



January 30, 2023

Ms. Haylie Studebaker  
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**Via Email:**

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**Re: Unconstitutional Denial of Access to Public Library; Brave Books Story Time**

Dear Ms. Studebaker:

First Liberty Institute is the largest legal organization in the nation dedicated exclusively to defending religious liberty for all Americans. We represent Ricardo Ferreira Frias, a citizen and resident of Pinal County, who was wrongfully denied access to the public library located at the San Tan Valley Pinal County Complex (“San Tan Library”) on

January 6, 2023. This letter concerns your unconstitutional and unlawful denial. For the reasons discussed below, we demand that you allow Mr. Frias access to the subject Library. Please direct all communication regarding this matter to us. If you are represented by legal counsel, please advise and we will direct all further communication to your counsel.

## **Factual Background**

On December 15, 2022, Mr. Frias attempted to schedule a story time at the San Tan Library. Gloria Moreno, the Library Manager, advised him that Kimberly Carroll in your office was responsible for reserving space at the San Tan Library. Ms. Moreno also provided Mr. Frias a copy of the library space guidelines ("Guidelines"), which are attached to this letter.

Thereafter, on December 16, Mr. Frias emailed Ms. Carroll, and informed her: "I would like to do a storytime that's Christian themed and Bible based. It would be sponsored by Calvary Chapel of Queen Creek and the event would be open to anyone who would like to attend. Please let me know by how we could proceed and when." Mr. Frias stated that the book he intended to read was one of a series of Brave Books, and that the book would illustrate "a moral principle aligned with the Bible, a lesson and an interactive activity to review the book." *See* bravebooks.us.

Brave Books are books designed for story hours for children. They emphasize the Bible's character traits of love, joy, and gentleness. *Id.* Indeed, if you click on the Brave Books website, you will see that Pinal County Sheriff Mark Lamb is prominently displayed as endorsing one of their books ("The Adventures of Seymour Clues."). *Id.*

On January 3, 2023, Ms. Carroll advised Mr. Frias that, "We are checking with legal on our space use agreement." A few days later, on January 6, Ms. Carroll advised Mr. Frias that, "After speaking with our Legal Counsel we are unfortunately going to have to decline your request. We sincerely appreciate your understanding and look forward to seeing you around in the community."

Mr. Frias asked why he could not have access to the library for story hour. Ms. Studebaker then responded by email on January 10, as follows:

**"Because the building is county owned we have to be careful about the separation of church and state and we aren't allowed to offer the space for church or religious activities that could be considered preaching, that is why we weren't able to approve your original request."**

## Legal Analysis

Mr. Frias' request complies with Pinal County's Guidelines regarding use of library rooms. The Guidelines state, "We welcome and allow non-profit organizations and community groups [to use conference rooms] when those facilities are not needed for administrative use, activities, or programs sponsored in whole or in part by the County." Further, the Guidelines prohibit use for "sales transactions." And finally, the Guidelines places noise and conduct restrictions for children to prevent disrupting Library patrons and its staff.

Here, Mr. Frias and his church are not seeking to engage in sales transactions. They are simply seeking to read a book with Biblical moral principles to children. Mr. Frias will, of course, ensure that the children in attendance are properly supervised during story time.

It is important to note that Mr. Frias has been granted access to conduct a story time, reading the Brave Book "As You Grow," to children at the nearby Queen Creek Library on February 4. It is troubling that a nearby library in Maricopa County has guaranteed Mr. Frias free and easy access to their facilities and his church while you have not.

Pinal County has violated its own library Guidelines, as well as Mr. Frias' state and federal constitutional rights. As you well are well-aware, it is unlawful to discriminate against a person because of their religion. The Free Speech clause of the First Amendment to the U.S. Constitution and Article 12, Section 6, of the Arizona Constitution require that public institutions like libraries allow all people to use public forums, including public library meeting rooms, regardless of the message that the speaker wishes to communicate. *Kreimer v. Bureau of Police for the Town of Morristown*, 958 F.2d 1242, 1255 (3d Cir. 1992); *Concerned Women for America v. Lafayette County*, 883 F.2d 32 (5th Cir. 1989); *Pfeifer v. City of West Allis*, 91 F. Supp. 2d 1253 (E.D. Wis. 2000); *Mainstream Loudoun v. Loudoun County Library*, 2 F. Supp. 2d 783 (E.D. Va. 1998).

These library rooms are clearly a public forum and must be available to all groups. By singling out Mr. Frias' story time because of its message, you violated his free speech rights.

Further, the fact that Mr. Frias' message involves religion does not disqualify him from using your meeting rooms. *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98 (2001). In fact, it strengthens his case since he also has a right under the state and federal constitutions to freely exercise his religion. Denying religious speakers a forum to speak while allowing similarly situated secular speakers to communicate their messages, not only violates the religious speaker's free speech rights, but also their free exercise rights as well. *See, e.g., Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012 (2017). And even if a policy is facially neutral, if it is applied in a manner that targets religious practice, it is unconstitutional. *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 534 (1993);

*Brush & Nib Studio, LC v. City of Phoenix*, 247 Ariz. 269, 292-93 ¶¶ 99-103 (2019). By allowing other patrons to use your meeting rooms, but discriminating against Mr. Frias because of his religious views, you have also violated his free exercise rights.

Finally, at a minimum, you have violated Mr. Frias' statutory rights under A.R.S. §§ 41-1441, - 1442 (prohibiting religious discrimination in public accommodations), and A.R.S. § 41-1493.01 (Arizona's Free Exercise of Religion Act prohibiting government discrimination based on free exercise of religion), and likely multiple other statutes.

## **Conclusion**

Mr. Frias' constitutional and statutory rights have been violated. If Pinal County continues to deny him access to the San Tan Library, we will take legal action. We request that you allow him access to the Library for his proposed Brave Books story time event. Please confirm that you will agree to Mr. Frias' request by Tuesday, February 7, 2023, at 5:00 p.m. Otherwise, you leave us no choice but to promptly file a lawsuit in this matter.

Sincerely,



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