November 15, 2019

**BY EMAIL AND US MAIL**

Glen Szymoniak, Superintendent

Klamath County School District

2845 Greensprings Drive

Klamath Falls, OR 97601

Anna Fowler, Director

Sage Community School

PO Box 655

Chiloquin, OR 97624

COMPLAINANT

ADDRESS

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Dear Director Fowler, Superintendent Szymoniak, & COMPLAINANT:

This letter is the order on the June 25, 2019, complaint filed by COMPLAINANT (Complainant) alleging that Klamath County School District violated ORS 327.109 by sponsoring, financially supporting, or being actively involved with religious activity. The objective of this order is to determine whether there is a substantial basis to find that the district sponsors, financially supports, or is actively involved with religious activity.

## Procedural Background

Complainant filed a complaint with the Oregon Department of Education on June 25, 2019. In his complaint, Complainant alleged that Klamath County School District and Sage Community School discriminated against him on the basis of ethnicity because of the school’s treatment of him as an employee of the school. Complainant also alleged that the district and the school sponsored, financially supported, or were actively involved with religious activity because (1) a teacher at the school displayed religious iconography in her classroom, (2) the school performed “How the Grinch Stole Christmas” as part of its annual Christmas celebration, and (3) the school contracted with Lutheran Community Services to provide counseling services to students attending the school.

The department accepted Complainant’s discrimination complaint on appeal. The department accepted the appeal pursuant to OAR 581-002-0005 on the basis that Complainant previously filed the complaint against the district and received a final decision from the district.[[1]](#footnote-1)

The department also accepted Complainant’s religious entanglement complaint pursuant to ORS 327.109, under which the department must investigate when it receives “a complaint that on its face is colorable that a school district or public charter school sponsors, financially supports or is actively involved with religious activity.”

On September 3, 2019, the department wrote Complainant about whether he, as an employee of the school, wanted to file a discrimination complaint against the school with the Bureau of Labor and Industries. The department explained that while the department cannot order a district or school to pay damages when it adjudicates a discrimination complaint by an employee,[[2]](#footnote-2) the Bureaus of Labor and Industries, which regulates districts and schools as employers, not as education providers, can order a district or school to pay damages. The department accepts complaints for the purpose of ensuring that districts and schools are complying with education law. The department can issue orders directing districts and schools to correct violations of education law. However, the department cannot issue orders awarding damages.[[3]](#footnote-3)

On September 4, 2019, Complainant responded to the department. Complainant directed the department to proceed with his religious entanglement complaint and dismiss the discrimination complaint. “I will go ahead and pursue the [d]iscrimination [c]omplaint with [the Bureau of Labor and Industries],” wrote Complainant.

The department subsequently dismissed Complainant’s discrimination complaint and investigated his religious entanglement complaint. This preliminary order only concerns Complainant’s religious entanglement complaint.

## Findings of Fact

After conducting its investigation, the Oregon Department of Education makes the following findings of fact:

1. The parties stipulate that during the 2017-2018 school year, a teacher at Sage Community School displayed religious iconography in her classroom for religious purposes.
2. Following an investigation of the teacher’s classroom, Sage Community School instructed the teacher to remove the religious iconography from her classroom. The teacher removed the religious iconography from her classroom.
3. Following the 2017-2018 school year, and before June 25, 2019, the date on which Complainant filed his complaint with the department, the teacher who displayed religious iconography in her classroom stopped teaching at the school.
4. The parties stipulate that during the 2017-2018 school year, the school performed “How the Grinch Stole Christmas” as part of its annual Christmas celebration.
5. The parties stipulate that during the 2017-2018 school year and subsequent school years, the school contracted with Lutheran Community Services Northwest to provide counseling services to students attending the school.
6. Lutheran Community Services Northwest’s 2019-2021 strategic plan contains a mission statement, guiding principles for the organization, and a statement of long-term vision for the organization.
7. Under Lutheran Community Services Northwest’s mission statement, “Lutheran Community Services Northwest partners with individuals, families and communities for health, justice and hope.”
8. Under Lutheran Community Services Northwest’s guiding principles, the organization will:

* Provide the highest quality and most effective services for our clients.
* Increase our preparedness for growth and change. We expect to lead in times of ambiguity and uncertainty.
* Be the organization where providers want to work.
* Increase our investment in discovering and implementing new ways to deliver services.
* Increase efforts to advocate for our clients.
* Improve the visibility of, and support for, our organization.
* Make volunteering a more meaningful and productive connection to our work.

