotes

1. *Good News Club v. Milford Central Sch.*, 533 U.S. 98 (2001).
2. *See Bethel Sch. Dist. v. Fraser*, 478 U.S. 675, 684 (1986) (schools may prohibit the use of vulgar and offensive terms); *Sypniewski v. Warren Hills Reg'l Bd. of Educ.*, 307 F.3d 243, 264 (3d Cir. 2002) (“[S]chools are generally permitted to step in and protect students from abuse.”).
3. *See Bethel Sch. Dist. v. Fraser*, 478 U.S. 675, 684 (1986); *Nat'l Endowment for the Arts v. Finley*, 524 U.S. 569 (1998) .
4. *See Christian Legal Society v. Martinez*, 561 U.S. \_\_\_\_ (2010) (upholding policy requiring official student groups to accept all students regardless of their status or beliefs in order to obtain recognition).
5. *See Bethel Sch. Dist.*, 478 U.S. at 682.

For more information, go to

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## Facility Use Policies

## Protecting Children from Harmful Organizations in Public Schools

Due to misunderstood legal precedents, the Good News Club claims the right to use public elementary schools as a forum for evangelizing children. Using a dark, divisive and heavy-handed curriculum, Good News Club teaches children to reject science, fear critical thinking, and stigmatize non-believers.

Schools can combat this trend by adopting clear facility use policies to protect their educational mission and the dignity of their students.

# Model Facility Use Policy

The District shall make school facilities available for student and community-related activities which are educational, cultural, social, recreational or civic in nature, primarily for the benefit of district students and residents and consistent with the District's educational mandate and all applicable state laws. Use of school facilities shall be subject to the following requirements:

**1. Good Behavior Requirement.** No person, group or organization shall be permitted to use a district facility if they:

- a) engage in physical, emotional, or psychological mistreatment of children;
- b) attempt to make children feel excluded, ashamed or unacceptable because of the student's lack of shared racial, ethnic, or national origin, sexual orientation, or religious identity or commitment;<sup>2</sup>
- c) discourage children from critical and open thinking by employing shame, conditional affirmation, or fear of natural or supernatural reprisal; or
- d) stigmatize children on the basis of race, color, religion, creed, ancestry, age, sex, sexual orientation, physical handicap or national origin.<sup>3</sup>

**2. Inclusiveness Requirement.**<sup>4</sup> All meetings must be non-exclusive and open to the public. No group that restricts its membership, attendance, or leadership by reason of racial, ethnic, or national origin; sexual orientation; or religious identity or commitment may use District facilities, with the following exceptions:

- a) a youth group that primarily serves young people under age 21, including but not limited to

youth groups defined in the Boy Scouts of America Equal Access Act, 42 U.S.C. § 7905, may restrict its membership and leadership and/or include an oath of allegiance to God and country.

- b) a non-curriculum related student group, as described in the Equal Access Act, 20 U.S.C. § 4071 may restrict its leadership and membership on the basis of shared religious, political, and philosophical views if the group is led, directed, and controlled by students.

3. Any group that applies for a facility use permit must submit the following documents:

- a) the organizing documents (e.g., articles of incorporation, by-laws, and charter, if any) of the organization;
- b) any governing document setting forth requirements or prerequisites for leadership or membership;
- c) any curricular materials for any program directed primarily toward students; and
- d) any and all changes to previously submitted documents listed above.

4. Each group that applies for a facility use permit will affirm in writing that they will strictly adhere to the following:

- a) refrain from behavior that abuses, degrades, demeans, humiliates, or bullies students;
- b) refrain from provoking disrespect for, or imputing improper motives to, the District's teachers and employees;<sup>5</sup>
- c) respect the inherent dignity and rights of each child, and of people generally, regardless of race, color, religion, creed, ancestry, age, sex, sexual orientation, physical handicap or national origin;
- d) waive any claim or defense based on the ecclesiastical abstention doctrine with regard to the application of this Policy; and
- e) fully indemnify the District from any claims that may arise out of any violation of a child's rights.

5. The use of all facilities in the district during non-school hours must be approved by the District facilities coordinator, who will schedule the use of school facilities, ensure that economical and efficient use is made of the time and space available, and issue permits.

6. The District facilities coordinator shall administer this Policy in a manner that does not discriminate based on viewpoint.

7. Violations of this Policy shall disqualify a person, group or organization from future use of a school facility.

## 8. Review Process

a) If the District facilities coordinator finds that an applicant or existing permit holder is disqualified because of noncompliance with this Policy, then the coordinator will provide the applicant or permit holder with notice of a denial of the application, or revocation of the permit, along with reasons for the denial or revocation.

b) In the case of a denial or revocation of a facility use application, the applicant or existing permit holder may request a review by the School Board. The applicant may also request a hearing before, and present evidence to, the School Board. The School Board will render a decision with written findings.

c) A parent of a District student may request review by the School Board to revoke a facility use permit for noncompliance with this Policy. Such a request must be accompanied by a notarized statement that explains the facts pertaining to the alleged noncompliance.

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