



Written by [Bruce Walker](#) on December 7, 2011

Supreme Court Allows Ban on Church Services in School

The Bronx Household of Faith outgrew its meeting places in private homes. It applied, in 1994, for the right to meet in Public School 15 in the Bronx for Sunday services. This started a long legal battle with the city, which just ended when the [Supreme Court](#) declined to review lower court decisions that had upheld the city of New York's ban on the evangelical congregation using the school.



Ten years ago, it seemed the organization would win its fight. In a case in the Medford, New York School System, the Good News Club had won the right to use space in public school for after-hours activities even though prayer, Bible lessons, and scripture reading were included in those activities.

The Bronx Household of Faith could also take some heart from the fact that it was not the only religious organization that had been using school facilities. An estimated 60 churches in 2009 were using school facilities, and that number was growing. The city estimates that in the last school year 160 congregations used schools to meet. This is not free: The churches pay a small fee to the schools for the use of the building, which would otherwise be unoccupied. Outside of New York State, there are many churches that use schools for meeting places after hours.

The Bronx Household of Faith obtained an injunction at the lower court level against the city's attempt to ban use of school facilities, and since 2002, it has been allowed to hold services pending final judicial resolution. In June, the U.S. Circuit Court of Appeals for the Second Circuit ruled that the city was right. The opinion found: "A worship service is an act of organized religion that consecrates the place in which it is performed, making it a church.... [The churches] tend to dominate the schools on the day they use them," leading, the judges thought, the children to believe that the school was somehow a church. The two judges who formed the majority in the opinion distinguished the case from the Medford, New York, case by stating that a religious service is different from after-school Bible study or an after-school activity that included a prayer.

Robert Hall, a pastor at the Bronx Household of Worship, said that the Supreme Court should, at least, have heard the case. Pastor Matt Brown of the Park Slope Presbyterian Church, a church that had been meeting on Sundays in the cafeteria of John Jay High School, and which will now have to find another place to meet, noted that the decision creates an unusual problem for city officials: "I would love to know who at the Board of Education is theologically capable of making those decisions [as to what constitutes a religious service.]"

Jane Gordon, an attorney for the City of New York, stated: "We view this as a victory for the city's schoolchildren and their families." [Jordan Lorence](#), senior counsel for the Alliance Defense Fund, which had worked on this appeal, said, "Churches and other religious groups should be able to meet in public



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buildings on the same terms as other community groups. They should not be excluded simply because of the religious nature of their speech. The Supreme Court's decision not to review this case is befuddling because it has already ruled multiple times in other equal access cases that the First Amendment protects religious worship the same as secular speech. ADF will continue to stand for this constitutional principle."

The Supreme Court and Circuit Court rulings will almost certainly not end the legal squabbles: Activities that involve Bible studies, but which are not "religious services" would appear to still be allowed under the Medford decision. Meanwhile, the New York school system, which pleads for tax dollars to educate children, spends some of those tax dollars to keep churches from paying to hold services in unused school buildings.



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