1. Under Lutheran Community Services Northwest’s statement of long-term vision, the organization has the following goals and values:

* We continue to be the Northwest’s premier social impact provider.
* Our staff is our most important asset. Our employees need work-life balance, tools for self-care and training.
* We will focus on equity, inclusion and diversity in our work.
* We will focus on whole client care. This includes understanding advancements in neuroanalysis, evidenced-based treatment methods and integrated health partnerships.
* We value our roots as a Lutheran organization while recognizing that employing and serving people of diverse faiths and beliefs make us stronger.
* We will have an efficient administrative model that includes information technology, human resources, finance, resource development and communications. We will invest in technology. We will strive to create systems that are easily replicated using minimal resources.

1. On Lutheran Community Services Northwest’s webpage, the organization states, “We offer services without regard to race, ethnicity, national origin, religious belief, gender, gender identity or expression, sexual orientation, age, marital status, ability, military or veteran status, source of income or political affiliation.”
2. On Lutheran Community Services Northwest’s webpage, the organization provides the following account of its history:

The origin of Lutheran Community Services Northwest predates the Great Depression to 1921 with the founding of the Lutheran Compass Mission in Tacoma. The mission served “down-and-out” individuals and families in the community. In 1926, caring Lutherans in Portland organized a similar outreach effort known as the Lutheran Welfare Society. As human suffering escalated during the 1930s, Northwest Lutherans increased their efforts to provide clothing, bedding, food and shelter to the homeless.

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In the 1940s, we resettled refugees from Eastern Europe and started offering adoption services. Our Spokane office opened in 1956 and the Tri-Cities office opened in 1964 as our work focused on mental health and marriage and family counseling. In the 1970s and 80s, we expanded services for refugees and unaccompanied minors, senior services grew in Tacoma, and the Rape Crisis Center opened in Spokane.

In 2001, Lutheran Social Services of Washington and Idaho joined with Lutheran Family Service of Oregon and SW Washington to form Lutheran Community Services Northwest.

1. Lutheran Community Services Northwest’s 2019-2021 strategic plan and webpage do not contain religious information that is not related to the organization’s history. The organization’s strategic plan and webpage do not proselytize.
2. The district delegated to Sage Community School – through the charter that it has with Sage Community School – the duty to comport with ORS 327.109.

## ORS 327.109 Complaints

### I. ORS 327.109 Procedures

Under ORS 327.109, when the Oregon Department of Education receives “a complaint that on its face is colorable that a school district or public charter school sponsors, financially supports or is actively involved with religious activity,” the department must investigate the facts alleged in the complaint.[[4]](#footnote-4)

During the investigation, the school district or public charter school must “cooperate to a reasonable degree” with the department. If the school district or public charter school “fails or refuses to cooperate to a reasonable degree” with the department, the department must “presume that there is a substantial basis to believe that the school district or public charter school sponsors, financially supports or is actively involved with religious activity.”[[5]](#footnote-5)

If after the investigation, the department finds that there is no substantial basis to believe that the school district or public charter school sponsors, financially supports or is actively involved with religious activity, the department must notify all parties of the finding.[[6]](#footnote-6)

If after the investigation, the department finds that “there is a substantial basis to believe that the school district or public charter school sponsors, financially supports or is actively involved with religious activity,” the department must: (1) notify all parties of the finding; (2) immediately withhold State School Fund moneys that otherwise would be distributed to the school district or public charter school; (3) if the respondent is a public charter school, order its sponsoring school district to immediately withhold all moneys that otherwise would be distributed by the school district to the public charter school; and (4) schedule a contested case hearing in accordance with ORS 183.413 to determine whether the school district or public charter school sponsors, financially supports or is actively involved with religious activity.[[7]](#footnote-7)

