

# FREEDOM FROM RELIGION *foundation*

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

April 20, 2017

**SENT VIA EMAIL AND U.S. MAIL:**  
**criswellj@milanssd.org**

Dr. Jonathan Criswell  
Director of Schools  
Milan Special School District  
1165 South Main Street  
Milan, TN 38358

Re: Teacher promotion of religion

Dear Dr. Criswell:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to serious constitutional violations at Milan High School. FFRF is a national non-profit organization with more than 27,000 members across the county, including more than 350 members in Tennessee. FFRF's purpose is to protect the constitutional principle of separation between state and church.

Several concerned local citizens contacted us to report that on or around March 12, 2017, Milan High School math teacher and coach Larry Eddings announced on social media that he will be teaching an elective bible class during the 2017–2018 school year. The post has since been removed, but it stated in full:

Exciting news! Milan High School will be offering a Bible class as an elective course for the 2017–2018 school year. The class will be taught by your truly. Can you believe this is happening?!? Please join me in praying that kids will sign up for the class so it will make (sic). **Praise be to God that He has made a way for the word to go forth.** Share this so many people can see it and spread the word. (emphasis added).

Although it is legally permissible for a high school curriculum to include studies of religious texts under certain limited circumstances, neither the teacher nor the curriculum itself may endorse the text's religious message, or religion in general. Eddings' description of the upcoming class as a way for "God" to "ma[k]e a way for the word to go forth" unambiguously shows his intent to promote the religious aspects of the bible and his hope to indoctrinate young students, rather than merely teaching the bible's historical or literary qualities from a secular perspective. As a math teacher, Eddings also lacks the expertise for teaching a history or literature class.

While investigating this complaint, FFRF discovered further instances of Eddings using his position as a Milan Special School District employee in order to promote his personal religion. Eddings appears to organize, promote, and participate in the high school's Fellowship of Christian Athlete (FCA) club, which is listed as a "Club" on the school's website, along with what appear to be other student clubs.<sup>1</sup>

In a video posted to social media on March 1, Eddings promoted an FCA event, "Courts of Faith." In the video, he states: "Let me tell you what the FCA kids—Fellowship of Christian Athletes—here at Milan [high school], every Tuesday morning at 7:25, 7:30 in the morning. We come in this gym and we pray. We pray until the bell. There's twenty to twenty-five minutes of just asking God to move in Milan, at the high school . . . ."<sup>2</sup>

Eddings also promoted the event in a separate post on February 28, stating that "We are not really sure what the Holy Spirit is going to do and we are ok with that. We have just positioned ourselves to receive His best." This promotion includes an image of adults participating in a student prayer event.

Eddings has travelled in order to proselytize (in his words, "pour into") students in other school districts. On March 29–30 Eddings stated that he was "fixing to head into Brentwood High School and pour into over 200 kids that show up for FCA! . . . Come on Holy Spirit – manifest yourself!!!" and, along with a picture of seven students, "Got to pour into these young people at Brentwood High School today about disciple-making! What a blessing!"

On April 6, Eddings posted a picture with a description, "Todd Byrd pouring into kids at Milan FCA this morning." Byrd is an adult preacher who regularly appears in religious videos with Eddings promoting religion, including the video described above.

Finally, Milan High FCA posted images of a "See You At The Pole" prayer event earlier this school year. The images show Eddings and other adults participating in the religious event with students just outside the school. Each of the images described above are enclosed for your review. Although Eddings' religious social media posts are on Eddings' private Facebook account, they are often so intertwined with his position as a Milan High School teacher that students would understand Eddings to have made them as a District employee, rather than as a private citizen.

In short, Larry Eddings apparently views his teaching position as an opportunity to convert students to his personal religion, Christianity. This is a serious violation of the Establishment Clause of the First Amendment to the U.S. Constitution. The District must take immediate action to ensure that Eddings does not participate in prayer with students while acting in his capacity as a District employee, and that Eddings does not organize, promote, or participate in student religious club activities (including at other public school districts). Given his history of flagrantly violating these clear prohibitions, Eddings is clearly unfit to be a faculty sponsor for student religious clubs and cannot be

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<sup>1</sup> milanhigh.tn.mdh.schoolinsites.com/?PageName=%27Organizations%27.

<sup>2</sup> facebook.com/profile.php?id=100012199783978.

trusted to teach an elective on the bible without promoting religion. We request written assurances that each of these concerns will be addressed so that we may assure our complainants that Eddings will not use his position at the District to promote religion in the future.

As an initial matter, the U.S. Supreme Court has said time and again that the “First Amendment mandates government neutrality between religion and religion, and between religion and nonreligion.” *McCreary Cnty., Ky. v. American Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15–16 (1947). This constitutional mandate is stronger within the context of public schools.

Further, it is well settled that public schools may not advance or endorse religion. *See generally Lee v. Weisman*, 505 U.S. 577 (1992); *Sch. Dist. of Abington Twshp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962). Public school employees may not urge religious points of view on students, parents, or coworkers while acting in their official capacity as District representatives.

