



June 8, 2022

VIA EMAIL to geec@kisdtx.net AND CERTIFIED MAIL

Mr. Chad Gee
Superintendent, Kennedale ISD
120 W. Kennedale Parkway
Kennedale, TX 76060

RE: The First Amendment Rights of Kennedale High School Young Americans for Freedom

Dear Superintendent Gee,

I write on behalf of Young America's Foundation & Young Americans for Freedom (hereafter, YAF). Recently, a student at Kennedale High School (KHS) brought to my attention a situation which, if true, constitutes a denial of expressive associational rights in violation of the First Amendment.

The facts, as YAF understands them, are as follows. During the spring semester of 2022, a group of students at KHS submitted the appropriate paperwork to form their YAF chapter as an on-campus club. There is no evidence that the proposed club missed any deadline, required filing, or violated any rules during this time. In fact, the students claim they submitted over twenty (20) pages of documentation at the request of KHS administration, with every aspect of the club challenged. This additional burden was not part of the policy-required form the school uses to help students form clubs and was not, as far as we can tell, justified by any school policy. The students believe that no other campus club has ever been required to undergo such a process to obtain recognition at KHS.

Following their submission of all requested paperwork, Principal Michael Cagle informed the students that apparently their application needed be approved by the Kennedale ISD legal team because of the "national affiliation." This "approval process" persisted for over three months without action. Throughout the semester, the students felt that Principal Cagle and the other administrators were openly hostile towards their attempt to organize. Finally, after receiving no answer and pressing for an in-person meeting with Principal Cagle, he verbally informed the students that he did not send the paperwork to any other officials within Kennedale ISD. Principal Cagle then told the students that he unilaterally decided that the club was denied both now and, in the future, because he did not feel comfortable associating the school with YAF. Principal Cagle said that his decision was final and the students would need to wait another year to try and form a different club that is "less controversial" through the same burdensome process. Finally, and perhaps most egregiously, Principal Cagle forced the students

to take down their YAF branded social media accounts and to stop associating as KHS YAF at school.

Late last month, upon the student's reiterated request for clarification on his decision, Principal Cagle shifted tactics. Principal Cagle informed the students that they could meet on campus; however, he withheld club recognition and told the students they could not avail themselves of any benefits of club status. Principal Cagle re-invoked the supposed need for review by the District's legal team. Principal Cagle even went so far as to tell the student that "You are not going to get anything from me in writing" in response to a student request for written justification for the decision.

As a public school, KHS is required to abide by the guidelines of the First Amendment if and when it regulates student conduct-- students' First Amendment rights do not disappear on the grounds of KHS. See Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503, 506 (1969). Denial of official recognition, without legitimate justification, burdens or abridges expressive associational rights protected by the First Amendment. Healy v. James, 408 U.S. 169,181 (1972). Denial of recognition is a prior restraint on protected rights, and as an instrumentality of the state, a school may not restrict association because it finds the views expressed by the group to be abhorrent. Healy, 408 U.S. at 187-188.

If the story shared with me by the students is complete, Principal Cagle offered no legitimate rationale for denying this club. Based on his unwillingness to put anything in writing, it certainly appears that Principal Cagle is aware that his actions may be legally questionable. Discrimination based on ideology or opinion is blatantly unconstitutional, and KHS has not put forward any compelling reason for denying the students access to campus. See Perry Educ. Ass'n v. Perry Local Educators' Ass'n, 460 U.S. 37, 55 (1983). Principal Cagle is not free to make decisions around student clubs based only on his personal discomfort and must act within only within objective, viewpoint neutral grounds. Indeed, it appears that Principal Cagle not only violated the First Amendment rights of the students, but Kennedale ISD's own policies.¹ By making this seemingly unconstitutional decision, Principal Cagle and the KHS administration has created liability for Kennedale ISD which could be pursued as a federal civil rights violation under 42 U.S.C. § 1983.

In anticipation of possible litigation, KHS and all Kennedale ISD employees, agents, board members, or other individuals involved in the application for recognition by KHS YAF are directed to preserve all information and documents related to this matter as of the date of this letter for production during discovery. This includes all documents (paper and electronic), existing in e-mails, presentations, video meetings such as e.g. Zoom or Skype, hard drives, cloud data storage, and shared network drive files. It also includes text messages, instant messages, voicemails, and social media posts and messages. It also includes any records on electronic devices you use for work, such as an iPhone, thumb drive, or a personal computer on which work materials are accessed and/or stored.

¹ See, for example, Kennedale ISD Policy FNAB, which states about student group access that "The principal shall approve or reject the request within seven school days, subject to the availability of suitable meeting space and without regard to the religious, political, philosophical, or other content of the speech likely to be associated with the group's meetings."

The students of KHS YAF are asking for nothing more than the ability to express their views on campus consistent with all other student clubs, and have done nothing to warrant the treatment Principal Cagle and the KHS administration subjected them to. It is our strong preference that this matter will be resolved quickly without forcing us into litigation, but the students and YAF are prepared to take whatever legal action is necessary to correct this injustice. Should we need to litigate this matter, YAF will be seeking not only damages but reimbursement of all costs and attorney's fees. It is my sincere hope that you will take swift action to correct this situation and ensure that KHS abides by its constitutional obligations.

Sincerely,

A handwritten signature in blue ink, appearing to read 'S. Mairella', with a long horizontal flourish extending to the right.

Steven M. Mairella, Esq.
Deputy General Counsel
Young America's Foundation

CC: Principal Michael Cagle
Kennedale High School
901 Wildcat Way
Kennedale, TX 76060
caglem@kisdtx.net