



February 3, 2026

Via email and U.S. mail

Members of the Oklahoma Statewide Charter School Board:

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Re: Ben Gamla Jewish Charter School application

Dear members of the Oklahoma Statewide Charter School Board:

We write to urge you to reject the application for charter-school sponsorship submitted to you by Ben Gamla Jewish Charter School. As the Oklahoma Supreme Court recently ruled, the Oklahoma Charter Schools Act, the Oklahoma Constitution, and the U.S. Constitution prohibit Oklahoma charter schools from teaching a religious curriculum.¹ Yet Ben Gamla's application makes clear that it will provide a religious education and seek to indoctrinate its students in Jewish religious beliefs. Indeed, the application states, "Since God created the universe and orders all within it, a Jewish

¹ *Drummond ex rel. State v. Oklahoma Statewide Virtual Charter Sch. Bd.*, 2024 OK 53, ¶ 45, 558 P.3d 1.

perspective permeates all subjects informing the student of the unity of all knowledge.”²

The application also fails to comply with other prohibitions that are imposed by the Act, your regulations, the Oklahoma Constitution, and the U.S. Constitution. For example, Ben Gamla reserves the right to unlawfully discriminate in admissions and employment and plans to do so in at least some respects. Moreover, the application contains additional serious deficiencies and demonstrates a glaring lack of planning and attention to detail, as evidenced by various portions that appear to be recycled from other charter applications despite being inapplicable to Ben Gamla.

At bottom, Ben Gamla seeks to run a public charter school as a religious school, contrary to state and federal law, while also ignoring antidiscrimination and other rules that all Oklahoma charter schools must follow. As required by the Oklahoma Supreme Court’s recent decision concerning the similar application by St. Isidore of Seville Catholic Virtual School,³ Ben Gamla’s application should be denied.

Ben Gamla’s Curriculum and Programming Will Be Religious, in Violation of the Charter Schools Act, the Oklahoma Constitution, and the U.S. Constitution

Ben Gamla’s application plainly states that the school will be “operated . . . for . . . religious purposes.”⁴ Religious teachings will “permeate[] all subjects,”⁵ including otherwise-secular subjects such as science.⁶ The school plans to “embed[] Jewish faith[,] culture, values, history, and ethical frameworks into curriculum, enrichment activities, and service opportunities.”⁷ Its academic and co-curricular programs will be “infused with Jewish faith and traditions” and will be “grounded in . . . enduring

² Ben Gamla Jewish Charter School, *2025 Oklahoma Statewide Charter School Board Initial Authorization Application*, at 11. The version of the application that the Board provided to us in response to an Open Records Act request lacks page numbers. A version with page numbers, added by us and used for the page citations here, is at <http://bit.ly/4qNAfmF>.

³ *Drummond*, 2024 OK 53, ¶ 45.

⁴ Application at 18.

⁵ *Id.* at 11

⁶ *Id.* at 32.

⁷ *Id.* at 19.

Jewish values.”⁸ Indeed, the school will “strive[] to weave Jewish teachings and tradition into *every dimension of its life.*”⁹

Students will receive instruction in “Jewish religious beliefs, principles, and ethical frameworks.”¹⁰ Students will be required to take religion/theology courses¹¹ and will study Jewish religious texts in their “religious” and “ethical dimensions.”¹² Students will also be taught Jewish “religious rituals,” “traditional religious practices,” “mitzvot (commandments),” “holidays,” and “law.”¹³ Students, parents, faculty, and staff will be encouraged to “engage Jewish teachings thoughtfully” through “times set aside for prayer, reflection, and celebration of sacred time.”¹⁴ Teachers will be required to “embrace the Jewish identity of the school” and advocate for the school’s religious mission.¹⁵

As the Oklahoma Supreme Court recently made clear, Oklahoma charter schools are prohibited from promoting religion to students or coercing students to take part in religious activity, including by “incorporat[ing] [religious] teachings into . . . curriculum and co-curricular activities.”¹⁶ And the State of Oklahoma is prohibited from funding charter schools that do so.¹⁷ The proposed Ben Gamla school would blatantly violate these prohibitions.

Ben Gamla Plans to Unlawfully Discriminate in Admissions and Employment

The Charter Schools Act requires Oklahoma charter schools to “be as equally free and open to all students as traditional public schools,” prohibits them from discriminating in admissions on *any* basis other than geographic preferences, and requires that if they are oversubscribed only a lottery may be used to determine who may enroll.¹⁸ The Act also prohibits Oklahoma

⁸ *Id.* at 15, 59.

⁹ *Id.* at 59 (emphasis added).

