

Battle to Allow Evicted Churches to Rent NY Public Schools Continues

The Feb. 12 deadline has come and gone. Churches in New York City are officially banned from holding **worship services** in public schools.

But the fight is not over yet. There's a hearing on Tuesday in federal court.

The Alliance Defense Fund (ADF) filed a motion with the court on Feb. 3 to seek an order to stop the evictions based on violations of portions of the **First Amendment** that had not been ruled on previously in the case. A ruling from the court could occur as early as this week.

"Churches and other religious groups should be able to meet in public buildings on the same terms as other community groups," says ADF senior counsel Jordan Lorence. "A government can't solve the supposed problem of appearing as though it is endorsing religion by treating churches worse than everybody else. The city's policy prohibits activity for religious reasons, and that is both unconstitutional and at odds with a recent U.S. Supreme Court decision in a different case."

Many New York City churchgoers that have met for worship in vacant public school buildings on weekends have been protesting the city's plans to evict them ever since the U.S. Supreme Court declined to take up the Bronx Household of Faith case on free speech grounds on Dec. 5 of last year. A bill that would compel the city's Department of Education to allow the worship services passed the state senate this month and now goes to the state assembly.

"The fact that we are seeking an injunction from the court in

no way should stop efforts by the New York Legislature to overturn this policy,” Lorence explains. “The courts have consistently ruled that the Constitution does not require New York City to ban religious worship services, so the city or the state legislature is free to repeal the policy.”

The ADF brief filed with the U.S. District Court for the Southern District of New York explains that while the policy has been analyzed under the free speech clause of the First Amendment, “The Department’s policy violates free exercise jurisprudence, especially as recently buttressed by the Supreme Court’s decision in *Hosanna-Tabor Evangelical Lutheran Church and School v. .*, because it prohibits conduct undertaken for religious reasons. Further, that decision also requires new analysis of the Church’s Establishment Clause claim because it excessively entangles the government with religion.”