If after holding a contested case hearing, the department determines that the school district or public charter school did not violate ORS 327.109, the department shall distribute all State School Fund moneys that it had withheld.[[8]](#footnote-8) However, if after holding a contested case hearing the department determines that the school district or public charter school did violate ORS 327.109, the department must permanently withhold all moneys not distributed up until the date on which the school district or public charter school ceases to engage in the prohibited conduct.[[9]](#footnote-9)

For purposes of this complaint, this preliminary order constitutes notice of the department’s findings on whether “there is a substantial basis to believe that the school district or public charter school sponsors, financially supports or is actively involved with religious activity.”

### II. Appeals of Complaints Originating at Public Charter Schools

Because the specific school against which Complainant has filed a complaint is a public charter school, it is important to clarify how the law provides the Oregon Department of Education with jurisdiction over this matter. Procedurally, the department has jurisdiction over districts, not public charter schools.[[10]](#footnote-10) Under the law, a district must have an opportunity to hear a complaint originating in a public charter school with which it holds its charter. In this case, Klamath County School District had an opportunity to hear Complainant’s complaint.

It should be noted that the district may delegate – through the charter that it has with Sage Community School – any duty to Sage Community School that is otherwise required by law to be met by the district, including the duty to comport with ORS 327.109. As part of its response to this appeal, the district provided the department with documentation that it had delegated to the school that duty.

It should also be noted that this order is issued to both the district and the public charter school. This does not mean that the district will be required to undergo any corrective action if the school is found to be deficient. Because the district delegated to the school the duty to comport with ORS 327.109, the district’s responsibilities would be limited to any deficiency related to its oversight of the school. Complainant did not allege that the district provided deficient oversight. Thus, even though this order is issued to the district, it only pertains to the actions of the school.

### III. Arguments Presented

Complainant alleged that the district and the school sponsored, financially supported, or were actively involved with religious activity because (1) a teacher at the school displayed religious iconography in her classroom, (2) the school performed “How the Grinch Stole Christmas” as part of its annual Christmas celebration, and (3) the school contracted with Lutheran Community Services Northwest to provide counseling services to students attending the school.

With respect to Complainant’s first argument, he writes,

When my wife and I saw the religious decorations set out we were both appalled that a public school teacher would openly have these displayed in her room. I took pictures of these decorations, which include a Christian Cross, an image of the Crucifixion of Jesus, and a framed Bible verse. I had brought this to the attention of [Sage Community School’s administrator], but nothing was done, the images still remain there. When I confronted [the administrator] about my concerns she just said she would look into it, and “brushed me off,” as if this was no concern to her.

With respect to Complainant’s second argument, he writes that “How the Grinch Stole Christmas” is “offensive to people of all beliefs outside of Christianity, because it openly celebrates the Christmas Holiday.” Complainant also writes that “How the Grinch Stole Christmas” is “extra offensive to Jewish people, because Dr. Seuss admitted in an interview that he created the character of ‘The Grinch’ as being a grumpy old Jewish man who can only find happiness by converting to Christianity.”

With respect to Complainant’s third argument, he writes “Lutheran Community Services [Northwest] is a group supported by the Lutheran Church” and alleges that the organization “council[s] people through the teaching of Christianity.”

The district and school responded by providing the department with all documents and records related to Complainant’s appeal.

### IV. Legal Standard

Before applying the legal standard set forth in ORS 327.109 to the facts of this case, the department necessarily must explain that standard. The language at issue in this case prohibits a school district or public charter school from sponsoring, financially supporting, or being actively involved with religious activity.[[11]](#footnote-11) Understanding that prohibition requires an explanation of the legislative intent of the phrase “sponsors, financially supports or is actively involved with religious activity.”