¹⁰ *Id.* at 19.

¹¹ *Id.* at 97.

¹² *Id.* at 19.

¹³ *Id.*

¹⁴ *Id.* at 59.

¹⁵ *Id.* at 17.

¹⁶ *Drummond*, 2024 OK 53, ¶ 41.

¹⁷ *Id.* ¶ 45.

¹⁸ See 70 O.S. §§ 3-136(A)(9), 3-140.

charter schools from discriminating in employment based on religious grounds.¹⁹

In addition, as governmental entities and state actors, Oklahoma charter schools must comply with the U.S. Constitution.²⁰ Three separate provisions of the U.S. Constitution prohibit state actors from discriminating based on religion: the Establishment Clause,²¹ the Free Exercise Clause,²² and the Equal Protection Clause.²³ The Equal Protection Clause further prohibits state actors from discriminating based on sexual orientation²⁴ or gender identity.²⁵ The Oklahoma Constitution also, at the very least, prohibits public schools—including charter schools²⁶—from discriminating in admissions on any basis²⁷ and prohibits all state actors from discriminating based on religion.²⁸

Consistently with these statutory and constitutional mandates, the Statewide Charter School Board’s regulations require charter-school applicants to warrant that they will comply with all antidiscrimination provisions in the law (in addition to all other applicable legal requirements). An application for sponsorship of a new charter school must include a “signed

¹⁹ See 70 O.S. § 3-136(A)(2).

²⁰ See *Drummond*, 2024 OK 53, ¶¶ 26, 37, 41.

²¹ See *Cath. Charities Bureau, Inc. v. Wis. Lab. & Indus. Rev. Comm’n*, 605 U.S. 238, 247–48 (2025); *Larson v. Valente*, 456 U.S. 228, 244 (1982).

²² See, e.g., *Masterpiece Cakeshop, Ltd. v. Colo. C.R. Comm’n*, 584 U.S. 617, 638 (2018).

²³ See, e.g., *Miller v. Johnson*, 515 U.S. 900, 911 (1995); *United States v. Batchelder*, 442 U.S. 114, 125 n.9 (1979).

²⁴ See *Pavan v. Smith*, 582 U.S. 563, 566 (2017); *Obergefell v. Hodges*, 576 U.S. 644, 670–76 (2015); *Hughes v. Farris*, 809 F.3d 330, 334 (7th Cir. 2015); *SmithKline Beecham Corp. v. Abbott Lab’ys*, 740 F.3d 471, 484 (9th Cir. 2014).

²⁵ See *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586, 608–09 (4th Cir. 2020); *Glenn v. Brumby*, 663 F.3d 1312, 1320 (11th Cir. 2011).

²⁶ See 70 O.S. § 3-132.2(C)(1)(b).

²⁷ See Okla. Const. art. I, § 5 (“Provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of the state and free from sectarian control . . .”).

²⁸ See Okla. Const. art. I, § 2 (“Perfect toleration of religious sentiment shall be secured, and no inhabitant of the State shall ever be molested in person or property on account of his or her mode of religious worship; and no religious test shall be required for the exercise of civil or political rights.”).

and notarized Statement of Assurance from each governing board member demonstrating agreement to fully comply as an Oklahoma public charter school or virtual charter school with all statutes, regulations, and requirements of the United States of America, State of Oklahoma, Statewide Charter School Board, and Department of Education.”²⁹ And these statements must specifically “guarantee[] access to education and equity for all eligible students regardless of race, ethnicity, economic status, academic ability or other factors as established by law.”³⁰

But Ben Gamla has willfully refused to submit these guarantees to comply with antidiscrimination and other laws. Instead, the school submitted notarized statements that it would comply with antidiscrimination and other requirements only “to the extent required by law, including the First Amendment, religious exemptions, and the Religious Freedom Restoration Act, with priority given to Jewish history, culture, ethics, and practice[], and alignment with the *National Standards and Benchmarks for effective Jewish Elementary and secondary The [sic] Schools.*”³¹ Similarly, elsewhere in its application Ben Gamla states that “[t]he School complies with all applicable local, state, and federal laws and regulations governing fair employment practices that are not inconsistent with the faith or moral teaching of the Jewish Community” and that “[t]o the extent that local, state, and federal laws and regulations are inconsistent with the faith and moral teaching of the Jewish community, the School claims a religious exemption to such laws pursuant to the First Amendment to the U.S. Constitution and other applicable local, state, and federal laws and regulations.”³²

In other words, Ben Gamla’s application makes very clear that it plans to comply with antidiscrimination rules applicable to Oklahoma charter schools only to the extent those rules do not conflict with its religious beliefs. And not only does Ben Gamla reserve the right to violate antidiscrimination requirements that are imposed by law, numerous statements in its application demonstrate or indicate that it in fact plans to do so.

