

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. \_\_\_\_\_

SEAN SHIELDS; and  
ASHLEE SHIELDS, by and through her father and next friend, SEAN SHIELDS,

Plaintiffs,

v.

KIOWA COUNTY SCHOOL DISTRICT NO. RE-2, and  
SCHOOL BOARD OF KIOWA COUNTY SCHOOL DISTRICT NO. RE-2,

Defendants,

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**COMPLAINT**

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Plaintiffs, Sean Shields and Ashlee Shields, by and through counsel, James W. Hubbell of Kelly|Haglund|Garnsey+Kahn LLC, and Mark Silverstein of the American Civil Liberties Union Foundation of Colorado, allege as follows:

**PRELIMINARY STATEMENT**

1. This is a civil rights action brought pursuant to 42 U.S.C. Section 1983 to enforce the Establishment Clause of the First Amendment to the United States Constitution. Plaintiffs are a public school teacher employed by Plainview Junior-Senior High School (“Plainview School”) and his daughter, a seventh-grade student at Plainview

School. The defendant has abridged plaintiffs' right to be free of state-sponsored establishment of religion guaranteed by the United States Constitution.

2. Plaintiffs seek nominal damages and a declaration under 28 U.S.C. 2201, *et seq.*, that the District's policy and practice encouraging and sponsoring student prayer at graduation ceremonies before a captive audience of public school students and teachers is a violation of the Establishment Clause.

3. Plaintiffs also seek an order from this Court enjoining the defendants from implementing its policy and practice of having, orchestrating, and encouraging school-sponsored prayers at Plainview School's May 25, 2002, graduation ceremony and future graduation ceremonies, as well as prayer sessions at mandatory teacher orientation meetings organized by Defendants and held on school property.

### **THE PARTIES**

4. Plaintiff Sean Shields ("Sean") is a resident of Kiowa County, Colorado. He has been employed as a teacher at Plainview School since August, 2000. He is the father of plaintiff Ashlee Shields and two other children attending school in the District.

5. Plaintiff Ashlee Shields ("Ashlee") is a resident of Kiowa County, Colorado, and a seventh-grade student at Plainview School. She sues by and through her father and next friend, Sean Shields.

6. Defendant Kiowa County School District No. RE-2 (the "District") is a

public school district. It supervises and operates Plainview School.

7. The District's School Board (the "Board") is the duly elected or appointed school board or board of education responsible for the operations and policies of the District.

### **JURISDICTION**

8. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(4).

### **VENUE**

9. Venue is proper in the District of Colorado pursuant to 28 U.S.C. Section 1391 because this district is the site of plaintiffs' injuries. Additionally, all parties reside in the District of Colorado.

### **FACTUAL ALLEGATIONS**

10. Plaintiffs reallege and incorporate the allegations of paragraphs 1-9 as if fully set forth herein.

11. Plainview School is located in the tiny community of Sheridan Lakes in Kiowa County, Colorado. Fifty-eight students attend the school, while the town of Sheridan Lakes itself has a population of only about 100 persons.

12. The community and its religious leaders are deeply involved in the activities and operations of Plainview School. Consequently, there is often no clear

boundary between activities of the school and those of the community.

*Religious references pervade school life.*

13. Sectarian prayer and religious activities are and have been a fact of life at Plainview School for many years.

14. As a matter of practice and policy, prayers have almost invariably been delivered at events and meetings that are sponsored and organized by the school. These events and meetings include community forums held by the school to discuss school issues, banquets and dinners, and teacher orientation sessions. The prayers are generally delivered by Christian ministers, and on occasion, by Board members or the District Superintendent.

15. For example, at the beginning of the 2001-2002 school year, teachers, including Sean, were required to attend the annual teacher in-service orientation sessions, held on school grounds and led by District representatives. Christian prayers are traditionally delivered each year before lunch at these annual orientation sessions, usually by Christian ministers who attend for that purpose. In 2001, the prayer was delivered by Johnny Holcomb, the District Superintendent.

16. The District has permitted and encouraged school facilities to be used for distribution of Bibles to both teachers and students. At the end of 2001, the school district permitted the Gideons to distribute a copy of the Bible to each teacher through the

school's internal mailboxes.

17. In spring of 2002, the school handed out permission slips to the students regarding distribution of Gideon Bibles. Students who returned a signed permission slip to Superintendent Holcomb could pick up the Bibles at the school after school hours.

18. The delivery of a prayer is also a traditional part of the annual graduation ceremony that the school district holds in the school gymnasium for graduating seniors and continuing 8<sup>th</sup> graders.

19. It has been traditional for a Christian minister to deliver the prayer at the annual graduation ceremony. A Christian minister delivered the prayer every year until the spring of 2001.

20. In April 2001, Sean learned that the graduation ceremony scheduled for the following month would include a prayer to be delivered by a Christian minister.

21. When he learned of this practice shortly before the 2001 graduation ceremony, Sean complained about it. Sean pointed out that the Supreme Court had clearly held that a minister delivering a prayer at a school-sponsored graduation violated the Establishment Clause. *See Lee v. Weisman*, 505 U.S. 577 (1992).

