

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 • MADISON, WI 53701 • (608) 256-8900 • WWW.FFRF.ORG

June 4, 2020

SENT VIA EMAIL ONLY:

nicholasfrn@frontier.com

Robin Brown
Chair of the Board of Health
Nicholas County Health Department
1 Stevens Rd # 201
Summersville, West Virginia 26651

Re: Unconstitutional government endorsement of religion

Dear Ms. Brown:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding constitutional violations by the Nicholas County Health Department (the Department). FFRF is a national nonprofit organization with more than 33,000 members across the country, including many in West Virginia. FFRF's purposes are to protect the constitutional principle of separation between state and church and to educate the public on matters relating to nontheism.

A concerned local citizen contacted us to report that the Department regularly endorses and promotes Christianity in its social media posts. We understand that multiple posts have quoted the bible as well as encouraged Nicholas County residents to engage in prayer, including the post of May 11, 2020 which quotes Psalms 23:1–4 and the post of May 19, 2020 stating, “There is power in prayer! So pray and choose Faith over Fear[.]”¹

We request that the Department refrain from issuing religious statements and proselytizing through its official social media accounts in the future. We also request that the Department take down all overtly religious posts, like those enclosed with this letter. By remaining neutral on matters of religion the Department assures the citizens from which the government derives its power that that the Department will be evenhanded regardless of their faith tradition or lack thereof.

As a government entity, the Department serves a diverse population that consists of not only Christians, but also atheists and agnostics who do not believe in prayer. These posts urging citizens to pray, made in an official capacity, promote religion, sending an official message of endorsement of religion over non-religion. This excludes the 26% of Americans who are not religious.² It alienates nonbelievers in Nicholas County by turning them into political outsiders in their own community.

¹ See Enclosures.

² In *U.S., Decline of Christianity Continues at Rapid Pace*, PEW RESEARCH CENTER (Oct. 17, 2019), available at <https://www.pewforum.org/2019/10/17/in-u-s-decline-of-christianity-continues-at-rapid-pace/>.

The Establishment Clause of the First Amendment to the U.S. Constitution prohibits government sponsorship of religious messages. The Supreme Court has said time and again that the “First Amendment mandates government neutrality between religion and religion, and between religion and nonreligion.” *McCreary Cnty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *see also Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Ark.*, 393 U.S. 97, 104 (1968); *Everson v. Board of Educ. of Ewing*, 330 U.S. 1, 15-16 (1947). The Department’s public-facing declaration that “There is power in prayer! So pray and choose Faith over Fear,” coupled with its biblical quotations, send the message that the Department and Nicholas County prefer and endorse Christianity over all other religions or lack thereof. This violates the Establishment Clause of the First Amendment.

The separation between state and church is one of the most fundamental principles of our system of government. The Supreme Court has specifically stated, “If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion” *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 642 (1943). When the government urges its citizens to pray and quotes the bible, reasonable citizens will interpret this as government endorsement of Christianity.

Government officials may worship, pray, and participate in religious events in their personal capacities. But they may not borrow the power of their government position to provide credibility or prestige to their religion. Therefore, the Department must scrupulously avoid using its clout as a government agency to promote or advance the personal religious beliefs of its leaders or employees.

The Department is charged with great responsibility and has been given significant trust by citizens, including those citizens who may not share employees’ personal religious viewpoints. Leaving religion as a private matter for private citizens is the wisest public policy.

We appreciate the courtesy of your attention to this matter, and we encourage the Department to stand up for the precious constitutional principle of the separation between state and church, which unites and protects all citizens, believers and non-believers alike. Please respond in writing detailing the steps you will take to adhere to the requirements of the First Amendment so I may notify our complainant of this matter’s resolution. I hope this letter finds you in good health.

Sincerely,

A handwritten signature in black ink, appearing to read 'BJ', with a long horizontal flourish extending to the right.

Brendan Johnson, Esq.
Robert G. Ingersoll Legal Fellow
Freedom From Religion Foundation

Enclosures



Nicholas County Health Department

...

May 11 at 8:39 PM · 🌐

Update for 5/10/2020: WV now has 1,369 confirmed cases of CoVid-19. And it is with a very sad heart that I share with you that Nicholas Co has to report we have experienced the loss of one of our own. I can not release any further information. We still stand at 8 confirmed cases and that number will not change unless of course we have more test positive. County wide there has been 559 tested.

I know many think this virus is no worse than the flu and many more think that we are in the clear. It's more contagious and more deadly than the flu and it's not particular in whom it takes from us. So I am asking that you please stay at home you and those in our communities are much safer at home. If you go out please wear a mask and think of those that you might carry it on to if you are exposed. It could be someone you care about.

I have to share this scripture; I find great comfort in its words:

Psalms 23 1-4 1The Lord is my Shepard I shall not want

2 He maketh me to lie down in green pastures:

He leadeth me beside the still waters.

3 He restoreth my soul:

He leadeth me in the paths of righteousness for his name's sake.

4 Yea, though I walk through the valley of the shadow of death, I will fear no evil:

for thou art with me; Thy rod and thy staff they comfort me

My heart and my prayers go out to this family and I ask you to pray for them. 🙏



Nicholas County Health Department

...

May 19 at 8:03 PM · 🌐

Update for 5/19/20: WV now has 1,514 confirmed cases of CoVid-19 and we have lost 68 West Virginians 😞 Nicholas Co still has 9 confirmed cases. 7 of these have recovered. County wide there has been 622 tested and we have 23 pending. We as a county and a state are covered in prayer! I'm grateful for all the prayers that surround each of us every day!

As things begin to open up it is even more important to follow the guidelines. Practice social distancing wear a face covering and wash your hands. Also it is very important when you can, to get fresh air and sunshine. In 1918 there was a pandemic with the Spanish Flu. They figured out that fresh air and sunlight was helping improve the condition of those infected with this also deadly virus. Google the 1918 Spanish Flu pandemic. It's a very interesting article. At that time they also quarantined the well and isolated the sick. This is not a new thing it is tried and true. Even in Bible times God instructed them to separate the sick from the well.

So continue to pray for each other and do what you know is right to protect yourselves and your loved ones.

1 Kings 9:3 And the LORD said unto him, I have heard thy prayer and thy supplication, that thou hast made before me: I have hallowed this house, which thou hast built, to put my name there for ever; and mine eyes and mine heart shall be there perpetually.

There is power in prayer!

So pray and choose Faith over Fear ❤️