

FREEDOM FROM RELIGION *foundation*

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

December 9, 2011

SENT VIA MAIL AND EMAIL
(RDuron1@SAISD.net)

Dr. Robert J. Durón
Superintendent
San Antonio Independent School District
141 Lavaca
San Antonio TX 78210

Re: Brackenridge High School's Impermissible Internet Filtering Policy

Dear Dr. Durón:

I am writing on behalf of a concerned student to urge you to discontinue the filtering of atheist websites on school computers. The Freedom From Religion Foundation is a nationwide nonprofit organization, which works to protect the constitutional principle of separation of church and state and represents the rights and views of nonbelievers. FFRF represents 17,000 members across the country, including 800 members in Texas.

It is our information and understanding that Brackenridge High School is using FortiGuard WebFiltering, an internet-content filter that is currently censoring websites with information about atheism. We further understand that Brackenridge High School denies access to atheist websites while allowing Christian websites to be viewed. We were contacted by a Brackenridge High School student who was blocked from viewing sites such as www.atheists.org but was able to view Christian websites like www.christians.org and www.christians.com. The student informed us that atheist websites are blocked because they are categorized as "occult."

Filtering based on the particular religious belief, or nonbelief, espoused by a website is unlawful. This practice amounts to viewpoint discrimination under the First Amendment because the filter treats information differently precisely because it relates to agnostic and atheistic views. This viewpoint discrimination is a blatant violation of the Free Speech Clause. The Supreme Court ruled school districts may not ban information based on a "dislike of the ideas." *See Board of Educ. v. Pico*, 457 U.S. 853 (1982) (holding the removal of "anti-Christian" books from the school library was a violation of the students' First Amendment rights). A school library is a place where students "can literally explore the unknown, and discover areas of interest and thought not covered by the prescribed curriculum.... The student learns that a library is a place to test or expand upon ideas presented to him, in or out of the classroom." *Id.* at 866 (quotations omitted). The current filtering policy not only violates the rights of students, but limits their capacity to gain knowledge and understanding of diverse perspectives and beliefs.

Federal funding for public schools and their libraries mandates those receiving funds to abide by the Children's Internet Protection Act (CIPA). The CIPA states that schools and libraries are to block or filter internet access only to "pictures that are (a) obscene (b) child pornography, or (c) harmful to minors." 47 CFR 54.520. Websites providing information about freethought, agnosticism, atheism or even the occult (a ridiculous label for atheism) do not fall within these three prohibited categories.

This policy also violates the Establishment Clause. The policy blocking access to "atheist viewpoints" prefers religion over nonreligion; an unconstitutional preference. *See Lee v. Weisman*, 505 U.S. 577 (1992) ("The First Amendment's Religion Clauses mean that religious beliefs and religious expression are too precious to be either proscribed or prescribed by the State. The design of the Constitution is that preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere, which itself is promised freedom to pursue that mission."); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985) ("...individual freedom of conscience protected by the First Amendment embraces the right to select any religious faith or none at all.").

A policy blocking access to harmless websites that provide information on nontheism also ignores the reality that the fastest growing segment of the American population is nonreligious. Fifteen percent of American adults do not have any religious affiliation. *See Kosmin, Barry A. and Keysar, Ariela, American Religious Identification Survey 2008*. Studies suggest the percentage of nonreligious is even higher for students.

We ask that you follow the example of Indianapolis Public Schools, which amended its filtering policy last year after receiving a similar complaint from our organization.

The District's viewpoint discrimination and preference for religion in its filtering policy is illegal. It violates the First Amendment and precedent set by the Supreme Court. We ask that you immediately investigate this discriminatory practice and allow all religious, nonreligious, and irreligious websites to be viewed within the San Antonio Independent School District. We respectfully request notification in writing of the appropriate actions you are taking to remedy this violation so that we may notify our complainant.

Sincerely,



Patrick C. Elliott
Staff Attorney

cc: Moises Ortiz, Principal
(mortiz@saisd.net)