

# FREEDOM FROM RELIGION *foundation*

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May 9, 2014

SENT VIA U.S. MAIL & EMAIL  
mparvon@access.k12.wv.us

Mr. Manny P. Arvon  
Superintendent  
Berkeley County Schools  
401 S. Queen Street  
Martinsburg, WV 25401

Re: Religious Programming at New Beginnings Pre-K

Dear Superintendent Arvon:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to religious programming at the New Beginnings Child Care Facility in Inwood. We were contacted by a concerned Berkeley County parent. FFRF is a nationwide, nonprofit organization that works to protect the constitutional principle of separation between state and church. FFRF represents over 20,000 members across the country, including members in West Virginia.

It is our information and understanding that New Beginnings operates as a Berkeley County Pre-K site. We further understand that the New Beginnings sign is emblazoned with a cross and that religious images adorn the interior of the facility. Moreover, our complainant was informed that prayer takes place before each meal at the center. When asked how prayer could be conducted during state-funded Pre-K programming, the New Beginnings director allegedly said that the center had obtained "special permission" from the school district to lead the children in prayer. The director further explained that a teacher who had been uncomfortable with the practice (and who no longer works at the facility) was permitted to leave the room during prayer time.

We further understand that New Beginnings hosts a weekly bible study for its children. We are informed that parents who object to the Monday bible study are offered a four-day option. Parents are therefore required to secure alternative programming and care for Mondays. The allegations regarding the religious atmosphere at New Beginnings are more disconcerting because it is allegedly the only Pre-K site in the area which offers wrap around care. A parent who wishes to protect his/her child from this religious atmosphere will be unable to take advantage of the Pre-K and childcare offered by New Beginnings.

The U.S. Constitution requires a secular public school environment. Public schools cannot engage in activities that tend to endorse or promote religion. The Supreme Court has established that “the ‘First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion.’” *McCreary County v. ACLU*, 545 U.S. 844, 860 (2005) (quoting *Epperson v. Arkansas*, 393 U.S. at 104). See also *Everson v. Board of Ed. of Ewing*, 330 U.S. 1, 15-16 (1947); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985). Moreover, “the preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere.” *Santa Fe Sch. Dist. v. Doe*, 530 U.S. 290, 310 (2001) (quoting *Lee v. Weisman*, 505 U.S. at 589).

The courts have consistently held that the First Amendment prohibits public schools from exposing students to religious displays. See, e.g., *Doe v. Elmbrook Sch. Dist.*, 687 F.3d 840 (7th Cir. 2012) (en banc) (ruling that hosting graduation ceremonies in church sanctuary amounted to school endorsement of religion), *petition for cert. filed* (Dec. 20, 2012); *Does 1 v. Enfield Pub. Schs.*, 716 F. Supp. 2d 172 (2012) (ruling that public school graduation may not be held in church facility due to First Amendment concerns); *Lee v. York Cnty. Sch. Div.*, 484 F.3d 687 (4th Cir. 2007) (ruling that a school may prohibit teachers from posting religious messages on classroom bulletin boards); *Washegesic v. Bloomington Pub. Schs.*, 33 F.3d 679, 683 (6th Cir. 1994) (ruling that portrait of Jesus in school hallway violated the Establishment Clause); *Stone v. Graham*, 449 U.S. 39 (1980) (ruling that posting Ten Commandments on classroom walls violated Establishment Clause).

We understand that, in an effort to achieve universal access to early education, West Virginia Pre-K programs often operate through partnerships with pre-existing child care facilities. However, while courts have allowed public schools in certain circumstances to operate in facilities owned by religious entities, a school is obligated to maintain a position of neutrality toward religion. Through its partnership with a child care facility that offers religious programming, Berkeley County Schools violates the Establishment Clause by entangling itself with religion.

Furthermore, exposure of Pre-K students to religious messages – through, e.g., group prayer and religious postings – sends an unacceptable message of exclusion to non-Christian and nonreligious students. The Supreme Court has continually struck down school-sponsored prayer. See, e.g., *Engel v. Vitale*, 370 U.S. 421 (1962) (declaring prayers in public schools unconstitutional); *Abington Twp. Sch. Dist. v. Schempp*, 374 U.S. 203 (1963) (declaring unconstitutional devotional Bible reading and recitation of the Lord’s Prayer in public schools); *Sante Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (striking down a school policy that authorized students to vote on whether to hold a prayer at high school football games); *Lee v. Weisman*, 505 U.S. 577 (1992) (ruling prayers at public high school graduations an impermissible establishment of religion). Prayers at the direction of a public school are blatantly unconstitutional.

This constitutional violation is more egregious when the students are so young and are thus more vulnerable to coercion. Turning a blind eye to religious displays and exercises at state-funded Pre-K facilities not only violates the U.S. Constitution, it also explicitly undermines West Virginia’s stated goal of universal access to early childhood education. Parents who live near the New Beginnings Pre-K site, and who wish to take advantage of

the universal education state law is designed to facilitate, should not have to assume additional burdens to ensure their child's public education is genuinely secular.

Berkeley County Schools must provide a secular environment to its students. It must ensure Pre-K students are not exposed to prayer, religious programming, or religious images. We request that Berkeley County Schools take immediate steps to end religious programming as part of its Pre-K program. Please inform us of the steps you are taking to address this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Patrick C. Elliott", with a stylized flourish at the end.

Patrick C. Elliott  
Staff Attorney

PCE:okm

CC: Ms. Michelle Martin, Director, Pre-K Programs, [mrmartin@access.k12.wv.us](mailto:mrmartin@access.k12.wv.us)