Religious discrimination in admissions

To begin with, Ben Gamla’s planned programming and operations will result in discrimination in admissions based on religion. While Ben Gamla

²⁹ Okla. Admin. Code § 777:10-3-3(b)(8)(L).

³⁰ *Id.*

³¹ See Application at 119, 158, 160.

³² *Id.* at 87–88.

professes that it will accept students “of different faiths or no faith,”³³ it qualifies that statement by warning that “[a]dmission assumes the student and family willingness to adhere with respect to the beliefs, expectations, policies, and procedures of the school.”³⁴ As noted above, Ben Gamla plans to immerse its students in instruction in its particular religious tenets. As the U.S. Court of Appeals for the Eighth Circuit held in *Americans United for Separation of Church & State v. Prison Fellowship Ministries, Inc.*, a program that requires participants to submit to instruction in particular religious tenets is not—even if it claims otherwise—open to people of all religions and is instead discriminatory based on religion.³⁵

Discrimination based on sexual orientation and gender identity

Ben Gamla’s application indicates that the school may also discriminate against prospective or enrolled students based on sexual orientation and gender identity. In its Student Conduct and Discipline Policies and Procedures, Ben Gamla states that it “shall not discriminate” on the basis of a variety of characteristics that include “biological sex” but not sexual orientation or gender identity.³⁶ Moreover, the school plans to implement “core Jewish teachings related to modesty, the sanctity of life, the sanctity of marriage, human dignity, and the ethical guidance our tradition offers regarding sexuality and gender.”³⁷ Further, Ben Gamla’s statement that “[a]dmission assumes the student and *family* willingness to adhere with respect to the beliefs, expectations, policies, and procedures of the school”³⁸ raises the question whether, in addition to discriminating against prospective or enrolled students, the school will discriminate against students because of *their parents’ or guardians’* sexual orientation or gender identity.

Discrimination against students based on disability

Ben Gamla also professes to reserve a right to discriminate against students based on disability. The Charter Schools Act requires Oklahoma charter schools to “comply with all federal and state laws relating to the education of children with disabilities in the same manner as a school

³³ *Id.* at 95.

³⁴ *Id.*

³⁵ 509 F.3d 406, 413–16, 425 (8th Cir. 2007).

³⁶ Application at 101.

³⁷ *Id.* at 59.

³⁸ *Id.* at 95 (emphasis added).

district.”³⁹ But Ben Gamla’s application states only that the school “will comply with all applicable State and Federal Laws in serving students with disabilities . . . to the extent that it does not compromise the religious tenets of the school and the instructional model of the school.”⁴⁰ Similarly, Ben Gamla states that it will refrain from discriminating based on “disability *that can be served by virtual learning.*”⁴¹ But whether virtual or brick-and-mortar, Oklahoma charter schools have an *unqualified* obligation to provide a “free appropriate public education . . . to *all* children with disabilities.”⁴²

Discrimination in employment

Ben Gamla’s application additionally evinces that the school intends to discriminate in employment. Ben Gamla plans to require employees to “support the principles, teachings, and commitments of the Jewish community”; to “refrain from actions that are contrary to the teachings of the community”; and to “uphold the standards of the Jewish tradition in their day-to-day work and personal lives.”⁴³ Employees will be prohibited from pursuing additional employment or volunteer activities that “conflict with the moral and theological teachings of [] Judaism.”⁴⁴ And though employees of Ben Gamla are not required to be Jewish,⁴⁵ “[t]he School retains its right to consider religion as a factor in employment-related decisions.”⁴⁶

Ben Gamla’s Application Is Replete with Various Other Deficiencies

Ben Gamla’s application contains a host of other deficiencies.

The Statewide Charter School Board’s regulations provide that “[t]he relationship of the charter school and an educational management organization is that of a customer and vendor” and that, “[a]s such, the charter school or virtual charter school and the educational management

³⁹ 70 O.S. § 3-136(A)(6).

⁴⁰ Application at 40, 47.

⁴¹ *Id.* at 101 (emphasis added).

⁴² Off. of Special Educ. Programs, U.S. Dep’t of Educ., *Guidance OSEP QA 20-01*, at 2 (Sept. 28, 2020), <https://bit.ly/45FsPYC> (emphasis added); *accord* 70 O.S. § 3-136(A)(6).

⁴³ Application at 11.