22. In response to Sean's complaints, the District changed its policy from the annual minister-led prayer at graduation to a message chosen by the senior class. Under the new policy, the school required graduating seniors to vote on whether to have either a

prayer, a moment of silence, or no message at all delivered at graduation. If the graduating seniors voted for prayer, then a student was to deliver the prayer.

23. The new “student message” policy was designed to continue the longstanding tradition of having a prayer delivered at the school-sponsored graduation.

24. The three options for student expression—to have a prayer, a moment of silence, or no message at all—are designed by defendants so that the only verbal message that could be delivered by the graduating class is a prayer.

25. Moreover, when put into effect, the policy was itself disregarded by the defendants in order to guarantee that it would have the desired result of prayer in the graduation ceremony.

26. When the senior class was allowed to choose a message to be delivered at the May, 2001, ceremony, it voted to have a moment of silence rather than a prayer.

27. The District then received an unknown number of protests from individuals in the community protesting the absence of Christian prayer at graduation. Under pressure from the community, the students held a new election. The new vote was in favor of prayer at graduation.

28. Even though the existing policy did not provide for a new vote, defendants did nothing to defend the school’s policy and permitted the initial student vote to be disregarded without a word in its defense. District officials attended the student meeting

that led to the new vote and accepted the new vote. The District's inaction made it clear that, as a practical matter, it would not defend or apply its policies if they conflicted with the community's desire for prayer.

29. The May, 2002 graduation opened with a sectarian prayer delivered by a student:

Dear heavenly father, we praise you for your many blessings and your never-ending love and grace.

We thank you for this beautiful day and for the friends and family who have come to celebrate with us.

Please help us find your will for our lives.

Dear lord, on this Mother's Day, please bestow a special blessing on these women who are so important to so many and so loved by you.

Lord Jesus, we behold your majesty with splendor and your excellence with purity.

Let us glorify you today and all the days to come.

We ask these things through your son, Jesus Christ.

*Graduation 2002*

30. On information and belief, the District intends to implement the same policy or a minor variant of it with regard to the graduation scheduled for May, 2002.

31. In response to inquiries from Sean and his counsel, the District asserts that

it has no written policy governing prayer, student “messages” or student speeches at graduation ceremonies or at any other school events.

32. The District did provide a letter from its attorneys, dated April 30, 2002, that suggests that the District adopt a policy that by its terms would require that students vote on whether to deliver a message of their own choosing without oversight or supervision by school officials.

33. Whether the District adopts its attorneys’ recommendation or whether the District follows the procedure implemented in 2001, the substitution of a student-led “message” is designed to continue the tradition of having a prayer delivered at the school-sponsored graduation ceremony.

34. On information and belief, the graduating seniors have already conducted a vote and approved delivering a “message” at the graduation ceremony scheduled for May 25, 2002.

35. Plaintiffs intend to attend the graduation ceremony in 2002. As the sponsor of the eighth grade class, Sean is required to attend.

36. Ashlee has been elected by the eighth grade to be an usher at this year’s graduation and continuation ceremony for seniors and eighth graders. Only two seventh grade students are chosen each year to be ushers. She will be in the eighth grade next year and will be a participant in the graduation as a continuing student.

37. Ashlee finds it very uncomfortable to participate in school events when prayers are given. She does not share the religious beliefs promoted by Defendants, but finds it difficult to leave school functions featuring religious activities because it makes her the center of attention and makes her feel left out.

38. The inclusion of prayers in graduation ceremonies and teacher orientation sessions described above, and the District's policies with respect thereto, have no secular purpose but rather has solely a religious purpose. Defendants' endorsement of prayer in these and other activities and events has the effect of advancing religion, and the prominent role of ministers and District officials in school affairs has the effect of entangling the affairs of the District and the community's predominant religious activities.

39. By being subjected to the graduation prayers and training sessions as described above, plaintiffs are suffering irreparable injury and are without adequate remedy at law. In the absence of injunctive relief, the defendants will include the prayers in the ceremony planned for May 25, and in future graduation ceremonies in violation of the Constitution.

## CLAIMS FOR RELIEF

40. The inclusion of prayers in the graduation ceremony and teacher orientation session, and the District's policies with respect thereto, violate plaintiffs' rights to be free from unconstitutional establishment of religion under the First Amendment to the United States Constitution, and made actionable by 42 U.S.C. Section 1983.

WHEREFORE, plaintiffs request:

1. Pending a trial on the merits, a temporary restraining order and/or a preliminary injunction enjoining the defendants from directly or indirectly implementing its policy and practice of having school-sponsored prayers at the Plainview School graduation on May 25, 2002, and annual teacher orientation meetings, or in any way encouraging or facilitating the giving of prayer at school-sponsored events;

2. Following a trial on the merits, the entry of an injunction permanently enjoining defendants from such action;

3. A declaration that the defendants' practices and policies regarding prayer at school-sponsored events violate the Establishment Clause of the First Amendment;

4. An award of damages of \$1.00 to each plaintiff;

5. Such further relief as the Court deems necessary and just; and

6. Attorneys' fees, costs and expenses of this action pursuant to 42 U.S.C.

Section 1988.

Respectfully submitted this \_\_\_\_ day of May, 2002.

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