



October 20, 2017

Final Investigative Report Concerning Ombudsman Complaint OM20170689

COMPLAINT

A constituent contacted the Municipal Ombudsman's Office, alleging that holding the Baccalaureate service for his high school at a church violated the Establishment Clause of the U.S. Constitution, which requires the separation of church and state. The constituent further alleged that, as a student at the high school, he was exposed to weekly visits by volunteers of a religious group to the school cafeteria during the lunch period. The constituent believes that he, and other students, should not be subjected to their presence, as they handed out food and mingled and conversed with students.

NOTE: The Municipal Ombudsman's Office does not investigate allegations of violations of U.S. Constitutional law. The Ombudsman's Office investigated whether or not these allegations violated Anchorage School District policies.

FINDINGS

Complaint 1: The constituent's complaint against the Anchorage School District, that holding his high school's Baccalaureate service in a church violated District policies, is **NOT SUPPORTED**.

Complaint 2: The constituent's complaint against the Anchorage School District, that volunteers from a religious group mingling with students and handing out food in the high school cafeteria during the lunch period violates District policies, is **JUSTIFIED**.

Analysis and Conclusions:

A constituent filed an online complaint with the Ombudsman's Office on May 12, 2017. The complaint consisted of two separate allegations involving the Anchorage School District (ASD):

- 1). That his high school he was about to graduate from was holding a Baccalaureate service at a church prior to graduation. The constituent believed that holding what he viewed as a school-sponsored event in a church, violated his constitutional rights, specifically the separation of church and state.
- 2). That his high school allowed representatives of a local religious group to visit and mingle with students in the cafeteria, and hand out food during the school lunch period. The constituent believed that it was inappropriate for a religious group to be in the cafeteria during the lunch period, handing out food and mingling and conversing with students.

First Complaint: A Baccalaureate Service for the graduating class of the constituent's high school was to be held at a local church, at 7 pm on May 15th. The constituent stated that he received a text message from a teacher using the ASD "remind" app students signed up for at the beginning of the school year. The text message from the staff member provided information about the ceremony, and requested a "yes/no" reply from him regarding his attendance at the service. The text did not state that the ceremony was voluntary, leading the constituent to believe that it was a required, ASD-sponsored event. Nor, was the Baccalaureate service identified as a voluntary, non-mandatory event on the school's online activities calendar. Derek Hagler, the ASD Secondary Activities Director, informed the Deputy Ombudsman in an email on May 24th, 2017 that approximately 60 seniors attended the service, and that a parent chaired the planning committee for the service. Mr. Hagler also stated that "Secondary Education supports parent planned baccalaureate services and we believe that it is appropriate for the high schools to advertise this event; as participation is optional." The principal of the high school stated that planning meetings were held at lunchtime, or after school hours, and reiterated that no ASD funds were spent on the service. She also stated that it was made clear in all in-school announcements that the service was voluntary.

The constituent stated that he believes that holding an "official" Baccalaureate service for a public school in a church, violates the separation of church and state mandate of the U.S. Constitution. The Deputy Ombudsman is not a constitutional scholar, however, after researching the subject, she believes that it is the right of a parent-led group to host a Baccalaureate service for a graduating high school class, as long as public funds are not expended on the service, and as long as participation is voluntary. ASD Board Policy 350 states that "The district shall neither encourage, discourage, nor disparage religious beliefs or activity." The American Civil Liberties Union has released a "*Joint Statement of Current Law of Religion in the Public Schools*", which states,

"School officials may not mandate or organize prayer at graduation, nor may they organize a religious baccalaureate ceremony. If the school generally rents out its facilities to private groups, it must rent them out on the same terms, and on a first-come first-served basis, to organizers of privately sponsored religious baccalaureate services, provided that the school does not extend preferential treatment to the baccalaureate ceremony and the school disclaims official endorsement of the program."

Because the baccalaureate service was not mandatory, and no public funds were expended in planning or staging the service, and because it was organized by a parent-led group, and occurred outside of school hours, the first complaint is **NOT SUPPORTED**.

Second Complaint: The constituent alleged that throughout the school year, volunteers from a local religious group regularly came into the school lunch room to talk with students and hand out beef jerky and other goodies during the lunch period. He believes that it is not appropriate for the religious group's volunteers to be present in the lunch room, on a regular basis, interacting with students.