The Oregon Supreme Court prescribed the method for discerning legislative intent in *Portland General Electric, Co. v. Bureau of Labor and Industries[[12]](#footnote-12)* and *State v. Gaines*.[[13]](#footnote-13) Under this methodology, a person must analyze the text, context, and legislative history of a law and, if legislative intent remains unclear after analyzing the text, context, and legislative history of the law, employ general maxims of statutory construction to resolve the ambiguity.[[14]](#footnote-14)

In this case, the department does not need to discern the legislative intent of the language at issue because the Oregon Court of Appeals already has had occasion to do so. In *Powell v. Bunn*, the court stated that “[t]he terms chosen by the legislature – ‘sponsors, financially supports or is actively involved with religious activity’ – have well-recognized legal significance.”[[15]](#footnote-15) The court further explained that this language is “taken directly from the United States Supreme Court’s Establishment Clause Jurisprudence.”[[16]](#footnote-16) Citing the United States Supreme Court decision *Walz v. Tax Commission*,[[17]](#footnote-17) the court explained that “‘[F]or the men who wrote the Religion Clauses of the First Amendment [to the United States Constitution,] the establishment of a religion connoted sponsorship, financial support, and active involvement of the sovereign in religious activity.’”[[18]](#footnote-18) Thus, in order to understand the application of ORS 327.109, it is imperative to understand the jurisprudence of the Establishment Clause of the First Amendment to the United States Constitution.

The Oregon Supreme Court explained Establishment Clause jurisprudence nearly half a century ago in *Eugene Sand & Gravel v. City of Eugene.[[19]](#footnote-19)* In that case, the Oregon Supreme Court explained that the United States Supreme Court’s methodology for resolving cases pertaining to the establishment of religion in violation of the First Amendment to the United States Constitution is the same methodology for resolving cases pertaining to the establishment of religion in violation of one of several provisions of the Oregon Constitution. These provisions include Article I, section 2 (guaranteeing that “[a]ll men shall be secure in the Natural right, to worship Almighty God according to the dictates of their own consciences”), Article I, section 3 (establishing the rights of free exercise of religion and enjoyment of religious opinions), and Article I, section 5 (prohibiting the use of state moneys “for the benefit of any religious, or theological institution”).[[20]](#footnote-20) As explained by the Oregon Supreme Court, this methodology was established by the United States Supreme Court in *Lemon v. Kurtzman[[21]](#footnote-21)* in 1971.[[22]](#footnote-22) “[T]he appropriate test for deciding an establishment-like challenge brought under the Oregon Constitution is the so-called *Lemon* test, which evolved out of United States Supreme Court jurisprudence.”[[23]](#footnote-23)

To determine whether an act is constitutional under the *Lemon* test, a court will determine whether the act: (1) reflects a clearly secular purpose; (2) has a primary effect that neither advances nor inhibits religion; and (3) avoids excessive government entanglement with religion.[[24]](#footnote-24) In explaining the purpose of the test, the Oregon Supreme Court stated that the test “does not embrace an unusually strict principal of separation of church and state.”[[25]](#footnote-25) Rather, the test “[is] intended to ensure that the state does not cross the line between neutrality toward religion and support of religion.”[[26]](#footnote-26) As stated by the court, “‘there is room for play in the joints productive of a benevolent neutrality which will permit religious exercise to exist without sponsorship and without interference.’”[[27]](#footnote-27)

With this jurisprudent in mind, to discern whether a school district or a public charter school is in violation of ORS 327.109, the department must analyze whether the school district or public charter school is acting in a manner that (1) does not reflect a clear secular purpose; (2) has the primary effect, as opposed to an incidental effect, of advancing or inhibiting religion; or (3) is excessively entangled with religion. The purpose of this analysis is to determine whether the school district or public charter school is being neutral toward religion or is supporting religion. If the school district or public charter school is being neutral toward religion, then it is not in violation of ORS 327.109. If the school district or public charter school is supporting religion, then it is in violation of ORS 327.109.

### V. Complainant’s First Argument

Complainant first argues that the district and the school sponsored, financially supported, or were actively involved with religious activity because a teacher at the school displayed religious iconography in her classroom.

The department finds that the display of religious iconography in a public classroom for religious purposes violates ORS 327.109. Religious iconography does not reflect a clear secular purpose and has the primary effect of advancing religion. In this case, the parties stipulate that during the 2017-2018 school year, a teacher at Sage Community School displayed religious iconography in her classroom for religious purposes.

