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Americans United for Separation of Church and State says the cross on Spearville Elementary School in western Kansas, violates the First Amendment. Photo courtesy Spearville Schools

Group says cross atop Kan. school violates 1st Amendment

• FoxNews.com

A national group that advocates separation of church and state wants a western Kansas school to remove a cross from the top of its building, arguing the display is unconstitutional.

Americans United for Separation of Church and State says the cross on Spearville Elementary School violates the First Amendment. The group wrote Superintendent Daryl Stegman and Principal Marvin Hartzler in November in response to a complaint from a resident.

“The school’s cross display violates the constitutional prohibition against government action that ‘conveys or attempts to convey a message that religion or a particular religious belief is favored or preferred,’” the group said in the letter obtained by the Dodge City Globe.

The USD 381 Board of Education reached an informal consensus Monday that it wouldn’t take any action on the cross until a lawsuit is filed. Stegman told the board that the community would rather not take any action unless they have to, according to the Globe.

“I don’t like bringing this up every month,” Stegman said. “I think the community stood very firmly that they didn’t want to do anything unless they have to. Worst comes to worst I think you have to take it off.”

The group requested a response from the school district within 30 days and sent another letter Jan. 9. The school district, located in a town of about 775 residents northeast of Dodge City, has chosen not to respond to the group.

Board Member Michael Hubbell called the group’s complaint “ridiculous,” the Globe reported.

Ian Smith, an attorney for the group, told the newspaper that while the Supreme Court has upheld certain religious displays at certain government buildings, cases involving elementary schools are different because of the compulsory nature of schooling.

“Students don’t have a choice to be there. Something that might be OK elsewhere is not necessarily going to be OK in a public school,” Smith told the Globe. “The public schools have traditionally been treated different than other places.”

If the school district does not comply with the group’s request to remove the cross, Smith said the group will continue investigating and exploring legal options.

According to the Globe, Spearville Elementary was a Catholic school until it was transferred

from the Dodge City Diocese to the local district in 1975. The school was built in 1925 and may be eligible for designation as a historical building, the report said.

Jeffrey Jackson, a professor of law at Washburn University in Topeka, said if a case reaches the courts, the cross could be viewed as a historical element of the building, rather than an endorsement of a particular religion.

Jackson told the Globe there is “generally a lower bar” for judicial intervention in cases involving elementary schools because younger students are “fairly impressionable and more vulnerable for indoctrination in religion.”

“Some things might be OK in college where we tend to think students have more of an ability to discern, pick and choose, and understand context,” he said.

The Associated Press contributed to this report.

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