

# FREEDOM FROM RELIGION *foundation*

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December 14, 2015

**SENT VIA U.S. MAIL & EMAIL TO: [kyarger@jcsdk12.org](mailto:kyarger@jcsdk12.org)**

Keith Yarger  
Superintendent  
Juniata County School District  
75 South Seventh Street  
Mifflintown, PA 17059

Re: Bus driver proselytizing students

Dear Superintendent Yarger:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to a serious constitutional violation recently occurring in your district. FFRF is a national nonprofit organization with 23,000 members across the country, including more than 700 in Pennsylvania and a state chapter, Nitanny Freethought. We protect the constitutional separation between state and church.

A concerned parent recently reported to us that her 5-year-old child has been the target of proselytizing from her bus driver. [REDACTED], a bus driver for Juniata County School District (JCSD) who transports students with emotional and behavioral challenges to NHS-State College, has been discussing religion with an autistic kindergartner on her bus. According to our complainant, Ms. [REDACTED] has discussed God, Jesus, Heaven and Hell with this child, including:

- Telling the child that if she does not believe in God, she will go to Hell
- Describing Hell as a place where “fireballs” will be shot at her
- Telling her that her parents need to ask Jesus’ forgiveness, or they will go to Hell
- Telling her she should have bibles in her home and that it is “bad” that Mom and Dad do not have a bible for her

If these reports are true, then [REDACTED] is flagrantly violating the First Amendment. As you are likely aware, it is well settled that public schools may not advance or endorse religion. *See generally, 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 obligation remains in effect when students are using school transportation to and from school.

Public school bus drivers occupy their position and have access to a captive audience of young students by virtue of contracting with JCSD. Therefore bus drivers are agents of the district and are subject to the same constitutional restrictions as all district employees, including the Establishment Clause of the First Amendment. Employees of JCSD, including bus drivers, may not promote their religious beliefs to students while acting in their official capacities as school employees. Indoctrinating a child as young as 5 years old who Ms. [REDACTED] is aware has an autistic disorder is predatory and an outrageous abuse of her position.

The Supreme Court has stressed the importance of protecting students from religious promotion by public school districts. Over 60 years ago in *McCullum*, a school required a nonreligious student to leave the classroom while religious teachers, who were not school employees, led the rest of the class in religious instruction. *McCullum v. Bd. of Educ.*, 333 U.S. 203, 205 (1948). The Court held that the school's actions were unconstitutional because public school property was used "for the dissemination of religious doctrines." *Id.* at 212. Similarly, Ms. [REDACTED] disseminates Christian dogma by proselytizing non-Christian students and scaring them with threats of eternal punishment.

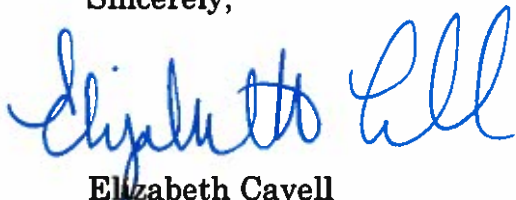
For several reasons, Ms. [REDACTED]'s actions are even more severe than the illegal promotion of religion in this landmark Supreme Court case. First, Ms. [REDACTED] is a JCSD employee. Second, unlike the school in *McCullum*, Ms. [REDACTED] did not seek the permission of parents before thrusting her frightening religious viewpoint on students under her care. Third, she is aware that students on her bus have autism and behavioral and/or emotional challenges that make them particularly vulnerable. For instance, given that the student involved has autism, she is more likely than other children to take these threats literally and fixate on them given the fear they've caused. Changing all of these facts would not cure the constitutional violation, but their presence highlights how egregious Ms. [REDACTED]'s conduct is.

We understand that the parent involved has made this complaint directly to the district, and the transportation director Philip Adam promptly replied that the "Situation will be dealt with immediately." The parent has been informed that Ms. [REDACTED] will be immediately reassigned to another bus "until further notice" while the district investigates. We commend the district for responding promptly. However we write to underscore the seriousness of this violation and to seek more specific assurances of the district's action. Ms. [REDACTED]'s illegal actions have caused serious trauma for this young student,

and the damage caused to her relationship with her parents will be difficult to undo given her autism and other underlying medical issues. Transferring the driver to another bus route does not cure this violation; even if she were proselytizing mainstream students that are not uniquely vulnerable, her conduct would still be illegal.

Please take immediate corrective action, including informing the bus company and bus driver involved that this violation is a serious breach of the law. At the very least, Ms. [REDACTED] should be reprimanded for her actions, and if she cannot remain neutral toward religion while transporting public school students, she should not be driving a JCSD bus. Further, Ms. [REDACTED]'s proselytizing is a severe betrayal of parental trust that warrants a formal apology from the district. Please inform us promptly in writing of the steps taken to remedy this violation and protect the rights of conscience of your students. Thank you for your attention.

Sincerely,



Elizabeth Cavell  
Staff Attorney

CC: Jill Condo  
Director of Special Education for JCSD  
[Jcondo@jcsdk12.org](mailto:Jcondo@jcsdk12.org)