That said, on the date on which Complainant filed his appeal, the teacher was no longer displaying the religious iconography. Following an investigation of the teacher’s classroom during the 2017-2018 school year, the school instructed the teacher to remove the religious iconography from her classroom and the teacher did so. Furthermore, following the 2017-2018 school year, and before June 25, 2019, the date on which Complainant filed his complainant with the department, the teacher who had displayed the religious iconography stopped teaching at the school. In short, on the date on which Complainant filed his appeal, the school already had corrected the deficiency and the matter at issue had been resolved.

Under the facts, the department finds that *at the time* that Complainant filed his appeal, the district and the school were not sponsoring, financially supporting, or being actively involved with religious activity on the basis of a teacher displaying religious iconography in her classroom. By the time Complainant filed his appeal, the matter had been resolved.

### VI. Complainant’s Second Argument

Complainant next argues that the district and the school sponsored, financially supported, or were actively involved with religious activity because the school performed “How the Grinch Stole Christmas” as part of its annual Christmas celebration. In support of his argument, Complainant writes that “How the Grinch Stole Christmas” is “offensive to people of all beliefs outside of Christianity, because it openly celebrates the Christmas Holiday” and that “How the Grinch Stole Christmas” is “extra offensive to Jewish people, because Dr. Seuss admitted in an interview that he created the character of ‘The Grinch’ as being a grumpy old Jewish man who can only find happiness by converting to Christianity.”

Before engaging in an analysis of this issue, the department necessarily must point out that Complainant did not provide the department with any evidence that school, in performing “How the Grinch Stole Christmas,” explicitly promoted Christianity. Rather, Complainant’s argument relies on two assertions about how certain people “feel” about the play because of its allegorical meaning and historical roots.

There is nothing overtly religious or anti-Semitic about “How the Grinch Stole Christmas.” It is the story of a bitter, grouchy, cave-dwelling creature who hates Christmas and the noisy Christmas celebrations that occur in the town of Whoville. On Christmas Eve, the Grinch dresses as Santa Clause and steals all the presents, decorations, and food of the residents of Whoville. After spending all night stealing the presents, decorations, and food, the Grinch observes them celebrating the holiday by singing together. The Grinch realizes the meaning of Christmas is not material, has a change of heart, and returns everything that he had stolen.

Because there is nothing overtly religious or anti-Semitic about “How the Grinch Stole Christmas,” Complainant’s argument relies on the department making the following findings: (1) that the law prohibits public schools from putting on nonreligious plays that are derived from religious sources, and (2) if the law does prohibit public schools from putting on nonreligious plays that are derived from a religious source, that “How the Grinch Stole Christmas” is derived from a religious source.

Once again, the Oregon Supreme Court’s findings and holding in *Eugene Sand & Gravel* provide the department with the necessary guidance on this matter. In that case, the court was determining the constitutionality of a cross displayed on public property. The court explained the circumstances under which the cross was being displayed:

* The cross was sponsored by a secular organization, not a religious organization.
* The city approved the cross as a monument memorializing war veterans.
* Affixed to the cross was a plaque describing it as a monument memorializing war veterans.
* The cross was lighted on any day where it would have been fitting to be patriotic, including on Memorial Day, Independence Day, Thanksgiving, and Christmas.[[28]](#footnote-28)

The court also explained that in eight previous cases involving the constitutionality of religious symbols on public property, both state and federal, the courts held such displays to be constitutionally permissible.[[29]](#footnote-29) The court specifically noted that in each of those cases, the facts were either substantially the same as or far weaker than the facts at issue in *Eugene Sand & Gravel*.[[30]](#footnote-30) The court further explained that “[c]ourts have held that national mottos such as ‘In God We Trust’ and ‘One Nation Under God’ need not be removed from coins and currency issued by the federal government and the pledge of allegiance to the United States or from the national anthem.”[[31]](#footnote-31)

In consideration of those cases, the court explained how the *Lemon* test applies in circumstances involving a religious symbol. With respect to the first prong of the *Lemon* test – under which a court will determine whether the symbol has a clear secular purpose – the court explained that

in determining the validity of the display of either a cross or a nativity scene on public property, the controlling question is not whether such a cross or nativity scene is a religious symbol, but whether the purpose of its display is religious or secular. Thus, the requirement of “purpose” is satisfied by displays of nativity scenes on public property in connection with the Christmas season as a secular festival or pageant. Indeed, permanent displays of crosses and other religious monuments on public property have been uniformly held valid . . . even when displayed in connection with a secular festival or event.[[32]](#footnote-32)

In consideration of the cross’s purpose, that it memorializes war veterans, the court held that the first prong of the *Lemon* test had been satisfied.

