

February 2, 2021

Dr. José M. Torres, President  
Illinois Mathematics and Science Academy  
1500 Sullivan Road  
Aurora, IL 60506-1000

*Sent via email [REDACTED] and U.S. Mail CMRR*

**Re: IMSA Threatens to Discipline Student For Refusing to Take Sexuality Program  
in Violation of Her Religious Beliefs**

President Torres:

First Liberty Institute is the nation's largest law firm dedicated exclusively to defending and restoring religious liberty for all Americans. We represent Marcail McBride and her parents, Philip and Christine McBride. Please direct all communication concerning this matter to our attention.

We write concerning the unlawful denial of the McBrides' requested religious accommodation to exempt Marcail from taking the Student Gender and Sexuality Program offered by Illinois Mathematics and Science Academy (IMSA). The McBrides have repeatedly communicated that participating in the program violates Marcail's religious beliefs, yet the school continues to pressure Marcail, demanding that she complete the program or face punishment. We demand that you follow the requirements under state law and grant Marcail's request not to participate in the program.

***IMSA Denies Marcail a Religious Accommodation By Refusing to Let Her Opt-Out of a Sexual Education Program***

IMSA requires students to complete a Student Gender and Sexuality Program before graduation. Students must agree to both "stay engaged" and "experience discomfort" while participating.<sup>1</sup> Students participating in the program use sexual language to identify sexual preferences and gender identity. In identifying the "stages of allyship," the program classifies anyone who believes homosexuality is sinful or immoral as being in the same category as those who are repulsed by it or think it is "crazy." The program offers students the opportunity to become an "ally," recording the students who agree and rewarding them for their affirmation with a SafeZone sticker and pin. The program thus does not respect differing religious beliefs about gender and sexuality and pressures students to affirmatively signal their agreement with the curriculum.

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<sup>1</sup> See Gender and Sexual Diversity Education – Safe Zone, Facilitator Guide.

In November, the McBrides communicated in writing to IMSA leadership that Marcail could not participate in the Student Gender and Sexuality Program because the program forces Marcail to participate in activities and discussions regarding human sexuality that require, pressure, or coerce her to violate her religious principles. The IMSA leadership repeatedly denied the McBrides' request and threatened to punish Marcail if she does not participate in the program.

On January 27, 2021, Dana Ginnett, Associate Director of Student Affairs Chief Hearing Officer, demanded by email that Marcail complete the program by January 30, 2021 by 4PM or face disciplinary action. To justify her threat, Ms. Ginnett cited an IMSA policy which states, "In addition to academic classes, students are expected to attend all required assemblies and meetings of a non-academic nature . . . If a student does not attend required meetings and assemblies (and does not have an excused absence approved by a Student Affairs staff member), disciplinary action will be taken."

On February 1, 2021, Ms. Ginnett emailed Marcail to inform her that IMSA Student Affairs Department would conduct a disciplinary hearing this week.

### ***Illinois Law Requires IMSA to Grant Marcail's Religious Accommodation***

Illinois law guarantees that the state will not discriminate against any resident on the basis of religion. Ill. Const. Art. I § 3. The Illinois Religious Freedom Restoration Act requires IMSA to refrain from placing a substantial burden on the religious exercise of its students. 775 Ill. Comp. Stat. 35 (1998). A substantial burden exists when an individual is required to act contrary to her religious beliefs to avoid facing penalties. *See Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014).<sup>2</sup> Since IMSA's requirement places a substantial burden on Marcail's religious exercise, she is entitled to an exemption from the requirement unless IMSA can prove that forcing Marcail to participate in the program is the least restrictive means of furthering a compelling interest. *Id.* at 694–95; *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 424 (2006). By IMSA's own admission, students may miss meetings and assemblies if they have an excused absence. As IMSA can offer such an accommodation, it must offer one to Marcail.

Additionally, Illinois law allows the McBrides to opt out of any sexual education program. 105 Ill. Comp. Stat. 27/9.1(a-5) (2018) ("No pupil shall be required to take or participate in any class or course in comprehensive sex education if his parent or guardian submits written objection thereto, and refusal to take or participate in such course or program shall not be reason for suspension or expulsion of such pupil.")<sup>3</sup> Although IMSA officials claim that the Student Gender and Sexuality Program is not sexual education, the program's subject matter contradicts this assertion. The program requires students to discuss topics related to sexual attraction, sexual orientation, biological sex, sexuality, and gender identity. As a recent sexual education bill demonstrates, "comprehensive sex education" includes teaching "attitudes about growth and development, body image, gender identity, gender expression, sexuality, sexual health, sexual

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<sup>2</sup> Interpreting the analogous federal RFRA.

<sup>3</sup> Illinois General Assembly, Public Act 098-0441, <https://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=010500050K27-9.1>.

orientation, consent, dating, relationships, and families[.]”<sup>4</sup> Thus, regardless of IMSA’s designation, the Student Gender and Sexuality Program is sexual education and IMSA is required under Illinois law to allow the McBrides to opt out of the program.

### ***Conclusion***

The law requires IMSA to resolve this error immediately. Ill. Const. Art. I § 3; 775 Ill. Comp. Stat. 35 (1998); 105 Ill. Comp. Stat. 27/9.1(a-5) (2018). We respectfully ask you to immediately approve Marvail’s religious accommodation to opt out of the Sexuality and Gender Program and instruct Student Affairs to cancel the disciplinary hearing. In any event, please respond to this letter in writing no later than February 3, 2021 at 5pm.

Thank you for your attention to this matter. You may reach us at [REDACTED] or (972) 941-4444.

Sincerely,



David Hacker, Director of Litigation  
Keisha Russell, Counsel

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<sup>4</sup> See Illinois “Reach Act” S.B. 2762 at <https://ilga.gov/legislation/fulltext.asp?DocName=10100SB2762sam001&GA=101&SessionId=108&DocTypeId=SB&LegID=123756&DocNum=2762&GAID=15&Session=>.