In the May 24th email noted above, Mr. Hagler stated that “In regard to the Young Life group at our schools, these student organized clubs are expected to follow our standard club protocol ...” He noted that all clubs must be student-led and that they can have outside adults attend and participate in meetings, but they can’t do so on a regular basis. ASD Board Policy 456 for student-led clubs, states that “Non-school persons shall not direct, control, conduct, or regularly attend the meetings or activities of student-organized extracurricular clubs.” However, the religious group stated on its own website that its volunteers were regularly in school lunch rooms during the lunch period (on a weekly basis at five ASD schools). The Deputy Ombudsman believes that this violates the ASD’s student-led club policy regarding non-student, non-ASD staff persons regularly attending meetings, or participating in activities of student-led clubs. ASD Board Policy 456 also states, “Students may organize extracurricular clubs provided that the club formation and activities are student-initiated and voluntary.” Because eating lunch in the cafeteria is not voluntary, having religious volunteers in the cafeteria as part of a club activity violates the District’s policy that club membership, meetings and activities are voluntary. Students should not have to leave the cafeteria to remove themselves from a club activity that they do not wish to participate in.

The Deputy Ombudsman also investigated the religious group’s presence in school lunch rooms as “school volunteers”. ASD Board Policy 832.3 states that “The Board approves and encourages the use of volunteers in all areas of the school system where the talents, abilities, and willingness of volunteers provides a benefit to the District and its students.” And, “Citizens who wish to volunteer their time and talents to serve in schools are encouraged and their services are to be coordinated through the unit principal for those categories of activities for which the Superintendent or authorized designee has approved volunteer contributions.”

The Deputy Ombudsman spoke with the school principal on June 2, 2017. She stated that she believed the religious group came in only on special occasions, such as finals week, to support the students. However, while researching this group, it was discovered that the religious group’s website stated that they were actively recruiting volunteers to go to five of the local high schools, and that the volunteers were present at the schools on a weekly basis during the lunch period. The website also stated that the organization was “active” in three local high schools including the complainant’s school.

The Ombudsman’s Office has received multiple complaints regarding this particular religious group over the last seven years. The complaints include allegations of the group using school bulletin boards to advertise their events, members volunteering at school open houses, and members visiting local high schools and middle schools during the lunch period. In 2010, Mr. Jerry Koetje, Supervisor, Middle School Education, wrote that “The young adults (about six individuals) have volunteered at [a local middle school] in a variety of ways over the last three years.” And that “they are present as school volunteers, not as a religious group.”

According to School Board policy, the volunteer’s services should be coordinated through the unit principal for those categories of activities for which the Superintendent or authorized designee has approved the volunteer’s contributions. ASD Board Policy 350 states that “As a

public school system, we are required by the U.S. and Alaska Constitutions to maintain religious neutrality. The district shall neither encourage, discourage, nor disparage religious beliefs or activities.” If this religious group was only in the schools on an occasional basis, as the Principal believed, to support students for finals etc., that might meet District’s requirement that the volunteers provide a benefit to the students. However, as their own website states, the religious group is volunteering weekly at five local schools. Allowing one religious group into school lunch room regularly as volunteers, who provide no specific service to students, violates the District’s religious neutrality policy. It is also not clear what benefit students were receiving, except as the principal stated to “support the students during finals week,” and to hand out food as they visited with students. The Deputy Ombudsman believes that allowing a religious group into school lunchrooms as volunteers on a regular basis, with no specific purpose or benefit to the students, violates ASD Board Policies. Because non-students volunteering on a regular basis as part of a student-led club, with no specific benefit to the students, is against Anchorage School District Board Policies, the second complaint is **JUSTIFIED**.

A preliminary report regarding this matter was provided to the Anchorage School District on June 30, 2017.

Based on the investigation of this case, the Municipal Ombudsman recommends the following:

1. that the Anchorage School District require District schools to include a disclaimer with all school advertisements or announcements for Baccalaureate services, stating that the service is voluntary, and is not an official District or school function.
The ASD has accepted this recommendation and Mr. Hagler agreed to put this as an agenda item for an upcoming principal meeting.
2. that the Anchorage School District take the opportunity during in-service days, to remind District teachers and staff of the District’s policies regarding volunteers, religious groups and extra-curricular clubs.

The ASD has accepted this recommendation. Mr. Hagler agreed to contact the religious group director and set boundaries regarding their school visits. He also agreed to contact the principals of the schools listed on the religious group’s website. He will verify that these schools are indeed following the applicable ASD policies. He stated, “Specifically, in both of these cases, outside adults should not be in our building on any type of regular basis, and should not be attempting to solicit or convert students into their group. Our principals understand this issue and will do a better job of enforcing this situation, assuming it has occurred at any other schools than [the complaint school].” In a conversation on August 1, 2017, Mr. Hagler reported that he had contacted the religious group, as well as the principals of the schools involved. He reported that they are aware of the ASD policies for clubs and volunteer activities related to student-led clubs. On October 18th, 2017, Mr. Hagler planned to add this as an agenda item for an upcoming principal meeting.

Based on these findings and recommendations, this case is closed.

If you object to the Ombudsman's decision to decline or discontinue this investigation or review, you may file a grievance with the Ombudsman as specified in AMC 2.60.165.



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Municipal Ombudsman



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Deputy Ombudsman