With respect to the second prong of the *Lemon* test – under which a court will determine whether the symbol has the primary effect, as opposed to an incidental effect, of advancing or inhibiting religion – the court explained that

the display of a religious symbol such as a cross, nativity scene, or crucifix on public property does not have a “primary effect” to either advance or inhibit religion . . . [A]lthough compulsory prayers in a public school would be held to have such a “primary effect,” the passive display of a religious symbol in a public school may not have such a “primary effect.”[[33]](#footnote-33)

In consideration of the cross’s sponsor, a secular organization, and in consideration of the fact that the cross was lighted on any day on which it would have been fitting to be patriotic, including Memorial Day, Independence Day, Thanksgiving, and Christmas, the court held that the second prong of the *Lemon* test had been satisfied.[[34]](#footnote-34)

Finally, with respect to the third prong of the *Lemon* test – under which a court will determine whether the symbol is excessively entangled with religion – the court explained that “this requirement is not violated by the fact of payment by the government for maintenance of the display of a religious ‘symbol,’” and that “the requirement is violated if the government participates in an active manner in the planning and organization of activities which involve such a display.”[[35]](#footnote-35) In consideration of the cross’s sponsor, a secular organization, the court held that the third prong of the *Lemon* test had been satisfied.[[36]](#footnote-36)

The United States Supreme Court opinion *Lynch v. Donnelly* is also instructive. In that case, the court held that such presupposition constitutes a type of “ceremonial deism” that is “protected from Establishment Clause scrutiny” because it has “lost through rote repetition any significant religious content.”[[37]](#footnote-37)

The current matter involves the production of a play by a public school, not the erection of a cross by a public body. However, given the Oregon Supreme Court’s holdings in *Eugene Sand & Gravel* and the United States Supreme Court’s holding in *Lynch v. Donnelly*, the department cannot find that the district and school violated ORS 327.109 on grounds that the school performed “How the Grinch Stole Christmas.” Under those cases, the law does not prohibit public schools from putting on nonreligious plays that are derived from religious sources. As with the cross in *Eugene Sand & Gravel*, the play had a secular purpose. As with the cross in *Eugene Sand & Gravel*, the play – at most – incidentally advances religion as an allegory for a conversion story. However, as discussed above, there is nothing overtly religious or anti-Semitic about “How the Grinch Stole Christmas.” Even if “How the Grinch Stole Christmas” is an allegory for a conversion story, the play does not specifically mention any religion. Further, even if the department accepts Complainant’s argument that “How the Grinch Stole Christmas” is derived from a religious source, in contemporary times the play would fit the description of what the United States Supreme Court found constitutional in *Lynch v. Donnelly*: a type of ceremonial deism that has lost any religious significance through rote repetition.

Admittedly, the facts before the department are slightly different than those in *Eugene Sand & Gravel.*  The cross that is the subject of *Eugene Sand & Gravel* was funded, erected, and maintained by a public body, while the erection of the cross was planned by a secular organization. In this case, no secular organization was involved. However, considering that there is no evidence that the school’s performance of “How the Grinch Stole Christmas” was anything other than tangentially related to religion – on the basis that the play at one time may have been historically interpreted as an allegory for a conversion story – the department cannot find that the district and the school sponsored, financially supported, or were actively involved with religious activity because the school performed “How the Grinch Stole Christmas” as part of its annual Christmas celebration.

### VII. Complainant’s Third Argument

Complainant also argues that the district and the school sponsored, financially supported, or were actively involved with religious activity because the school contracted with Lutheran Community Services Northwest to provide counseling services to students attending the school.

