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TO: ALL IOWA PUBLIC SCHOOL DISTRICT SUPERINTENDENTS
CC: Amy Williamson, Chief, Bureau of School Improvement; Ryan Wise, Director, Iowa Department of Education; Nicole Proesch, Attorney, Iowa Department of Education

delivered by email

September 1, 2016

Re: Public School Assemblies and Religion Letter of Concern to Iowa Superintendents

Dear Superintendent:

The ACLU of Iowa has recently investigated troubling reports from parents of public school children in Logan, Iowa, about the integration of religious messaging and educational instruction at their school last spring. In an effort to assist schools, including Logan-Magnolia, in preventing similar incidents in the future, we are sending this letter to all Iowa school district superintendents. Our goals in sending this letter at the start of the school year are to inform you, parents, and community members about the experience at Logan-Magnolia Junior/Senior High School last spring, and to ask that you take appropriate measures to protect the constitutional rights of your students and their parents.

In March 2016, the Logan-Magnolia Junior/Senior High School held an in-school assembly for students. The in-school assembly was presented by the Todd Becker Foundation, a Midwest based [organization](#) that shares the story of Todd Becker's death and "challenges students to take the narrow road, according to the scripture, Matthew 7:13."¹ The daytime assembly, for which the public school paid the Todd Becker Foundation \$1,500,² included "live music from the touring band 'Chye', graphic images, videos and many other media elements" to warn students of the dangers of drinking alcohol and excessive partying.³ The daytime assembly was followed by an after-school evening event, for which local churches paid the Todd Becker Foundation, and for which we understand that the school has paid no public funds. The evening event incorporated express proselytization and presented "a faith-based, Christian message."⁴

¹ Todd Becker Foundation, *About Us*, available at <http://administrators.toddbecker.org/about.html>.

² Expense Invoice for Logan-Magnolia High School (June 11, 2015), available at <http://www.aclu-ia.org/iowa/wp-content/uploads/2016/08/Todd-Becker-Assembly-Invoice.pdf>. Parents also reported that students from West Harrison High School, located 17 miles from Logan, were also transported to Logan-Magnolia Junior/Senior High School for the assembly.

³ *Id.*; Gena Johnson, *Becker Assembly Moves Students Out of Seats*, Logan Herald-Observer (Vol. 133, Issue 10, March 9, 2016).

⁴ Todd Becker Foundation, *About Us*, supra note 1.

The Todd Becker Foundation performed its daytime/in school assembly at the Logan-Magnolia Junior/Senior High School at 1:00 PM on March 2, 2016. Parents have reported that the daytime assembly largely refrained from incorporating an expressly Christian message that asked the children to become adherents to a particular religion, at least to the same degree as the evening activity. However, the daytime presentation did veer into potentially problematic territory at times. Specifically, it included instruction about a specific Bible passage, Mathew 7:13, which was highlighted as part of the speaker's lesson to students to avoid "the drinking, to the partying, to the sex."⁵ The speaker paired that instruction with an invitation to students, as part of the assembly itself, to stand up and join the presenters on the floor of the gymnasium in taking the "small and narrow road," and to "take a stand over your purity."⁶

The inclusion of a biblical quotation itself does not necessarily indicate improper religious instruction at school, if it is presented for historical or literary examination.⁵ However, there are times when a lesson that includes references to a particular religious text or principle may cross the line into religious instruction or preaching to students when taken in context of the overall assembly.⁷ Therefore, public schools in Iowa should exercise extreme caution before deciding to hold similar school assemblies.⁶ In this case, given the surrounding events, and the overtly proselyting messages to the same students, at school, by the same presenters, the daytime assembly itself could reasonably be understood by students and parents as improper integration of religious instruction into the school-wide curriculum. Here, the lesson to students about alcohol use and sexual behavior was expressly based on a particular scripture of the Bible. The presenter's apparent statement that "yes, I am very aware that I am in a public school and I didn't come here to try and shove the Bible down your throat,"⁸ is unlikely to be sufficient to negate the clearly Christian and evangelical message that many students reasonably perceived.