⁴⁴ *Id.* at 92

⁴⁵ *Id.* at 11.

⁴⁶ *Id.* at 88.

organization shall be separate entities in all aspects.”⁴⁷ Similarly, “[t]he name of the educational management organization shall not be the same or similar to the name of the charter school.”⁴⁸ But the Ben Gamla Jewish Charter School—through its board—plans to “assign education management services” to the National Ben Gamla Jewish Charter School Foundation.⁴⁹ The foundation’s board members are identical to those of the school.⁵⁰

Ben Gamla also apparently plans to violate the Charter Schools Act’s requirement that the school’s “governing board meet no fewer than ten (10) months of the year *in the state*.”⁵¹ Two of the school’s three board members reside outside of Oklahoma, and the application states that board meetings “may take place virtually.”⁵² Even if its board does in fact plan to meet in person, Ben Gamla has still failed to meet the Act’s requirement that applications contain an explicit policy ensuring in-state meetings.⁵³

Ben Gamla has yet to adopt a formal discipline policy,⁵⁴ so it is unable to meet the Charter Schools Act’s requirement that applications include “[t]he student discipline policies for the charter school or virtual charter school.”⁵⁵

The Charter Schools Act requires applications to include “[d]ocumentation that the applicants completed training” provided by the Statewide Charter School Board,⁵⁶ but Ben Gamla’s application does not contain such documentation.⁵⁷ Applicants must complete the Statewide Charter School Board’s training “*prior to* submission of the application.”⁵⁸

⁴⁷ Okla. Admin. Code § 777:10-1-4(1).

⁴⁸ *Id.* § 777:10-1-4(2).

⁴⁹ Application at 21–22, 82.

⁵⁰ Compare *id.* at 154, with *id.* at 119, 158, 160.

⁵¹ See 70 O.S. § 3-134(B)(33) (emphasis added).

⁵² Application at 82, 127.

⁵³ Compare 70 O.S. § 3-134(B)(33), with Application at 82, 126.

⁵⁴ Application at 102.

⁵⁵ See 70 O.S. § 3-134(B)(18).

⁵⁶ *Id.* § 3-134(B)(9).

⁵⁷ Application at 129.

⁵⁸ 70 O.S. § 3-134(A) (emphasis added).

The application does not include proposed governing bylaws as required by the Charter Schools Act.⁵⁹

Finally, the application evinces an overall lack of planning and attention to detail. Several portions appear to be recycled from other charter applications or sources without consideration of their applicability to Ben Gamla. For instance, the application references “our current schools in Oklahoma City,”⁶⁰ but Ben Gamla has no schools in Oklahoma City (or elsewhere in Oklahoma). The application also references a set of standards and benchmarks—“*National Standards and Benchmarks for effective Jewish Elementary and secondary The [sic] Schools*”⁶¹—that do not appear to exist. Rather, this reference seems to have been copied and modified from some other source that references the *National Standards and Benchmarks for Effective Catholic Elementary and Secondary Schools*.⁶² Further, the application contains several provisions that make little sense for a virtual school. For example, the application contains a policy detailing when students may “leave school for a field trip”;⁶³ a discussion pertaining to “lunch or after school detention”;⁶⁴ and a policy for transporting service animals “to and from school.”⁶⁵ In multiple places, the application refers to the Statewide Charter School Board using its former name.⁶⁶ And perhaps most concerningly, Ben Gamla’s five-year budget contains enrollment projections that do not match the enrollment projections provided elsewhere in the application.⁶⁷

Conclusion

Ben Gamla’s application unabashedly demonstrates that the school would violate statutory, regulatory, and constitutional requirements, including numerous requirements unrelated to religion. As Oklahoma Statewide

⁵⁹ *Id.* § 3-134(B)(22).

⁶⁰ Application at 29.

⁶¹ *Id.* at 119, 158, 160.

⁶² See National Catholic Educational Association, *National Standards and Benchmarks for Effective Catholic Elementary and Secondary Schools* (2023), <http://bit.ly/4sZS97f>.

⁶³ Application at 85.

⁶⁴ *Id.* at 103.

⁶⁵ *Id.* at 51.

⁶⁶ *Id.* at 22, 83, 119, 158, 160.

⁶⁷ Compare *id.* at 121, with *id.* at 141.

Charter School Board members, you have a duty to reject “weak or inadequate charter applications.”⁶⁸ We therefore urge you to deny Ben Gamla’s application. We would be happy to discuss this letter with you, and you should feel free to contact us.

Very truly yours,



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⁶⁸ 70 O.S. § 3-134(I)(4).