

# FREEDOM FROM RELIGION *foundation*

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

August 30, 2017

**SENT VIA EMAIL & U.S. MAIL: [james.briscoe@canyonsdistrict.org](mailto:james.briscoe@canyonsdistrict.org)**

Dr. James Briscoe  
Superintendent  
Canyons School District  
9150 S. 500 West  
Sandy, UT 84070

Re: Student Forced to Participate in Pledge of Allegiance

Dear Dr. Briscoe:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a serious constitutional violation occurring in Canyons School District. We were contacted by a concerned parent. FFRF is a national nonprofit organization with more than 29,000 members across the country, including members in Utah. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

It is our understanding that on the first day of school, Maureen Howe, a math teacher at Hillcrest High School, singled out and rebuked a student for choosing to remain seated during the Pledge of Allegiance. Our complainant reports that when her child didn't stand for the pledge, Ms. Howe approached the child and told her she needed to be respectful and stand. We understand that the student countered that she did not have to stand for the pledge. We understand that Ms. Howe then told the student to go to the office.

The Supreme Court ruled over seventy years ago that compelling a student to participate in the Pledge of Allegiance infringed upon a student's First Amendment rights. *See W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943). The *Barnette* ruling assured students that their beliefs would be protected. The Court 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 or force citizens to confess by word or act their faith therein.

*Id.* at 642. Multiple courts have reiterated that students have a constitutional right not to be forced to participate in the Pledge of Allegiance and that any punishment administered in reaction to a student exercising that right violates the Constitution. *See Holloman v. Harland*, 370 F.3d 1252, 1268 (11th Cir. 2004) (stating that verbally chastising a student for "failing to salute the flag or expressing his opinion in a non-disruptive fashion" would violate the Constitution as a matter of law); *Walker-Serrano ex rel. Walker v. Leonard*, 325 F.3d 412, 417

(3d Cir. 2003) (“For over fifty years, the law has protected elementary students’ rights to refrain from reciting the pledge of allegiance to our flag. Punishing a child for non-disruptively expressing her opposition to recitation of the pledge would seem to be as offensive to the First Amendment as requiring its oration.”) (citation omitted); *Goetz v. Ansell*, 477 F.2d 636, 637-38 (2d Cir. 1973) (holding that students have the right to remain seated during the Pledge of Allegiance); *Frain v. Baron*, 307 F. Supp. 27, 33-34 (E.D.N.Y. 1969) (holding that schools may not “[treat] any student who refuses for reasons of conscience to participate in the Pledge in any different way from those who participate.”).

Students have a constitutional right not to be forced to participate in the Pledge of Allegiance. Students may not be singled out, rebuked, told they must stand, or otherwise penalized for following their freedom of conscience.

We ask that the District investigate the situation at Hillcrest High School and ensure that its teachers are educated in this area of law and instructed that they may not single out or penalize students for exercising their right not to participate in the Pledge of Allegiance. Please respond in writing detailing the actions the District is taking to protect its students’ free speech and right of conscience.

Sincerely,

A handwritten signature in blue ink that reads "Chris Line". The signature is written in a cursive, flowing style.

Christopher Line  
*Patrick O'Reiley Legal Fellow*  
*Freedom From Religion Foundation*