

FREEDOM FROM RELIGION *foundation*

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March 20, 2017

SENT VIA EMAIL & U.S. MAIL
superintendent@easthanoverschools.org

Dr. Scott N. Rubin
Superintendent
East Hanover Township School District
20 School Ave.
East Hanover, NJ 07936

Re: Unconstitutional Religious Display

Dear Dr. Rubin:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in East Hanover Township School District. We were contacted by a concerned local resident. FFRF is a national nonprofit organization with 27,000 members across the country, including more than 500 members in New Jersey. Our purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that the school district is flying flags that say "One Nation Under God" on flagpoles at Frank J. Smith Elementary School and East Hanover Middle School. It is our information that the Knights of Columbus, a Catholic fraternal organization, donated these flags. Please see an attached photo of one such flag.

The District violates the Constitution when it allows its schools to display religious symbols or messages. 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. Arkansas*, 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). This display violates this basic constitutional prohibition by creating the appearance that the District prefers religion over nonreligion and Christianity over all other faiths.

Courts have continually held that school districts may not display religious messages or iconography in public schools. *See, e.g., Stone v. Graham*, 449 U.S. 39 (1980) (ruling that the Ten Commandments may not be displayed on classroom walls); *Johnson v. Poway Unified Sch. Dist.*, 658 F.3d 954, 970 (9th Cir. 2011), *cert. denied* 132 S. Ct. 1807 (2012) (upholding decision of school board to require a math teacher to remove banners with historical quotes referencing "God," including "In God We Trust"); *Lee v. York County*, 484 F.3d 689 (4th Cir. 2007) (ruling that a teacher may be barred from displaying religious messages on classroom bulletin boards); *Washegesic v. Bloomingdale Pub. Schs.*, 33 F.3d 679 (6th Cir. 1994) (ruling that a picture of Jesus may not be displayed in a public school).

Please note that it is legally immaterial whether the display was funded by the District or by private donors. “[T]he mere posting of the [religious display] under the auspices of the [District] provides the ‘official support of the State . . . Government’ that the Establishment Clause prohibits.” *Stone*, 449 U.S. at 42 (holding that “[i]t does not matter that the posted copies of the Ten Commandments are financed by voluntary private contributions”) (quoting *Schempp*, 374 U.S. at 222).

Religion is a divisive force in public schools. The Supreme Court has repeatedly noted that “[s]chool sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are nonadherents ‘that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.’” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)). This message is particularly impermissible when it is presented to such young and impressionable students.

This religious display is particularly inappropriate given that about 35% of those born after 1981 are not religious.¹ The display alienates those nonreligious students, families, teachers, and members of the public whose religious beliefs are inconsistent with the message being promoted by the school.

In recognition of the District’s constitutional obligation to remain neutral toward religion, please remove the “One Nation Under God” flags. Please reply in writing with the steps you are taking to remedy this constitutional violation.

Sincerely,



Madeline Ziegler, Esq.
Patrick O’Reiley Legal Fellow
Freedom From Religion Foundation

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¹ *America’s Changing Religious Landscape*, PEW RESEARCH CENTER (May 12, 2015), available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/.

