

## **Good News in the Schoolhouse**

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On August 29, 2012, the Eighth Circuit decided in favor of Child Evangelism Fellowship in *Child Evangelism Fellowship v. Minneapolis Special Sch. Dist. No. 1*. It reversed the denial of CEF's preliminary injunction where it had tried to stop a school district in Minnesota from limiting school facility access for a Good News Club.

The Good News Club has been a community partner with the school for years, and has access to district facilities and the flyer distribution system. It was also once part of the after-school enrichment program. In 2009, the Good News Club was removed from the after-school program because of concerns about religious content, which meant it no longer had access to transportation or food services from the district. Attendance at the Club went down sharply.

CEF sued to try to get a preliminary injunction against the school district and lost. Then it appealed the decision.

On appeal, the Eighth Circuit considered several points. First, CEF had suffered irreparable harm because its membership had dropped so much, an important requirement to get a preliminary injunction. It was also likely to succeed on the merits. The school had violated CEF's First Amendment rights by excluding its particular viewpoint while other secular groups like the Scouts were allowed to continue. Only the religious viewpoint was excluded. This was true even though CEF was not outright denied access as a community partner, but just restricted from the after-school program.

Then the Court considered whether the school district had a compelling governmental interest to act against CEF to avoid an Establishment Clause violation. Not so, said the Court. The Establishment Clause requires neutrality to religion but not hostility. And the Good News Club's religious message was not district-sponsored. The district policy on after-school programs made it pretty clear that they were non-school. Even though CEF received funding along with other groups, its speech was still private and not school-sponsored.

The Eighth Circuit remanded with instructions for the district court to cooperate in giving the requested injunction.

Besides providing a good explanation of how the First Amendment and Establishment Clauses should interact in the school setting, this case is an important development for religious liberty.