

# Parents File Scathing Response Defense of School District's 'Anti-Islamophobia Initiative'

Wednesday, the Freedom of Conscience Defense Fund (FCDF) filed a fiery response in federal court to the Council on American-Islamic Relations' (CAIR) *amicus* brief that defended its collaboration with the San Diego Unified School District on an "Anti-Islamophobia Initiative." The initiative singles out Muslim students for exclusive accommodations and empowers CAIR to radically revise school curriculum to portray Islam more "favorably."

FCDF is representing five families and two San Diego organizations in a federal civil rights lawsuit challenging the constitutionality of the initiative. Specifically, FCDF argues that singling out Muslim students for special protections violates the Establishment Clause and is an extraordinary double standard. FCDF points out that a public school district would never adopt an anti-Christian bullying program.

The school board purportedly rescinded the initiative last July, but over 2,000 pages of district emails disclosed during the litigation show that officials are still working with CAIR under the guise of an "Intercultural Relations Community Council." As a result, FCDF filed a motion for preliminary injunction in February, asking the Court to shut down the ongoing initiative.

CAIR asked the attorneys for both parties if it could file an *amicus* brief in defense of the initiative. Charles LiMandri, FCDF's Chief Counsel and attorney for the plaintiffs,

consented to the filing. In its brief, CAIR ignores the families' actual allegations and instead fabricates the claim that the plaintiffs oppose any teaching about Islam. CAIR contends that the initiative's purpose is not to favor Muslim students or force students to convert to Islam but to "educate and promote diversity."

In yesterday's filing, FCDF highlights CAIR's attempt to distract the Court from the real issue of the case, which is whether the initiative is neutral toward religion. FCDF's response brief states:

*CAIR portrays this case in nearly fictional terms. Plaintiffs do not allege, as CAIR wants this Court to believe, that learning about Islam represents radical indoctrination. Nor do Plaintiffs allege that teaching about Muslim culture constitutes militant proselytization. What Plaintiffs do allege, however, is that the San Diego Unified School District is collaborating with a sectarian organization on an initiative that discriminates in favor of one religion. Plaintiffs have firmly and deliberately made that clear since the beginning of this case. Yet CAIR spends twenty-five pages mischaracterizing Plaintiffs' claims, concocting new ones, and altogether spurning long-held Establishment Clause jurisprudence as interpreted by the Supreme Court, the Ninth Circuit, and about every other circuit.*

Read FCDF's reply to CAIR's amicus brief.

CAIR successfully lobbied the district's superintendent and school board to adopt the program by providing surveys that it conducted showing a "plague of Muslim bullying" in San Diego schools. However, the school district is mandated to report all incidents of bullying to California's Department of Education, and it reported just two incidents of Muslim bullying in 2015 and 2016—out of 130,000 students. The district reported quadruple the number of anti-Semitic

incidents.

But CAIR still contends that additional teaching about Islam helps create “cultural awareness” and “tolerance.” FCDF’s brief responds:

*CAIR asks this Court to place the mores of “cultural awareness” and “promoting tolerance” above the First Amendment and turn a blind eye to its sectarian agenda. But “Establishment Clause jurisprudence has distilled one clear understanding: Government may neither promote nor affiliate itself with any religious doctrine or organization, nor may it obtrude itself in the internal affairs of any religious institution.” Lee v. Weisman, 505 U.S. 577, 599 (1992) (Blackmun, J., concurring). CAIR may freely advance its religious mission in the public square, but it may not do so in the public school—the Constitution forbids it.*

FCDF also filed its reply to the district’s opposition brief yesterday. The district asserted that the case is moot because the school board allegedly “reversed” the Initiative’s official policy. Remarkably, the district also contends that banning CAIR from the classrooms would violate CAIR’s Free Exercise rights to engage in its “religious mission.” FCDF countered in part that in order for a case to be moot, it must be “absolutely clear” that the government “eradicated” its unconstitutional conduct.

Read the Parents’ Reply to San Diego Unified’s Opposition Brief