



Written by [Dave Bohon](#) on February 28, 2012

NYC Churches Win Major Victory Over City in Quest to Worship in Schools

New York City churches meeting in the city's schools have won a major victory over the board of education, as a judge ruled that all congregations impacted by her injunction barring the city from evicting churches are covered by the verdict — and not just the main congregation named in the suit. Moreover, U.S. District Judge Loretta Preska (left) ruled on February 24 that the churches can continue meeting in the schools as the case moves through the courts, instead of just for the next week — unless the city succeeds in getting a higher court to overrule her decision.



As previously reported in [The New American](#), Preska had originally granted dozens of churches meeting on Sundays in empty New York City school buildings a 10-day reprieve after city officials had given the congregations a final eviction notice, claiming they did not feel comfortable with religious meetings in school space. Preska overruled the church ban, finding that congregations affected by it had “demonstrated irreparable harm and a likelihood of success on the merits of their Free Exercise and Establishment Clause claims.”

But a day later [an appeals court ruled](#) that the restraining order against the city applied only to the [Bronx Household of Faith](#), the primary church named in the lawsuit, leaving all other churches impacted by the ban scrambling for alternative worship sites — or suspending services altogether.

But in her latest ruling Preska made it clear that all churches renting school space from the city will be able to continue meeting while the case makes its way through the courts. “If a rule is unconstitutional, it is unconstitutional as to all similarly situated parties,” Preska clarified.

In her order allowing the churches to meet in the schools, Preska wrote that the loss of “First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.... In this court's view, losing one's right to exercise freely and fully his or her religious beliefs is a greater threat to our democratic society than is a misperceived violation of the Establishment Clause.”

Jordan Lorence of the [Alliance Defense Fund](#) (ADF), which is representing the congregations in their effort to continue worshiping in the schools, noted that Preska's latest ruling means that “churches that have been helping communities for years can once again offer the hope that empty buildings can't.”

Lorence explained that the city's decision to narrowly ban churches — but not other groups — from using facilities on weekends amounted to discrimination, and that the ADF would continue to push the case for the congregations. “The city can't single out religious expression and treat it worse than the expression of everybody else,” he said. “The court's order allows churches and other religious groups to meet in empty school buildings on weekends just as non-religious groups do while the lawsuit proceeds. The city's view of the First Amendment is wrong, and we intend to continue to demonstrate that in



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court.”

He also noted that state legislators have introduced a measure that would permanently prohibit the city from its actions against the churches. “New York legislators should continue efforts to overturn this policy,” Lorence said. “This order prevents the city’s policy from being enforced while litigation continues, but legislators can resolve the issue once and for all by making the city get rid of the policy.” He said that courts “have consistently ruled that the Constitution does not require New York City to ban religious worship services, so the city or the state legislature is free to repeal the policy.”

Even as some churches were rejoicing over the reprieve they have been given, others have already moved on, choosing to find other places to meet rather than continue to face uncertainty about how a judge may rule on their case on any given day. George Russ of the New York Baptist Association told [Baptist Press News](#) that some Baptist congregations impacted by the case had already vacated the schools in favor of other meeting spots. “Whether the Department of Education wins their appeal is not going to affect them for now,” Russ said of such congregations as Crossroads Church, which had initially expressed excitement over Preska’s ruling, but has since given up the fight and switched its services to a local theater. “They’ve already made the move.”



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