

# LIBERTY COUNSEL



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**REPLY TO FLORIDA**

June 19, 2023

**By E-mail Only**

Debbi Smith  
Confidential Administrative Assistant to the  
Director of Buildings, Grounds & Safety  
Addison Northwest Supervisory District  
802-471-2296  
dsmith@anwsd.org

RE: "INSURANCE" (for Tuesday, June 20<sup>th</sup> 2023 PRE Event – "Transgender 'Care' Helpful or Harmful")

Dear Ms. Smith:

If you are represented by counsel, please forward these communications to that attorney. Attached please find the letter Liberty Counsel sent yesterday, June 18, 2023, regarding the above matter.

Unless the District is confident that ALL past facilities use approvals a) have required a facilities use form/application, and b) have had "adequate" insurance (and these points may well be tested in litigation discovery, should that become necessary), the District would be ill-advised to cancel the above event less than 36 hours prior based on purported lack of "insurance."

I understand that Addison Northwest School District ("ANWSD") has approved the facilities use request submitted by Vermont representatives of Parents' Rights in Education ("PRE") for the above speaking event ("PRE Event"). Among the speakers is Walt Heyer, a kind and compassionate man who loves all people. You can read more about him at [www.waltheyer.com](http://www.waltheyer.com).

PRE has been roundly mischaracterized [by Outright Vermont](https://outrightvt.org/blog/trans-lives-are-not-up-for-debate)<sup>1</sup> and others<sup>2</sup> which have called for ANWSD to cancel the PRE speaking event, based on the viewpoint of the speakers. Now, ANWSD (via your email) has stated less than 36 hours before the PRE speaking event "**We will need a certificate of insurance before the event...**I do need this in hand before you can start setting up." See attached email of June 19, 2023, at 7:55:01 PDT. Later on June 19, you left a voicemail for one of the organizers, stating that unless proof of insurance was provided by 8:00 AM the morning of June 20 (with the event to be held that evening), the PRE Event would be cancelled.

<sup>1</sup> <https://outrightvt.org/blog/trans-lives-are-not-up-for-debate>

<sup>2</sup> <https://www.addisonindependent.com/2023/06/16/anwsd-explains-why-transgender-opponents-allowed-to-speak-at-vuhs/>

Liberty Counsel views this latest “insurance” demand as pretextual and the precise action a school district might be tempted to take, were the District faced with vociferous calls (from groups like Outright Vermont) for the District to discriminate against a speaker based on the speaker’s viewpoint.

The District has already falsely claimed “no space,” but recanted when tested. And the District refused to announce the PRE speaking event consistent with written policy. As set forth in the June 18, 2023 letter:

a) **the District falsely claimed space was not available** (and then recanted when Event organizers noted space WAS available); b) **the District refused to announce the Event via bulletin board postings** and email distribution (despite the organizers’ request, and despite the clear language of District Policy E21 providing for same); c) **the District denigrated the Event via an email that announced an event for opposition group Outright Vermont on June 15;** and d) **Outright Vermont and others are protesting the Event** “to show transphobia will not be tolerated” and hope to have the event cancelled.

To this list might now be added e) **the District has proffered a supposed lack of “insurance” as an impediment and a pretext for cancelling the event with less than 36-hours notice.** This is classic unbridled discretion. Unbridled discretion is always unconstitutional and can occur without objective standards, or when objective standards are not applied consistently, allowing government officials “the ‘power to discriminate based on the content or viewpoint of speech by suppressing disfavored speech or disliked speakers.’” *Charette v. Town of Oyster Bay*, 159 F.3d 749, 754 (2d Cir.1998) (quoting *City of Lakewood v. Plain Dealer Publ’g Co.*, 486 U.S. 750, 759 (1988)). Furthermore, “[d]iscrimination against speech because of its message is presumed to be unconstitutional.” *Rosenberger v. Rector and Visitors of the Univ. of Va.*, 515 U.S. 819, 828 (1995).

The ANWSD “Request for Facilities Use”<sup>3</sup> webpage says nothing about insurance; to the right, under “Facilities Quicklinks,” the link entitled “[How to Request for Facilities Use](#)” is simply a redirect to that same “Request for Facilities Use” page (and says nothing about insurance). Beneath that, “[Community Use Request \(community & outside organizations\)](#)” says nothing about “insurance.” “[Procedures for Facility Use & Fee Schedules](#)” says nothing about “insurance.” The document at the hyperlink “[Requesting Access - Directions](#)” says nothing about insurance. The “SchoolDude” facilities use form has a block for a date that “insurance expires on,” but is not a mandatory field that must be completed for completion and submission of the form. Finally, “[Policy E20 - Community Use of School Facilities](#)” mentions “insurance” on the last page (as an afterthought), but does not require any particular dollar amount, stating “All users shall be required to demonstrate **adequate** insurance coverage and shall agree to hold the District harmless from any and all liability resulting from their use of the facilities.” (emphasis added).

The District considered “adequate” insurance for a speaking event to mean “non-existent” when the form was filled out. And the District did not require Outright Vermont to provide proof of insurance on June 15 for its “circles” event. But, when loud members of the community mischaracterize the PRE speaking event and denigrate its main speaker, Walt Heyer as speaking “hate” (which is false), the District now suddenly finds the pretext of “insurance” as a basis to deny the PRE Event.

