

THE RUTHERFORD INSTITUTE

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April 25, 2014

Via Email and U.S. Mail

Principal Erica Lopez
Forbes Elementary School
San Antonio Independent School District
2630 Sally Gay Dr.
San Antonio, TX 78223

2nd Notice Re: Trespass Warning Barring Yvonne Garcia from Entering School Grounds

Dear Ms. Lopez:

This letter represents our second request for a response.

The Rutherford Institute¹ has yet to receive a response to our letter dated April 2, 2014, regarding a Trespass Warning issued by the San Antonio Independent School District against Yvonne Garcia, the parent of two students at Forbes Elementary School, barring her from entering the school grounds without credible cause, and without providing her any opportunity to challenge the determination. To date, Ms. Garcia remains unlawfully and unreasonably barred from being present on school grounds for any purpose – even to drop off and pick up her children or to discuss the health and safety of her children, one of whom has missed a considerable number of days from school due to illness.

Given the time-sensitive nature of this matter and in order that we might best advise Ms. Garcia about her legal options, we request a response by 5 pm EST on Wednesday, April 30, 2014.

As a legal organization that advocates on behalf of parents' and students' rights, we have grave concerns over any effort to deprive a parent of their fundamental right to be actively involved in their child's educational experience, including access to school grounds. Based on the fact that Ms. Garcia was barred from school grounds without any opportunity to challenge the trespass warning, and because the ban is adversely affecting her children's health and educational well-being, we request that you immediately rescind the terms of the Trespass Warning letter, which we find to be

¹ The Rutherford Institute is a non-profit civil liberties organization that provides free legal representation to individuals whose civil rights are threatened or infringed.

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both overreaching and egregious, and reinstate Ms. Garcia's right of access to the school grounds to drop off and pick up her children.

As previously noted, on Friday, December 6, 2013, Ms. Garcia was on-site at the campus of Forbes Elementary School, having a friendly conversation with an adult friend. It was later alleged by Principal Erica Lopez that during the course of the conversation, Ms. Garcia used inappropriate language. Ms. Garcia denies doing so. On the following Monday, December 9, when Ms. Garcia arrived at the campus to pick up her children, she was confronted by police officers who were awaiting her arrival. The officers informed her that she was barred from entering the school because she used "inappropriate language" while on the campus on the previous Friday. Ms. Garcia was also given a letter informing her that she is banned from being present on school grounds, even to drop off and pick up her children.

On December 10, 2013, Ms. Garcia was issued a second letter purporting to provide her with "limited permission" to access school grounds when "dropping off [her] children." The letter mandated that she must drop off her children at a location behind the school gym, an area inaccessible and inconvenient for dropping off students. With respect to picking up her children, Ms. Garcia was instructed to park her vehicle across the street from the school grounds, and her children would be escorted to her vehicle by a school official. This arrangement requires that the her children be pulled from school 15 minutes early each day, missing valuable class time, and then wait in the school Principal's office for their escort to arrive.

This arrangement is untenable. Ms. Garcia's oldest child, Mark Cajas, has an anxiety condition, which often causes him to leave school early due to illness. Due to his condition, Mark has left school early on at least five occasions since December 2013. As a result of this "Trespass Warning," Ms. Garcia has been unable to meet with the school nurse to discuss Mark's health issues when these anxiety attacks occur, and has been unable to pick him up directly from the school office when his sickness requires that he leave early. Instead, on each of the occasions in which he has had to leave school early, Ms. Garcia has been forced to sit in her vehicle across the street from the school and wait for her sick son to be physically escorted out by school officials. This utterly unnecessary arrangement has further exacerbated Mark's anxiety, causing him to leave school sick more frequently and negatively impacting his well-being.

Making matters worse, not only is Ms. Garcia being unlawfully prevented from being actively and intimately involved in her children's educational welfare, but under the terms of the Trespass Letter issued to Ms. Garcia, she is also being unreasonably prevented from attending her children's upcoming graduation ceremony in May 2014.

Moreover, the school has also succeeded in depriving Ms. Garcia of adequate procedural safeguards by its unilateral application of the ban against her, without providing an opportunity for appeal or the ability to request reconsideration. Depriving a parent of such a fundamental right as access to their child's school without explanation or opportunity to challenge such a determination harms both the child and the parent. Recognizing this, the Supreme Court noted the importance of

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the liberty interests of parents in “the care, custody, and control of their children,” including “the right of parents to. . . control the education of their own,” and to “direct the upbringing and education of children under their control.” *Troxel v. Granville*, 530 U.S. 57, 65-66 (2000) (internal citations omitted).

In light of the fact that this Trespass Warning letter was issued without providing Ms. Garcia any opportunity to respond to the claim that she was disruptive (the Trespass Letter dated December 9, 2013 gives no detail about the reason or justification for banning Ms. Garcia from entry to the school, other than broadly stating that she engaged in “unacceptable and disruptive behavior”), and because the ban is adversely affecting her children’s health and educational well-being, we insist that you immediately rescind the terms of the Trespass Warning letter and reinstate Ms. Garcia’s right of access to the school grounds to drop off and pick up her children.

In order that we may advise Ms. Garcia of her legal options, we request a reply to the concerns and demands laid out herein no later than the close of business on Wednesday, April 30, 2014.

Sincerely yours,



Jesse H. Baker IV
Staff Attorney

The Rutherford Institute

cc: Superintendent Dr. Sylvester Perez
Affiliate Attorney Jerri Lynn Ward
Yvonne Garcia
John W. Whitehead, President, The Rutherford Institute