

Judge Gives Easter Reprieve to NYC Churches Meeting in Schools

Alliance Defending Freedom (ADF) attorneys filed a petition with the full U.S. Court of Appeals for the 2nd Circuit Wednesday to overturn a 2-1 ruling by a three-judge panel that could widely affect New York City churches. On April 3, the panel upheld city's policy of prohibiting religious groups from conducting worship services in vacant public schools during non-school hours.

The filing automatically puts the panel's ruling on hold, which means that congregations will be able to continue meeting through Easter and the remainder of Passover while the 2nd Circuit decides what to do with the petition.

"Every community group in New York City is welcome to rent empty school buildings except for one purpose: worship services," says ADF senior counsel Jordan Lorence. "The worship services of many religious organizations and churches serve as the point through which they can provide help and hope to the poorest communities. There is no reason why they should be targeted for exclusion."

"Evicting churches and the help they offer through their worship services in otherwise empty buildings helps no one," Lorence says. "Blatantly violating the First Amendment of the U.S. Constitution, as New York City is doing, hurts everyone. That's why we are asking the full 2nd Circuit to hear this case."

"Churches meeting in New York City public schools for worship services have fed the poor and needy, assisted in rehabilitating drug addicts and gang members, helped rebuild marriages and families, and provided for the disabled,"

explains ADF senior counsel David Cortman. "The churches have also helped the public schools themselves by volunteering to paint the interiors of inner-city schools; donating computers, musical instruments and air conditioners; and providing effective after-school programs to help all students with their studies. They are a true benefit to the communities they love to serve."

The panel's ruling said that the city can single out for exclusion what it defines as "religious worship services." The New York City Department of Education has defended this policy in court on and off since 1995 to keep churches and other religious groups from renting space for worship services even though it allows other community groups to rent space for their meetings.

In a strongly worded dissent, 2nd Circuit Judge John M. Walker Jr. wrote, with regard to the First Amendment, that "shutting the door to religious worship services in such a setting when every other activity is permitted strikes at the [Free Exercise of Religion] Clause's core. ... Of the fifty largest school districts in the United States, New York City alone entirely excludes religious worship from its facilities. ... It is striking that none of these other school districts appear to have the slightest concern about violating the Establishment Clause, nor have any of their community use policies been found to violate the Clause."

"Over a strong dissent, a panel of this Court upheld the City's policy of excluding churches from renting empty school buildings for 'religious worship services' in an otherwise neutral and open public forum," the petition for rehearing en banc filed in *Bronx Household of Faith v. Board of Education of the City of New York* explains. "The majority's opinion conflicts with multiple decisions from the Supreme Court and sister circuits, and for those reasons, this Court should grant en banc review to correct the conflicts."