

# FREEDOM FROM RELIGION *foundation*

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December 13, 2018

**SENT VIA EMAIL & U.S. MAIL:**

ksoo@tharringtonsmith.com

Mr. Kenneth Soo  
Tharrington Smith LLP  
PO Box 1151  
Raleigh, NC 27602

Re: Durham County Schools Display of Church Signs

Dear Mr. Soo:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in Durham Public Schools (District). I understand that you represent the school system. FFRF is a national nonprofit organization with over 32,000 members across the country, including over 650 members in North Carolina.

It is our understanding that Keystone Church rents space at Southwest Elementary School for its Sunday worship services. We understand that the school has allowed Keystone Church to place a large sign on the school's lawn to advertise its worship services. Our local complainant reports that the sign is up at all times, including during the school week. We also understand that the school has allowed the church to store signs and other materials in the gym. This includes signs advertising the church that are visible to students. Please see the enclosed photos.

It is well settled that public schools may not advance, prefer or promote religion. *See Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Epperson v. Ark.*, 393 U.S. 97 (1967); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962). Advancing, preferring, and promoting religion is exactly what a school does when it allows a church to prominently place an advertisement for students, parents, school employees, and anyone passing by to see.

Southwest Elementary School may not display messages on school grounds that recruit participants to engage in religious worship. Courts have continually held that school districts may not display religious messages or iconography in public schools. *See generally, Stone v. Graham*, 449 U.S. 39 (1980) (ruling that the Ten Commandments may not be displayed on classroom walls); *Lee v. York Cty.*, 484 F.3d 689 (4th Cir. 2007) (ruling that a teacher may be barred from displaying religious messages on classroom bulletin boards); *Washagesic v. Bloomington Pub. Schs.*, 813 F. Supp. 559 (W.D. Mich. 1993), *aff'd*, 33 F. 3d 679 (6th Cir. 1994) (ruling that a painting of Jesus may not be displayed in a public school). This "[s]chool sponsorship of a religious message is impermissible because it sends the ancillary message to . . . nonadherents 'that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders,

avored members of the political community.’ ” *Santa Fe Indep. Sch. Dist.*, 530 U.S. 290, 309 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)).

Public schools have a constitutional obligation to remain neutral toward religion. When a school continuously displays an advertisement for a church on its property, it has unconstitutionally entangled itself with a religious message, here a Christian message. This alienates those non-Christian students, teachers, and members of the public whose religious beliefs are inconsistent with the religious messages being promoted by the church. It is particularly exclusionary to the 24% of Americans, and 38% of Americans born after 1987, who are not religious.<sup>1</sup>

We request that the District remove all church property from school grounds during times when the church is not renting school facilities. We believe that these rentals are limited to specified contractual time on Sundays. It is illegal for the school to promote religious worship services to students and the community via preferential placement of church advertisements during the school week. We also question whether this use of school facilities complies with District policies (See Policy 5110).

To avoid future violations of the Establishment Clause, Durham Public Schools must not allow churches to erect signs or store equipment on school property outside of specified rental periods. Please inform us in writing of the steps the District is taking to remedy this violation.

Sincerely,



Patrick C. Elliott  
Senior Counsel

Enclosures

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<sup>1</sup> Robert P. Jones & Daniel Cox, *America’s Changing Religious Identity*, PUBLIC RELIGION RESEARCH INSTITUTE (Sept. 6, 2017), available at [www.prii.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf](http://www.prii.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf).



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