Parents have reported to us that at 2:30 PM, *immediately* following the formal "assembly," students were invited to get up from their seats in the gymnasium bleachers and visit with the presenters on the floor. Students and parents report that when they did so, some students were asked by members of the Todd Becker Foundation about their respective religions, were told that their religious beliefs were "wrong," and were given religious texts and DVDs that, among other things, expressly condemned specific religions, such as Mormonism, as well as homosexuality.

Logan-Magnolia Junior/Senior High School officials should have taken a number of steps necessary to ensure an appropriate separation between in-school time and the overtly religious messages that followed. While the assembly ended at 2:30 PM—the time that the school day typically concludes in Logan on that weekday—it was entirely reasonable and foreseeable that many students would believe that the invitation to meet with the presenters at the front of the room at that time was all a part of the same school educational experience. There was no formal announcement that the "post-assembly" invitation to come forward was not part of the assembly

⁵ *School Dist. of Abington Tp., Pa. v. Schempp*, 374 U.S. 203, 225 (1963) ("It certainly may be said that the Bible is worthy of study for its literary and historic qualities.").

⁶ *Id.*

⁷ *Edwards v. Aguillard*, 482 U.S. 578, 585 (1987) ("Therefore, in employing the three-pronged *Lemon* test, we must do so mindful of the particular concerns that arise in the context of public elementary and secondary schools.").

⁸ Gena Johnson, *Becker Assembly Moves Students Out of Seats*, *supra* note 3.

itself, nor were students informed of its overtly religious, anti-Mormon, and anti-LGBT nature. Rather, to students and parents, it appeared that the “post-assembly” religious communication commencing at 2:30 PM was itself an extension of the school assembly. Because administrators failed to indicate that the assembly had ended and school was dismissed, parents reported that their children experienced those messages as if they were endorsed by their school, and as part of the educational activities being presented during one continuous assembly.

Equally troubling to parents was the district’s use of taxpayer-funded school resources to promote the voluntary nighttime religious event. Students and parents report that the evening event was expressly proselytizing, including preaching against homosexuality and an invitation to attendees to kneel at the front of the room and welcome Christianity into their lives. Prior to the event, the district promoted this religious event on its website and through letters sent to every student’s home. After the fact, when parents requested copies of those communications, initially, school officials compounded concern by providing two separate modified communications with altered language regarding an option to opt-out of the daytime assembly, and describing the evening event differently.⁹ In the end, while we believe no public school dollars were paid to the Todd Becker Foundation for the evening religious event, at least some communications about the event to parents and students failed to state that distinction. As a result, some parents and students attended the evening event believing that it was school sponsored. Indeed, the school’s [website](#) promoted the evening event in the same communication that it used to provide information about the daytime school assembly by tacking the following language on to the end:

In the evening, beginning at 7:00 pm, all students, parents, and the community are invited back to a second event where the band puts on a concert and an entirely different story and message is presented. The evening event focuses primarily on the story of how Todd’s brother Keith came to faith in Christ following his brother’s death. Having said that, the evening event is where the

⁹ In response to a request for the exact letter sent to students’ homes about the Todd Becker Foundation assembly, Principal Gochenour sent the following e-mail, E-mail from Christi Gochenour, Principal, Logan-Magnolia Junior/Senior High School, to Samantha Johnson (Mar. 4, 2016, 16:48 CST), *available at* http://www.aclu-ia.org/iowa/wp-content/uploads/2016/08/E_Mail_1-Response-from-Christi-Gochenour-Re-Request-for-Letter-to-Parents-REDACTED.pdf, with the following attachment, http://www.aclu-ia.org/iowa/wp-content/uploads/2016/08/E_Mail_1_and_3-Attachment-Todd-Becker-Parent-Letter.docx22.pdf. The recipient followed up with two e-mails, indicating this was not the actual letter sent to students’ homes. E-mail from Samantha Johnson, to Christi Gochenour, Principal, Logan-Magnolia Junior/Senior High School, and Thomas Ridder, Superintendent, Logan-Magnolia Community School District (Mar. 5, 2016, 10:36 CST), *available at* http://www.aclu-ia.org/iowa/wp-content/uploads/2016/08/E_Mail_2-Follow-Up-E-mail-from-Concerned-Parent-Re-Letter-to-Parents-REDACTED.pdf. Principal Gochenour later replied and sent the actual language contained in the letter sent to students’ homes, clarifying that this language, http://www.aclu-ia.org/iowa/wp-content/uploads/2016/08/E_Mail_3-Attachment-Web-Page-Article.docx.pdf, was the language used in the letter. E-mail from Christi Gochenour, Principal, Logan-Magnolia Junior/Senior High School, to Samantha Johnson (Mar. 8, 2016, 9:49 CST), *available at* http://www.aclu-ia.org/iowa/wp-content/uploads/2016/08/E_Mail_3-Response-from-Christi-Gochenour-with-Actual-Language-from-Letter-Sent-to-Parents-REDACTED.pdf.

