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Chabad Chayil, Inc. v. School Board of Miami-Dade County, Florida

United States Court of Appeals, Eleventh Circuit - September 8, 2022 - F.4th - 2022 WL 4100687

Operator of Jewish oriented afterschool program brought § 1983 action against school district and county's Office of Inspector General (OIG), alleging violations of its First Amendment right to freely exercise religion, violation of equal protection rights, and violation of due process under the Fourteenth Amendment.

United States District Court for the Southern District of Florida dismissed the claims with prejudice and without leave to amend. Operator appealed.

The Court of Appeals sitting by designation, held that:

- School district did not have *Monell* liability;
- OIG did not have § 1983 liability for alleged violations of operator's First Amendment right to freely exercise its religion;
- Operator failed to establish a "class of one" equal protection claim;
- Operator's alleged agreement with school district did not support its due process claim;
- Operator did not have a due process protected right to have school district consider its application for use of school facilities; and
- OIG did not have § 1983 liability for the alleged due process violation.

School superintendent's alleged actions in making decision to prevent operator of Jewish oriented afterschool program from using school district's facilities for the program were subject to meaningful administrative review and therefore lacked the final policymaking authority required for school district to have *Monell* liability for alleged violations of operator's religious freedom rights under the First Amendment, and equal protection and procedural due process rights under the Fourteenth Amendment, where state statutory scheme as a whole made clear that the school district retained ultimate authority to review and reverse any of the superintendent's decisions that it disapproved.

Allegations by operator of Jewish oriented afterschool program, that county's Office of Inspector General (OIG), in investigating operator for failing to reveal it collected monies in application for free access to school district facilities, exhibited bias against operator based on its teaching of religion and that OIG investigators pressured interviewees to say that teaching religious topics violated some policy, despite having no basis to believe that religious orientation of the program violated any school district policy, were insufficient to plausibly allege an official policy or custom of OIG that would render it liable for violating operator's right to freely exercise its religion; allegations did not demonstrate a custom so longstanding and widespread that it was deemed authorized by policymaking officials.

Operator of Jewish oriented afterschool program failed to demonstrate that its comparators were similarly situated in all relevant respects and thus failed to establish a “class of one” equal protection claim against county’s Office of Inspector General (OIG) arising from allegations that OIG singled it out for investigation for failing to disclose it collected monies in order to get facility use fee waivers from the school district when numerous other organizations received fee waivers while charging fees, where OIG’s investigation into operator was instigated by an anonymous complaint alleging that operator was improperly receiving fee waivers, and operator did not allege that any of the proposed comparators were also the subject of such a complaint.

Purported informal agreement between operator of Jewish oriented afterschool program and school district, allowing operator to use school facilities for program until conclusion of county Office of Inspector General (OIG) investigation into operator’s alleged misrepresentations in order to gain free use of school facilities and circumvention of process for having an afterschool program at a school district facility, was not a stigma plus legal entitlement, and thus, operator failed to establish a valid § 1983 due process claim for deprivation of a liberty interest based on reputational harm against OIG for making allegedly false and defamatory statements in its investigation report, where operator did not have a signed, written agreement to use school district facilities for the school year.

Right to have applications for use of school facilities be considered by school district was not a property right recognized under state law, and thus, operator of Jewish oriented afterschool program did not have a stigma plus legal entitlement supporting a valid § 1983 due process claim for deprivation of a liberty interest based on reputational harm against county Office of Inspector General (OIG), arising from OIG’s investigation into operator’s alleged misrepresentations in order to gain free use of school facilities and circumvention of process for having an afterschool program at a school district facility; operator did not point to any legal authority providing that it had a right to have a local school district consider its applications.

Even if county’s Office of Inspector General (OIG) acted in accordance with some official policy or custom, that policy or custom did not cause harm suffered by operator of Jewish oriented afterschool program from school district’s action in barring operator from continuing to use school facilities following OIG’s investigation into operator’s alleged misrepresentations in effort to obtain free use of school facilities, and thus, OIG did not have § 1983 liability for operator’s due process claim for deprivation of a liberty interest based on reputational harm arising from OIG’s alleged defamatory statements in its investigation report; OIG’s role was to conduct investigations and issue reports, and it did not have authority to refuse any group permission to use school district property.

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