
Dear REDACTED, Superintendent Stockwell, Principal Wagner, and REDACTED:

On May 25, 2023, REDACTED (Complainant) filed a complaint with the Oregon Department of Education alleging that Saint Helens School District was engaging in unlawful religious activity because the district was “hosting” a bible study for students called the John 3:16 Club, awarding students who participated in that bible study .25 credits, and actively being involved in religious activity through the participation of an advisor.

On June 23, 2023, the department wrote the district, explaining that the department had received the complaint and that, pursuant to ORS 327.109, the department was required to investigate whether the district was sponsoring, financially supporting, or otherwise actively involved with religious activity.

This case presents two issues: (1) whether the .25 credits were awarded for religious activity, and (2) whether the advisor to the John 3:16 Club (Advisor) was functioning in a manner that promoted religion or was only functioning in an academic or administrative capacity.

With respect to the first issue, the department finds that the district is not engaged in unlawful religious activity for the following reasons:

- The John 3:16 Club is an activity that occurs during the same time period during which an Enrichment Class takes place. Students are required to take the Enrichment Class, but they are not required to participate in a club.
- The John 3:16 Club is only one of many clubs that meet. The John 3:16 Club is the only club that is religious in nature.
- Clubs are initiated by students – not teachers or other district staff – and approved by the district.
- There is no evidence that the John 3:16 Club was approved in a manner that is different than any other club.
- Participation in a club is not mandatory to receive credit for the Enrichment Class. Participation in a club is voluntary.
- The .25 credits is awarded for participating in one or more activities available to students attending the Enrichment Class, one of which is participating in a club. Other activities include Academic/SEL interventions, making-up assignments, studying, and participating in counseling groups.

{Written after interview from here forward}

With respect to the second issue, the department finds that the district is not engaged in unlawful religious activity for the following reasons:

- Advisor was not instrumental in initiating the John 3:16 Club. Students initiated the club.
- Advisor did not proactively become involved with the John 3:16 Club. Students approached Advisor and asked him to be the advisor to the club.
- Students approached Advisor and requested that he advise the club because the students' parents knew Advisor from church, indicating that the students perceived any religious activity attributable to Advisor as an expression of Advisor's privately held religious beliefs, not as a publicly sponsored district activity.
- Advisor functioned primarily as a supervisor and administrator to the John 3:16 Club and did not proactively engage in religious activity. If a student approached Advisor with a religious question, Advisor would answer the question, but there is no evidence that students approached Advisor as a district staff member. Rather, the evidence suggests that students approached Advisor because of Advisor's privately held religious beliefs.
- Members of the John 3:16 Club would invite guest speakers from the community to speak to the club and instruct them on religious matters. These guest speakers fulfilled the role that Complainant alleges Advisor played as proof that the district was actively involved in religious activity.

Under current United States Supreme Court jurisprudence (see *Shurtleff v. City of Bos.*, 142 S. Ct. 1583, 1589-90 (2022)), the Establishment Clause of the First Amendment to the United States Constitution only prohibits religious speech when the speech is public in nature. The First Amendment's Free Speech Clause protects all private speech, even when that private speech is religious in nature and made in a public setting. A determining factor of whether religious speech is private or public in nature is whether participation in any event involving the speech is voluntary or mandatory.

Under the facts present in this case, Advisor engaged in religious speech under only one circumstance – when they were asked a question – and there is no evidence to indicate that Advisor did so in a public rather than private capacity. Advisor did not participate in initiating the John 3:16 Club. Advisor did not proactively seek to be the advisor to the club. Advisor performed the same functions for the club in the same manner that any club advisor would perform. And Advisor only engaged in religious speech in response to student inquiries. There is no evidence to suggest that Advisor ever proactively engaged in religious behavior.

The Oregon Department of Education does encourage Saint Helens School District to develop protocols to assist advisors of religious clubs to not engage in religious activity. If the district would like departmental assistance in developing those protocols, the department would be happy to provide such assistance.

Please let me know if you have any questions.

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