The department rejects Complainant’s third argument on the basis that the evidence demonstrates that Lutheran Community Services Northwest is a secular organization, not a religious one. The evidence demonstrates that the organization began as an extension of the Lutheran Church. However, the evidence also demonstrates that the organization is no longer affiliated with any particular religion and that it provides only secular services without advancing or inhibiting religion in any way.

To investigate this matter, the department examined the organization’s 2019-2021 strategic plan and webpage. The strategic plan contains a mission statement, guiding principles for the organization, and a statement of long-term vision for the organization. Under the mission statement, “Lutheran Community Services Northwest partners with individuals, families and communities for health, justice and hope.” Under the guiding principles, the organization will:

* Provide the highest quality and most effective services for our clients.
* Increase our preparedness for growth and change. We expect to lead in times of ambiguity and uncertainty.
* Be the organization where providers want to work.
* Increase our investment in discovering and implementing new ways to deliver services.
* Increase efforts to advocate for our clients.
* Improve the visibility of, and support for, our organization.
* Make volunteering a more meaningful and productive connection to our work.

Under the statement of long-term vision, the organization has the following goals and values:

* We continue to be the Northwest’s premier social impact provider.
* Our staff is our most important asset. Our employees need work-life balance, tools for self-care and training.
* We will focus on equity, inclusion and diversity in our work.
* We will focus on whole client care. This includes understanding advancements in neuroanalysis, evidenced-based treatment methods and integrated health partnerships.
* We value our roots as a Lutheran organization while recognizing that employing and serving people of diverse faiths and beliefs make us stronger.
* We will have an efficient administrative model that includes information technology, human resources, finance, resource development and communications. We will invest in technology. We will strive to create systems that are easily replicated using minimal resources.

On the webpage, the organization states, “We offer services without regard to race, ethnicity, national origin, religious belief, gender, gender identity or expression, sexual orientation, age, marital status, ability, military or veteran status, source of income or political affiliation.”

The organization was founded by the Lutheran Church. On its webpage, the organization provides the following account of its history:

The origin of our Lutheran Community Services Northwest predates the Great Depression to 1921 with the founding of the Lutheran Compass Mission in Tacoma. The mission served “down-and-out” individuals and families in the community. In 1926, caring Lutherans in Portland organized a similar outreach effort known as the Lutheran Welfare Society. As human suffering escalated during the 1930s, Northwest Lutherans increased their efforts to provide clothing, bedding, food and shelter to the homeless.

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In the 1940s, we resettled refugees from Eastern Europe and started offering adoption services. Our Spokane office opened in 1956 and the Tri-Cities office opened in 1964 as our work focused on mental health and marriage and family counseling. In the 1970s and 80s, we expanded services for refugees and unaccompanied minors, senior services grew in Tacoma, and the Rape Crisis Center opened in Spokane.

In 2001, Lutheran Social Services of Washington and Idaho joined with Lutheran Family Service of Oregon and SW Washington to form Lutheran Community Services Northwest.

However, the strategic plan and webpage do not contain any language promoting religion. Other than its history, they do not contain any information pertaining to religion. And the message of the organization is clear: it is focused on equity and inclusion and it will offer services without regard to race, ethnicity, national origin, religious belief, gender, gender identity or expression, sexual orientation, age, marital status, ability, military or veteran status, source of income or political affiliation. Other than its past and the remnant of the past still present in its name, all of the evidence indicates that Lutheran Community Services Northwest is a secular organization, not a religious one.

## Conclusion

For the reasons discussed above, the Oregon Department of Education finds that there is insufficient evidence to substantiate that Klamath County School District and Sage Community School are sponsoring or financially supporting or are actively involved with religious activity.

If you have any questions or concerns, do not hesitate to contact me.

