



**THE BECKET FUND**  
FOR RELIGIOUS LIBERTY

**BOARD OF ADVISORS**

November 29, 2005

Hon. William P. Barr  
Former Attorney General  
of the United States

Prof. Stephen L. Carter  
Yale Law School

His Eminence  
Francis Cardinal George, O.M.I.,  
Archbishop of Chicago

Prof. Mary Ann Glendon  
Harvard Law School

Hon. Orrin G. Hatch  
United States Senator  
(R-Utah)

Hon. Henry J. Hyde  
United States Representative  
(R-Illinois)

Prof. Douglas Kmiec  
Pepperdine School of Law

Prof. Douglas Laycock  
University of Texas Law School

Rev. Richard John Neuhaus  
President, Institute of Religion  
and Public Life

Eunice Kennedy Shriver  
Founder and Honorary Chairman,  
Special Olympics International

Sargent Shriver  
Chairman of the Board,  
Special Olympics International

Dr. Ronald B. Sobel  
Senior Rabbi, Congregation Emanu-El  
of the City of New York

John M. Templeton, Jr., M.D.  
Bryn Mawr, Pennsylvania

**By Facsimile and First Class Mail**

Ms. Mia M. Martin, Esq.  
General Counsel  
Richardson Independent School District  
400 S. Greenville Avenue  
Richardson, TX 75081-4198  
Facsimile: (469) 593-0344

Dear Ms. Martin:

It was a pleasure getting to meet you, Superintendent Jim Nelson, Assistant Superintendent Bob DeVoll and Berkner Interim Principal Ed Yartym on November 17 in Richardson. We were happy to see that the School District stated that in the future it wants to accommodate our clients' religious exercise of praying the daily *zuhr* prayer on campus. We were especially gratified to see that School District is appropriately modifying its prior policies in order to adequately accommodate Muslim students praying the *zuhr* on campus. As you may be aware, these previous policies were set out in emails sent by Mr. Yartym to Berkner staff members. In the email he sent to Berkner staff on October 14, Mr. Yartym stated that students must leave campus to pray: "If you have students who wish to pray during a specific time, please remind them they are to check out at RAM Central." We understand from our discussions last week that, going forward, Muslim students will be allowed to pray the *zuhr* on campus.

In the email he sent to Berkner staff on October 25, Mr. Yartym wrote that "No students are to be allowed to leave your classroom at any time to go pray. To do so is allowing accommodations to one group of students over another." We understand from our discussions last week that, going forward, that this no longer represents Mr. Yartym's or the School District's policy position. Instead, Muslim students will be allowed, when necessary, to be excused from class for up to 10 minutes to pray the *zuhr*.

Based on our discussions with you, Superintendent Nelson and Assistant Superintendent DeVoll, we understand that the School District will, going forward, allow Muslim students to pray the *zuhr* prayer on campus under at least two sets of circumstances. First, students whose lunch period provides sufficient time for them to complete the 10 minute *zuhr* prayer (including the preparatory *wudu* ablutions) will be allowed to pray in the library or in the hallway immediately to the east of the cafeteria area. They will be allowed to spread out some form of cloth, tarpaulin, carpet, or other floor covering that allows them to pray the *zuhr* prayer in a ritually clean manner and with their shoes off, as required by their religious beliefs. To ensure the ritually clean nature of the area covered by the cloth or other material and to prevent any disturbance from other students passing by, praying students will be allowed to place a temporary mark of separation between them and other students passing by.

Second, students who do not have sufficient time during their lunch period to complete the 10 minute *zuhr* prayer (including the preparatory ablutions) will be allowed to pray at the beginning or end<sup>1</sup> of any class period falling within the time required for the *zuhr*. These prayers may be conducted in any public area of the school, including, for example, the library, a corner of the corridors outside the classrooms, or in some other place where they might otherwise be allowed to be if they were passing through the halls on a permit (e.g., to visit a restroom). Students will be allowed to place a mat, sheet, or other cloth down to ensure the ritually clean nature of the prayer area. They will also be allowed to place a temporary mark of separation between them and other students passing by. Students who must pray at the beginning or end of their class will not be penalized in any fashion, academically, disciplinarily, or otherwise, for being ten minutes (or less) late to class, or for leaving class early, because of the time they spend performing *wudu* and *zuhr*. As we discussed, during part of the school year all of the Muslim students will need to utilize this second accommodation because the appointed time for *zuhr* falls completely outside the lunch period.

We also note that in our discussions we agreed that for part of the school year this accommodation will not be necessary, as the time appointed for *zuhr* extends sufficiently beyond the school day for students to complete *zuhr* and *wudu* when they are away from school. During the 2005-2006 school year, for instance, the accommodation is not necessary before October 1, 2005 and after April 5, 2006.

Our clients have determined that the School District's policy position described above, if reduced to writing and properly implemented and enforced, would meet their religious requirements. We suggest that this new policy be described in the following form:

One example of the School District's policy of accommodating student religious practices is the accommodation of Muslim students' prayer at L.V. Berkner High School. Muslim students'

---

<sup>1</sup> Students and teachers would work out on an individual basis the best time for the student to be excused.

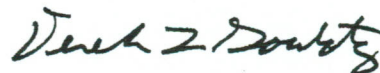


religious beliefs regarding prayer are accommodated by allowing those students to pray in the library or a clean, quiet hallway space immediately to the east of the school cafeteria during their lunch period. Students are allowed to make this area ritually clean by laying out a cloth or other floor covering and placing a temporary mark of separation between themselves and other students passing by while they are praying. Students who do not have sufficient time during their lunch period to complete their midday prayer and preparatory ablutions are allowed to pray at the beginning or end of any class period falling within the time required for the midday prayer. These prayers may be conducted in any public area of the school, including, for example, the library, a corner of the corridors outside the classrooms, or in some other place where they might otherwise be allowed to be if they were passing through the halls on a permit (*e.g.*, to visit a restroom). Students are allowed to place a mat, sheet, or other cloth down to ensure the ritually clean nature of the prayer area. They are also allowed to place a temporary mark of separation between them and other students passing by. Students who must pray at the beginning or end of their class are not penalized in any fashion, academically, disciplinarily, or otherwise, for being ten minutes (or less) late to class, or leaving class early, because of the time they spend performing their midday prayer and ablutions. Moreover, when students are required by their religious beliefs to attend communal prayer or worship (for example on Fridays or during Ramadan), they are allowed to check out from school upon presentation of a permission slip from their parents. See Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools, 60 Fed. Reg. 9645, 9647 (Feb. 28, 2003).

This language could be inserted into the Richardson Independent School District Guidelines for Religious Practices, or could be part of a separate policy. Our clients require only that the policy be a written one.

We look forward to working with you to design and implement the School District's new policy of religious accommodation.

Sincerely yours,



Derek L. Gaubatz, Esq.  
Director of Litigation

A handwritten signature in black ink, appearing to read "Eric Rassbach". The signature is fluid and cursive, with the first name "Eric" written in a larger, more prominent script than the last name "Rassbach".

Eric C. Rassbach, Esq.  
Legal Counsel

cc: Superintendent Jim Nelson  
Assistant Superintendent Bob DeVoll