**Unless the District is confident that ALL past facilities use approvals a) have required a facilities use form/application, and b) have had “adequate” insurance (and these points may well**

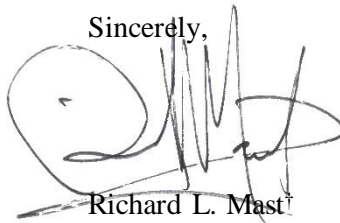
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<sup>3</sup> <https://www.anwsd.org/request-for-facilities-use.php>

**be tested in litigation discovery, should that become necessary), the District would be ill-advised to cancel the event less than 36 hours prior based on purported lack of “insurance.”**

I strongly urge the District to find that the PRE Event, which consists solely of “speech,” has “adequate” insurance for the occasion.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard L. Mast', written over a horizontal line.

Richard L. Mast<sup>†</sup>

c:

Anthony Duprey<sup>††</sup>

anthony@dupreylaw.com

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ssoule@anwsd.org

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<sup>†</sup>Licensed in Virginia

<sup>††</sup>Licensed in Vermont

RLM/tge

**From:** Debbi Smith <[dsmith@anwsd.org](mailto:dsmith@anwsd.org)>  
**Date:** June 19, 2023 at 07:55:01 PDT  
**To:** Tara Thomas <[tara.thomas3@aol.com](mailto:tara.thomas3@aol.com)>  
**Cc:** Sheila Soule <[ssoule@anwsd.org](mailto:ssoule@anwsd.org)>  
**Subject:** Certificate of Insurance

Hi Tara,

We will need a certificate of insurance before the event. Could you please forward me a copy of your organizations certificate. I do need this in hand before you can start setting up.

If you have questions, please let me know.

Thanks,

Debbi Smith  
Confidential Administrative Assistant to the  
Director of Buildings, Grounds & Safety  
Addison Northwest Supervisory District  
802-471-2296

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



[Home](#) [Request Facility Use](#) [My Requests](#) [My Organizations](#) [My Settings](#) [Documents](#) [Help](#)

Search for  [GO](#)

### NEW Facility Use Request

1 Search 2 Availability 3 **Event Details** 4 Confirmation

#### Organization Information

Organization  ▼

Contact  ▼

Insurance expires on:

#### Setup Requirements

##### Required Maintenance Services

##### Service Description

ADA Accommodations

Bleachers

Custodial

Electronic Door Access

Elevators

Equipment

Event Break Down

Event Setup

Food Services

Heating/Ventilation /Air  
Conditioning

Heavy Equipment  
Operation

Key and Lock



Lighting

**Required IT Services**

**Service Description**

Audio / Visual

Electronic Door/Lock Access

Event Setup

Projector (Data/Computer)

Smart Board

**Rental Requests**

**Charge Type**

**Quantity**

**Rental description**

Custodial

0

Kitchen Staff

0

Room Rental

0

**Event Information**

Below, please enter a number for:

Total Attending

Adults Attending

Children Attending

Extra Chairs Required

Parking Spaces Required

Yes, please display events on the community calendar

Other Needs

**File Attachments**

[Add New File](#)

Delete	Date	Submitted By	Description	Filename	Size

No attachments

(No limit on number of files attached. Total size of all uploaded files must be less than 5MB)

Signature  (please enter your email address)

I confirm that I have previously read and agree with the terms and conditions of facilities use

Previous

Save

Legend

- | Required Fields
- ⊗ Insurance Expired

[Home](#) [Request Facility Use](#) [My Requests](#) [My Organizations](#) [My Settings](#) [Documents](#) [Help](#)

SID: AWSDPDCOMWEB8E The School Board of Directors wishes to encourage use of school facilities by the community as long as it is for a lawful purpose and does not interfere with the conduct of the District's educational programs, the primary purpose of which the buildings and grounds are intended. Community use of facilities is subject to the terms of District Policy (E20) and the current schedule of user fees. No person shall be denied the full enjoyment of the facilities because of race, creed, color, sex, or origin.

[Terms and Conditions](#)



All event requests must be made 15 days prior to the date of the event.

- School activities take precedence over all other uses of facilities.
- Applicant/organization is responsible for the safety and conduct of its participants and spectators.
- Satisfactory sponsorship and adequate adult supervision must be provided by the applicant. Police coverage may be required for some activities.
- All events will be required to meet the relevant occupancy load and fire and safety regulations.
- Use of alcohol, tobacco, and/or drugs is prohibited. Profane language and/or other objectionable conduct may result in barred use of facilities.
- Firearms or other dangerous weapons are prohibited on school grounds as defined by law.
- Access to facilities and services, except as otherwise addressed in these rules, shall be limited to that specified on the application.
- Alterations to the field/facility are prohibited without prior approval. This may include such things as hanging signs, erecting backstops, placing goals, using masking tape on walls and floors, etc.
- District-owned equipment shall not be removed from the facility or loaned to any individual or organization unless prior approval by the District has been granted. Groups or individuals cannot use district-owned expendable supplies.
- Applicants are responsible for special set-up requirements and clean up unless specifically requested on the application. Users shall be responsible for returning the facility to its original condition immediately following the event.
- Appropriate gym shoes are required for all activities on the uncovered floor of gymnasiums.
- The applicant/organization shall not practice discrimination of any kind.
- Cancellations by applicants require at least a 24 hour notice. Otherwise, related actual costs shall be borne by the applicant.
- Facility use is cancelled when facility/building is closed due to an emergency.
- The District reserves the right to refuse or revoke any authorization issued for the use of a school building or grounds, and if rental has been paid, to refund such rental less expense incurred by the District in connection therewith.

Applicable fees may apply.