Gospel of Jesus Christ is presented and the major focus is a salvation message.

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Many members of the community reasonably perceived this to be an improper advertisement of a religious gathering not suitable for school, and others reasonably perceived the evening event to be school sponsored.

Complaints from concerned parents to us detailed the confusion, discomfort, and shame their children felt during these interactions; some parents were shocked by the messages communicated to their children, which were experienced as hateful and discriminatory. This kind of explicit support of a particular faith marginalizes those students who do not adhere to those messages, many of whom may not feel comfortable voicing their objections while in school. No young person attending a public school should be told that their religion is “wrong” or be encouraged to convert at what they understand to be a school assembly. What’s more, the message conveyed to some children was one of unacceptable discrimination against them on account of their sexual orientation.

Well-established federal and state law prohibits the endorsement of religion by the government. In addition, while religious groups are entitled equal access to public school facilities to the extent all non-religious groups enjoy the same access during *non-school* hours, the Constitution prohibits religious proselytizing at public schools during school hours as well as public schools’ funding of any such activity.¹¹ Finally, Iowa schools risk violating state and federal civil rights laws by creating a school environment that discriminates, bullies, or harasses students on the basis of protected classifications, including sexual orientation.¹² Importantly, such an environment

¹⁰ Screenshot of Advertisement for Todd Becker Assembly on Logan-Magnolia Community School District’s website, available at http://www.aclu-ia.org/iowa/wp-content/uploads/2016/08/Todd-Becker-Website-Promotion_Redacted.pdf.

¹¹ *Varnum v. Brien*, 763 N.W.2d 862, 905 (Iowa 2009) (“[Our] mission to protect religious freedom is consistent with our task to prevent government from endorsing any religious view.”); *Knowlton v. Baumhover*, 166 N.W. 202, 207 (Iowa 1918) (“In this state the Constitution (article 1, § 3) forbids the establishment by law of any religion or interference with the free exercise thereof and all taxation for ecclesiastical support.”); *Lee v. Weisman*, 505 U.S. 577, 587 (1992) (“The principle that government may accommodate the free exercise of religion does not supersede the fundamental limitations imposed by the Establishment Clause. It is beyond dispute that, at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise, or otherwise act in a way which establishes a [state] religion or religious faith, or tends to do so.” (internal quotation marks omitted)); *Lemon v. Kurtzman*, 403 U.S. 602, 612 (1971) (“[T]he three main evils against which the Establishment Clause was intended to afford protection [include the] sponsorship, financial support, and active involvement of the sovereign in religious activity.” (internal quotation marks omitted)).

McCullum v. Bd. of Ed., 333 U.S. 203 (1948).

¹² Iowa Code § 216.9 (unfair or discriminatory practices—education); Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688; *see also* Department of Education, Office of Civil Rights, *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties* (Jan. 2001), available at <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf> (explaining that while not explicitly

may result from the school's active and express promotion of such private events and activities to students during school hours or with official school media such as newsletters, official letterhead, and websites.

