

FREEDOM FROM RELIGION *foundation*

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December 8, 2011

SENT VIA US MAIL AND EMAIL

Kiel School Board
c/o
Kiel Area School District
416 Paine Street
Kiel, WI 53042

Re: Illegal Injection of Creationism into Public Schools

Dear President Schmahl and Members of the Board:

Our national organization, which works to protect the constitutional principle of separation between state and church, was notified recently that the Kiel School Board (Board) may consider including “alternative theories of evolution” as part of the curriculum. The Freedom From Religion Foundation (FFRF) is a national nonprofit organization with over 17,000 members across the country including over 1,300 members in Wisconsin.

It is our information and understanding that members of the Board are considering including creationism in the curriculum for Kiel Area Schools. Page 2 of the September 21, 2011, Board minutes lists “Alternative Theories of Evolution” as a future agenda item. We also understand that the Board’s agenda for February 1, 2012, includes a discussion on whether or not to teach “other theories on man’s origin in science classes.” We have been contacted by a concerned parent over this unlawful attempt to inject creationism into public schools.

Any plan to teach evolution with “alternative theories” is equally unlawful. Courts have routinely found that such teachings are religious, despite many new and imaginative labels given to the alternatives. The Supreme Court struck down teaching of “scientific creationism” in public schools. *Edwards v. Aguillard*, 482 U.S. 578, (1987). Federal courts have consistently rejected the promotion of creationism and its ilk in the public schools:

- *Epperson v. Arkansas*, 393 U.S. 97 (1968)(School officials may not prohibit the teaching of evolution);
- *Freiler v. Tangipahoa Parish Bd. of Educ.*, 201 F.3d 602 (5th Cir. 2000)(reading a disclaimer before teaching evolution violates the Establishment Clause);
- *Pelozo v. Capistrano Unified School District*, 37 F.3d 517 (9th Cir. 1994)(School’s prohibition on teaching creationism is valid because permitting a teacher “to discuss his religious beliefs with students during school time on school grounds would violate the Establishment Clause.”);

- *Webster v. New Lenox Sch. Dist. No. 122*, 917 F.2d 1004 (7th Cir. 1990)(School board's prohibition on teaching "creation science" is valid because the board has a responsibility to ensure that the teacher was not "injecting religious advocacy into the classroom.")
- *Kitzmiller v. Dover Area Sch. Dist.*, 400 F.Supp. 2d 707 (M.D. Pa 2005)(a policy requiring students to hear a statement that intelligent design is alternative to Darwin's theory of evolution violates the Establishment Clause).
- *McLean v. Arkansas Bd. of Ed.*, 529 F.Supp. 1255 (D.C.Ark., 1982)(the Arkansas Board of Education was permanently enjoined from taking actions pursuant to a state statute mandating "balanced treatment for creation science and evolution science" because the statute violated the Establishment Clause).

Evolution is not a "theory" in the layperson's sense of the word. Evolution is a "scientific theory." This difference is crucial. A misunderstanding of these terms often leads to a misunderstanding of evolution, the vast weight of evidence supporting evolution, and of its overwhelming acceptance in the scientific community. The American Association for the Advancement of Science, the world's largest scientific society and publisher of the prestigious journal *Science*, explains the "theory/scientific theory" difference:

Is evolution "just a theory?" In detective novels, a "theory" is little more than an educated guess, often based on a few circumstantial facts. In science, the word "theory" means much more. A scientific theory is a well-substantiated explanation of some aspect of the natural world, based on a body of facts that have been repeatedly confirmed through observation and experiment. Such fact-supported theories are not "guesses" but reliable accounts of the real world. The theory of biological evolution is more than "just a theory." It is as factual an explanation of the universe as the atomic theory of matter or the germ theory of disease. Our understanding of gravity is still a work in progress. But the phenomenon of gravity, like evolution, is an accepted fact.

http://www.aaas.org/news/press_room/evolution/qanda.shtml

Every attempt to smuggle religion into science classrooms by means of "alternative theories" has failed. Any theory that "depends upon 'supernatural intervention,' which cannot be explained by natural causes, or be proven through empirical investigation, and is therefore neither testable nor falsifiable" is "simply not science." *Dover* at 717 (quoting *McClean* at 1267).

Creationism, intelligent design, and other claims of supernatural intervention in the origin of life or of species are not science because they are not testable by the methods of science. These claims subordinate observed data to statements based on authority, revelation, or religious belief. Documentation offered in support of these claims is typically limited to the special publications of their advocates. These publications do not offer hypotheses subject to change in light of new data, new

interpretations, or demonstration of error. This contrasts with science, where any hypothesis or theory always remains subject to the possibility of rejection or modification in the light of new knowledge. *Dover* at 737 (quoting the National Academy of Sciences).

In *Edwards*, the Supreme Court overturned a statute meant to encourage “academic freedom” and make the science curriculum more “comprehensive” by “teaching all of the evidence regarding origins of life.” These purposes were not served because existing laws already allowed schools to “[teach] any scientific theory.” *Edwards* at 587. Like *Edwards*, Wisconsin law allows schools to teach any *scientific* theory; any action by the Board would be unnecessary, duplicative, and wasteful.

Putting creationism, intelligent design, or any of their creatively named offspring in public school is undoubtedly unconstitutional. The school district has a constitutional obligation to ensure that “teachers do not inculcate religion.” *Lemon v. Kurtzman*, 403 U.S. 602, 619 (1971). Time and again courts exposed these proposals as an attempt to foist religious beliefs onto vulnerable schoolchildren, often after a costly legal battle.

We ask that the Board reject any irresponsible proposal to inject religious dogma into the science curriculum. Should such an unlawful proposal be enacted, the District inevitably will be embroiled in a costly losing battle. Both taxpayer money and constitutional principles must be protected. We further request a response in writing at your earliest convenience regarding the steps that the Board has taken to ensure that the religious tenets of creationism are not adopted into Kiel public schools.

Sincerely,



Patrick Elliott
Staff Attorney