March 3, 2023

VIA EMAIL
Superintendent Jaime Vlasaty
c/o Solicitor Mark W. Fitzgerald
Saucon Valley School District
mfitzgerald@foxrothschild.com

AMERICAN CIVIL LIBERTIES UNION
Pennsylvania

Eastern Region Office
PO Box 60173
Philadelphia, PA 19102
215-592-1513 T
267-573-3054 F

Central Region Office
PO Box 11761
Harrisburg, PA 17108
717-238-2258 T
717-236-6895 F

Western Region Office
PO Box 23058
Pittsburgh, PA 15222
412-681-7736 T
412-345-1255 F

Re: Unconstitutional denial of application to use school facilities for After School Satan Club meetings

Dear Superintendent Vlasaty:

We represent the After School Satan Club ("ASSC" or "the Club") and The Satanic Temple, Inc. ("TST"). We write to request that you immediately reverse your decision rescinding approval for our clients' use of school facilities and reinstate the previously agreed upon meeting dates for the ASSC. Denying our clients access to this forum violates the First Amendment to the U.S. Constitution and could precipitate litigation against the Saucon Valley School District ("the District").

The District has intentionally opened up its facilities for general community use and, in so doing, may not limit access to this forum based on the content of our clients' speech,[1] their religious identity,[2] or their viewpoint—even if some may find their beliefs "controversial or divisive."[3] Nor may the District restrict our clients' access to this forum based on others' animus toward our clients' religion,[4] or based on the anticipated or actual reactions to the content or viewpoint of our clients' speech.[5] As the U.S.

[1] *See Forsyth County v. Nationalist Movement*, 505 U.S. 123, 134-35 (1992)

[2] *See Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012, 2019–21 (2017) (explaining that the Free Exercise Clause "protects religious observers against unequal treatment" and that the government may not impose special disabilities on the basis of religious status or identity) (internal quotation marks omitted).

[3] *See Child Evangelism Fellowship of New Jersey Inc. v. Stafford Twp. Sch. Dist*., 386 F.3d 514, 527 (3d Cir. 2004) ("To exclude a group simply because it is controversial or divisive is viewpoint discrimination."); *see also Good News Club v. Milford Central Sch.*, 533 U.S. 98, 112 (2001).

[4] *City of Cleburne v. Cleburne Living Ctr*., 473 U.S. 432, 448 (1985) (holding that the government may not defer to or give effect to the "private biases" or "objections of some fraction of the body politic").

[5] *See Forsyth Cnty*., 505 U.S. at 134-35.

Supreme Court recently explained, "under our Constitution . . . protected speech or religious exercise [does not] readily give way to a heckler's veto."[6]

Your initial approval of our clients' application—before the public learned about it—and your subsequent explanations for that approval appeared to recognize that ASSC must be afforded equal access to District facilities. It was only after the District received complaints and threats of violence in response to ASSC's application that you rescinded approval, granting opponents of our clients' speech and religion a classic "heckler's veto" in violation of the First Amendment.[7]

Respectfully, the reason cited for your decision to rescind approval for our clients' use of District facilities is plainly pretextual and merely compounds the District's violations of our clients' constitutional rights. As you admitted in your February 24, 2023, letter, the permission slip distributed by our clients explicitly states that ASSC "is not an activity of the school or the School District." And our clients' introductory letter to parents states the same in bolded font. Moreover, TST has repeatedly made clear, in writing and otherwise, that the ASSC is sponsored by TST.

In any event, there is no evidence that our clients' promotional materials played any role in provoking the threat cited in your recission letter. Indeed, it has since been revealed that the individual who made the threat lives in North Carolina and has been arrested. TST was likewise the victim of a threat made on the same day against its house of worship located in Salem, Massachusetts. Our clients have done nothing—other than merely existing and exercising their constitutional rights—to foment such threats against themselves, the children and families that take part in the ASSC, or the District. Your implication otherwise is deeply offensive.

Most importantly, using our clients' promotional materials as a basis for denying them total access to the District's forum is patently discriminatory when compared to the District's treatment of other groups. For example, we understand that The Good News Club has, in the past and recently, distributed flyers, permissions slips, and other promotional materials online and in print without any disclaimer that its meetings are not sponsored by the District. The District has even sent these flyers, which fail to make clear that the Good News Club is not an activity of the District, home in students' backpacks. Imposing more stringent requirements on our clients than are enforced against the Good News Club or other groups that use school facilities constitutes an additional violation of our clients' First Amendment rights.[8]

The threats against you, your family, and the District, as well as any other threats of violence that have been made in response to our clients' facility-use application are unacceptable

---

[6] *Kennedy v. Bremerton Sch. Dist*., 142 S. Ct. 2407, 2432 n.8 (2022) (internal quotation marks omitted).

[7] *See Grove v. City of York*, 342 F. Supp. 2d 291, 303 (M.D. Pa. 2004) ("Put simply, there is no heckler's veto to the First Amendment.").

[8] *See, e.g., Larson v. Valente*, 456 U.S. 228, 244 (1982) ("The clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another."); *see also, e.g., Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 547 (1993) (holding that the government may not single out one faith for disfavorable treatment or "devise mechanisms, overt or disguised, designed to persecute or oppress a religion or its practices").

and reprehensible. But penalizing our clients, who are also the victims of these threats, by denying them access to District facilities is unconscionable and unconstitutional. We strongly urge you to promptly reinstate approval for our clients' meetings. ***As the ASSC's first meeting is scheduled to take place soon, please notify us no later than noon on March 7, 2023, whether you intend to comply with this request.***

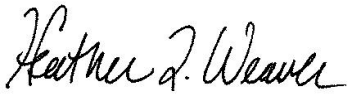
In the meantime, we also submit the attached request pursuant to the Right to Know Law, 65 P.S. §67.101 *et seq,* seeking all District policies and procedures relating to the use of District facilities; all communications sent to or from District officials about this matter; all applications from 2022 and 2023 for the use of District facilities; all promotional materials and communications associated with those applications; and all promotional materials and communications distributed by any District school to students, parents, or the public for civic, cultural, educational, or recreational activities sponsored by non-District organizations and held in school facilities from January 1, 2021, through present.

Finally, our clients reserve all rights to pursue litigation if this discrimination continues. Please consider yourselves on notice of potential litigation and preserve all documents related to our clients' application, your decisions to approve it and then rescind that approval, other applications for the use of school facilities, and any other materials that may be relevant to a potential lawsuit.

Sincerely,

Sara J. Rose
Deputy Legal Director
ACLU of Pennsylvania

Richard Ting
Staff Attorney
ACLU of Pennsylvania



Heather L. Weaver
Senior Staff Attorney
ACLU Program on Freedom
of Religion and Belief