Importantly, children are especially vulnerable to influence. As courts recognize, the line that separates our public schools and classrooms from the endorsement of specific religious ideologies while school is in session exists to protect impressionable children from religious influence that may conflict with their own beliefs.¹³ Simply put, in public school, children should receive a general, secular education. Proselytizing by school teachers and other officials at school, including the sponsorship of such religious messages by the school, ostracizes non-adherents while improperly endorsing the beliefs of adherents.¹⁴

This letter of concern should not be read as a complaint about the content of the evening event, or the faith of any of the presenters or participants. Those are each in turn protected by the Constitution. Rather, our concern lies with the school's express promotion of them. While a school should let religious groups, including the Todd Becker Foundation, use its facilities on the same terms as others without regard to religion or viewpoint, it should not use school resources to endorse or promote specifically religious events to students and parents.¹⁵

Following complaints by parents, the Iowa Department of Education investigated and issued a [letter](#)¹⁶ to the Logan Magnolia Community School District urging it to, among other things, enact

protected under Title IX, complaints of harassment on the basis of sexual orientation may constitute actionable sexual harassment under certain circumstances); *but see Videckis v. Pepperdine Univ.*, 150 F.Supp.3d 1151 (C.D. Cal. 2015) (applying Title IX protections to sexual orientation discrimination).

¹³ *Knowlton*, 166 N.W. at 213 (warning against the State's coercive ability to "shape the plastic minds and characters of the young children committed to their care in accordance with their own religious views, and saddle the expense of this sectarian education upon the taxpayers"); *Edwards*, 482 U.S. at 584 ("Families entrust public schools with the education of their children, but condition their trust on the understanding that the classroom will not purposely be used to advance religious views that may conflict with the private beliefs of the student and his or her family. Students in such institutions are impressionable and their attendance is involuntary. The State exerts great authority and coercive power through mandatory attendance requirements, and because of the students' emulation of teachers as role models and the children's susceptibility to peer pressure. . . . In no activity of the State is it more vital to keep out divisive forces than in its schools." (internal citations and quotation marks omitted)).

¹⁴ *Santa Fe Ind. Sch. Dist. v. Doe*, 530 U.S. 290, 309–10 (2000) ("School sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community." (internal quotation marks omitted)).

¹⁵ See generally *McCullum*, 333 U.S. 203 (1948); cf. *Zorach v. Clauson*, 343 U.S. 306, 309–10 (1952).

¹⁶ Letter from Amy Williamson, Chief, Bureau of School Improvement, Iowa Department of Education, to Superintendent Thomas Ridder, Logan-Magnolia Community School District (July 7,

a more robust screening process for outside presenters, clarify for students when messaging from presenters is part of an in-school assembly or after-school event, and provide district-wide equity training on the importance of respecting all faiths and belief systems.

These are important steps all schools should be taking, not just Logan-Magnolia. There is nothing to indicate that Logan-Magnolia school officials knowingly or intentionally violated students' rights; to the contrary, we understand that officials have communicated to parents that they were as surprised and offended as many students and parents with the way events unfolded following the daytime assembly.

A simple internet search can reveal a world of information. We strongly encourage all school administrators to do their due diligence before inviting organizations to present at their schools and ensure that no in-school assemblies endorse or disapprove of a particular faith, or include preaching. While organizations whose messages coincide with religious principles may be welcome in public schools, school-sponsored proselytization to students is not. School administrators have a duty to prevent any such improper conduct during school time, and when those efforts fail, to remedy any resulting harms. Responsible school personnel must receive appropriate training on the constitutional and civil rights of students in their care.

The Constitution protects religious practice while prohibiting the sponsorship or establishment of religion by the government, including by public schools. This principle of separation of church and state in public schools is championed both by people who are not religious and by faith groups across the spectrum. You may read a simple and plainly written joint statement of the current law regarding religion in the public schools which has been signed onto by a host of organizations, including both faith groups, religious organizations, and the ACLU, here at the [ACLU website](#).¹⁷

Sincerely,



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2016), available at <http://www.aclu-ia.org/iowa/wp-content/uploads/2016/08/07-07-2016-Letter-from-DOE-to-Logan-Magnolia.pdf>.

¹⁷ ACLU, *Joint Statement of Current Law on Religion in the Public Schools* (last visited Aug. 31, 2016), available at <https://www.aclu.org/joint-statement-current-law-religion-public-schools>.