

November 18, 2013

**Via U.S. Mail, Email, and Fax**

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**RE: Provision of government funds to Child Evangelism Fellowship**

Dear members of the County Council:

We understand that the Pierce County Council will vote on Tuesday, November 19, on the provision of seven thousand dollars to Child Evangelism Fellowship. John Langelier, *Late addition to Pierce County budget raising legal questions*, King 5 News, November 17, 2013, <http://www.king5.com/news/local/Late-addition-to-Pierce-County-budget-raising-legal-questions-232228181.html>. We also understand that because this item was a late addition to the budget, it was not required to undergo the same vetting procedures as other, similar, grants. Provision of government funds to this organization would violate the Establishment Clause of the First Amendment to the U.S. Constitution, and Article I, § 11 of the Washington Constitution. We therefore request that you remove this grant from your budget.

The Establishment Clause prohibits the provision of public aid to support religious activity, such as worship or religious instruction. *See Mitchell v. Helms*, 530 U.S. 793, 840-41, 857, 861 (2000) (O'Connor, J., concurring)<sup>1</sup>; *Bowen v. Kendrick*, 487 U.S. 589, 621 (1988); *Roemer v. Bd. of Pub. Works*, 426 U.S. 736, 754-55 (1976); *Hunt v. McNair*, 413 U.S. 734, 743 (1973). As a result, courts have prohibited the government from funding religious institutions and activities in a range of contexts and circumstances. *See, e.g., Ams. United for Separation of*

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<sup>1</sup> Courts agree that Justice O'Connor's concurrence, and not the plurality opinion, represents the holdings of *Mitchell*. *See Cmty. House, Inc. v. City of Boise*, 490 F.3d 1041, 1058 (9th Cir. 2007); *Columbia Union Coll. v. Oliver*, 254 F.3d 496, 504 n.1 (4th Cir. 2001); *DeStefano v. Emergency Hous. Grp., Inc.*, 247 F.3d 397, 418 (2d Cir. 2001); *Johnson v. Econ. Dev. Corp.*, 241 F.3d 501, 510 n.2 (6th Cir. 2001).

*Church & State v. Prison Fellowship Ministries*, 509 F.3d 406, 424 (8th Cir. 2007) (prohibiting government from funding prison program “dominated by Bible study, Christian classes, religious revivals, and church services”); *Doe v. Vill. of Crestwood*, 917 F.2d 1476, 1478–79 (7th Cir. 1990) (prohibiting Mass during town-sponsored festival because “[a] religious service under governmental auspices necessarily conveys the message of approval or endorsement”); *Gilfillan v. City of Philadelphia*, 637 F.2d 924, 934 (3d Cir. 1980) (city violated Establishment Clause by funding construction of platform for use during visit by Pope); *Newman v. City of E. Point*, 181 F. Supp. 2d 1374, 1381–82 (N.D. Ga. 2002) (even though event was privately sponsored, Establishment Clause prohibited use of “City funds to produce, duplicate and distribute a flyer advertising the Mayor’s Prayer Breakfast”).

Pierce County’s funding of Child Evangelism Fellowship would be unlawful even if County money were used for items that are not overtly religious. Government funds may not finance even secular items if they are used to conduct or support religious activity. *See Mitchell*, 530 U.S. at 859 (O’Connor, J., concurring) (Establishment Clause prohibits use of federally funded secular materials and equipment, such as computers, to advance a parochial school’s religious mission); *Comm. for Pub. Educ. & Religious Liberty v. Nyquist*, 413 U.S. 756, 774 (1973) (funding of maintenance and repair work at religious schools “subsidize[d] directly [their] religious activities”); *Tilton v. Richardson*, 403 U.S. 672, 683 (1971) (prohibiting government from funding secular building at religiously-affiliated colleges if facilities could eventually be used for religious activities); *Ams. United*, 509 F.3d at 418–19, 424–25 (payments to religious prison program—which were in part used for telephone, mailing, computer, copying, and other office costs—ultimately supported religious indoctrination in violation of the Establishment Clause); *Cnty. House, Inc. v. Boise*, 490 F.3d 1041, 1059 (9th Cir. 2007) (prohibiting city from providing building for Christian nonprofit organization to use as homeless shelter because building was used “for Christian chapel services in addition to other services for the homeless”).

Dedicating the money to payment of rental fees at local fairs, as a recent newspaper article about this matter indicates (*see* Langelier, *supra*), would inevitably support religious activity. A review of Child Evangelism Fellowship’s website confirms that all of the organization’s activities are religious. *See* Child Evangelism Fellowship, <http://www.cefonline.com/activity>. The organization’s website proclaims: “Child Evangelism Fellowship is a Bible-centered, worldwide organization composed of born-again believers whose purpose is to evangelize boys and girls with the Gospel of the Lord Jesus Christ, disciple them in the Word of God and establish them in a Bible believing church for Christian living.” Child Evangelism Fellowship, Purpose, [http://www.cefonline.com/index.php?option=com\\_content&view=category&id=77&Itemid=100](http://www.cefonline.com/index.php?option=com_content&view=category&id=77&Itemid=100). The website adds: “God has given His people a clear commission—to reach every creature with the Good News of the Lord Jesus Christ. Our special mission in CEF is to evangelize every child.” Child Evangelism Fellowship, Our Vision, [http://www.cefonline.com/index.php?option=com\\_content&view=category&id=120&Itemid=100199](http://www.cefonline.com/index.php?option=com_content&view=category&id=120&Itemid=100199). Child Evangelism Fellowship pursues its religious goals through “many different ministries for children,” which “are designed to bring the Gospel of Christ to children on their level in their environment,” and which include “fair” and “open-air” “ministries for children.” Child Evangelism Fellowship, About Us, [http://www.cefonline.com/index.php?option=com\\_](http://www.cefonline.com/index.php?option=com_)

content&view=section&id=8&Itemid=100032. Thus, regardless of whether Child Evangelism Fellowship uses County-funded fair-rental fees to pay for a booth where it evangelizes children, or merely for one where it promotes religious programming at another location, the proposed grant would be plainly unconstitutional.

Article I, § 11 of the Washington Constitution takes an even stronger stance against the use of government funds to support religious ministries. The Washington Constitution provides, in relevant part:

No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or the support of any religious establishment.

Wash. Const. Art. 1, § 11. The Washington Supreme Court has held that the plain language of this section prohibits the application of public moneys to religious instruction or indoctrination. *See Witters v. State Comm'n for the Blind*, 771 P.2d 1119, 1121-22 (Wash. 1989). Consequently, it is also a violation of the Washington State Constitution for the County to provide funds to Child Evangelism Fellowship.

For these reasons, we request that you remove the seven thousand dollar grant to Child Evangelism Fellowship from your budget. Approval of the grant would place Pierce County at high risk of time-consuming and expensive litigation, including liability for plaintiffs' attorney's fees that would dwarf the amount of the grant at issue. You may contact Ian Smith at (202) 466-3234 or at [ismith@au.org](mailto:ismith@au.org) if you would like to discuss this matter.

Very truly yours,

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