Sincerely,

Mark Mayer

Complaint and Appeals Coordinator

Office of Government and Legal Affairs

Mark.Mayer@state.or.us

1. *See* OAR 581-002-0005(1)(a)(A) (requiring an appeal to be “from a final decision by a district” and specifying that “a final decision by a district” occurs when a complainant exhausts a district’s complaint process. [↑](#footnote-ref-1)
2. *See* OAR 581-002-0019(3) (prohibiting the department form awarding “damages or attorney fees to either party”). [↑](#footnote-ref-2)
3. *Id.* [↑](#footnote-ref-3)
4. ORS 327.109(1). [↑](#footnote-ref-4)
5. ORS 327.109(4). [↑](#footnote-ref-5)
6. ORS 327.109(3). [↑](#footnote-ref-6)
7. ORS 327.109(2). [↑](#footnote-ref-7)
8. ORS 327.109(6)(a). [↑](#footnote-ref-8)
9. ORS 327.109(6)(b). [↑](#footnote-ref-9)
10. *See* OAR 581-002-0001(2) (defining “district” for purposes of OAR 581-002-0001 to 581-002-0023). [↑](#footnote-ref-10)
11. ORS 327.109(1). [↑](#footnote-ref-11)
12. *Portland General Electric*, 317 Or. 606 (1993). [↑](#footnote-ref-12)
13. *Gaines*, 346 Or. 160 (2009). [↑](#footnote-ref-13)
14. *Portland General Electric*, 346 Or. at 610-611; *Gaines*, 317 Or. at 171-172. [↑](#footnote-ref-14)
15. *Powell*, 185 Or. App. 334, 358 (2002), *rev. den.*, 336 Or. 60, (2003). *See also Brian v. Oregon Government Ethics Commission*, 320 Or. 676, 683 (1995) (statutory words with a well-understood legal meaning are given that meaning). [↑](#footnote-ref-15)
16. *Powell*, 185 Or. App. At 358. [↑](#footnote-ref-16)
17. *Walz*, 397 U.S. 664, 669 (1970). [↑](#footnote-ref-17)
18. *Powell* at 359, *citing Walz* at 668. [↑](#footnote-ref-18)
19. *Eugene Sand & Gravel*,276 Or. 1007 (1976). [↑](#footnote-ref-19)
20. *Powell* at 356, *citing Eugene Sand & Gravel* at 1016, n. 6. [↑](#footnote-ref-20)
21. *Lemon*, 403. U.S. 602 (1971). [↑](#footnote-ref-21)
22. *Powell* at 356. [↑](#footnote-ref-22)
23. *Id.* [↑](#footnote-ref-23)
24. *Id.*, *citing Eugene Sand & Gravel* at 1012-13. [↑](#footnote-ref-24)
25. *Id.* at 357, *citing Eugene Sand & Gravel* at 1013. [↑](#footnote-ref-25)
26. *Id.*, *citing Eugene Sand & Gravel* at 1013. [↑](#footnote-ref-26)
27. *Eugene Sand & Gravel* at 1014, *quoting Walz* at 669. [↑](#footnote-ref-27)
28. *Id.* at 1016-17. [↑](#footnote-ref-28)
29. *Id.* at 1018. [↑](#footnote-ref-29)
30. *Id.* The cases involved the following religious symbols: (1) a 50-foot Latin cross, sponsored by Council of Churches, permanently on display on public fairgrounds; (2) a monument inscribed with the Ten Commandments, permanently on display on courthouse grounds; (3) lights arranged in the shape of a Latin cross, annually displayed on a courthouse during Christmas season; (4) a nativity scene, temporarily displayed in a federal park adjacent to the White House during Christmas season; (5) two nativity scenes, both temporarily displayed on public school property during Christmas season; (6) plaques inscribed with the words “In God We Trust,” permanently displayed in public schoolrooms; and (7) a statue of a nun, permanently on display in a public park. [↑](#footnote-ref-30)
31. *Id.* at 2019. [↑](#footnote-ref-31)
32. *Id.* at 2020. [↑](#footnote-ref-32)
33. *Id.* at 2021. [↑](#footnote-ref-33)
34. *Id.* [↑](#footnote-ref-34)
35. *Id.* at 2021-22. [↑](#footnote-ref-35)
36. *Id.* at 2022. [↑](#footnote-ref-36)
37. *Lynch v.* Donnelly, 465 U.S. 668, 716 (1984). [↑](#footnote-ref-37)