**Teachers may not organize, promote, or participate in student religious clubs**

To avoid the appearance of endorsing a religious club, the District may not allow teachers to be involved in student religious clubs beyond a supervisory capacity. When Eddings organizes, promotes, or participates in FCA meetings, he impermissibly appears to endorse the religious club on behalf of the District.

The federal Equal Access Act, which allows the FCA club to form, requires that “employees or agents of the school or government are present at religious meetings only in a nonparticipatory capacity.” 20 U.S.C. § 4071(c)(2). We often hear from students that public school teachers are overreaching and leading or directing the activities of FCA clubs. This is illegal. Any school religious groups must be bona fide student clubs that are both student-initiated and student-run. School employees may not participate in any way.

The EAA was written to apply to noncurricular clubs meeting during non-instructional time, which means the staff participation restriction was also written to apply during non-instructional time. In *Sease v. Sch. Dist. of Philadelphia*, a school secretary sponsored and participated in a school gospel choir. The secretary argued that the choir met after hours and that, as secretary, her school duties were never meant to be supervisory and therefore she was not prevented from participating. 811 F. Supp. 183 (E.D. Pa. 1993). The court wrote that the “suggestion that Mrs. Safford ceases to be a school employee within the meaning of the Act because her role as leader of the Gospel Choir is assumed after school hours, and is outside the scope of her employment as a school secretary, defies logic and flies in the face of the manifest purpose of the Equal Access Act.” *Id.* at 192.

Eddings’ involvement with the high school’s FCA violates the EAA in several ways, since he not only participates in the club’s religious events, but also organizes and endorses them. In addition to prohibiting Eddings from engaging in these activities, and

finding a more appropriate faculty sponsor for the group, the District should investigate the FCA club itself. If the District determines that adults are involved in operating the club, as we have often seen with FCA clubs around the country, the club should be disbanded. Students would be welcome to re-form the club as a bona fide student-initiated, student-led club under the guidelines of the EAA.

**Adults may not participate in student prayer events, including “See You At The Pole”**

Beyond the context of student religious clubs, it is unconstitutional for public school employees to participate in the religious activities of their students. *See, e.g., Borden v. Sch. Dist. of the Twp. of East Brunswick*, 523 F.3d 153 (3rd Cir. 2008), *cert. denied*, 129 S.Ct. 1524 (2009) (declaring a coach’s organization of, participation in, and leading of prayers before games unconstitutional); *Doe v. Duncanville Indep. Sch. Dist.*, 70 F.3d 402 (5th Cir. 1995) (declaring coach’s participation in student prayer circles an unconstitutional endorsement of religion).

In *Borden*, the court stated that even a school employee’s involvement in the prayer by “taking a knee” and “bowing his head” during student-led prayers “would lead a reasonable observer to conclude he was endorsing religion.” 523 F.3d at 176. The court continued, “if while acting in their official capacities, [school district] employees join hands in a prayer circle or otherwise manifest approval and solidarity with the student religious exercises, they cross the line between respect for religion and the endorsement of religion.” *Id.* at 178 (quoting *Duncanville*, 70 F.3d at 406). Government employees must refrain from actively participating in religious activities while acting within their governmental role to avoid any perception of government endorsement of religion and/or excessive entanglement with religion.

Furthermore, when District staff plan, promote, or participate in Christian prayer events like See You At The Pole, they alienate non-Christian students, teachers, and parents whose religious beliefs are inconsistent with the message being promoted by the school staff, including the 23% of young Americans who are not religious.<sup>3</sup> Any religious events must be entirely student-initiated and student-run. While the District may not prohibit students from organizing or participating in a prayer event, the Supreme Court has stated that public school staff members must refrain from participating in the religious activities of students while acting within their governmental roles to avoid any perception of government endorsement of religion. *Bd. of Educ. of the Westside Cmty. Sch. v. Mergens*, 496 U.S. 226, 253 (1990).

Even See You at the Pole’s official website recognizes that adults should not be involved in their events:

See You at the Pole™ is a student-led event. Strong student leadership is crucial. Adult volunteers and parents should not lead the See You at the Pole™ gathering. Many well-meaning adults take over and take away from the students by trying to

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<sup>3</sup> “America’s Changing Religious Landscape, PEW RESEARCH CENTER (May 12, 2015), available at [pewforum.org/2015/05/12/americas-changing-religious-landscape/](http://pewforum.org/2015/05/12/americas-changing-religious-landscape/).

lead out in the prayers at the flagpole. This is not the intention for See You at the Pole™, nor is it legal for adults to lead. Please step back or stay away and let the students grow and learn in their faith by leading.<sup>4</sup> (emphasis added).

District staff must not plan, promote, or participate in any future SYATP events, nor can they encourage students to put on such events. Any religious events must be truly student-initiated and student-run.

**The District should not have an elective bible class, especially one taught by a teacher with a history of illegally promoting religion to students**

Public schools may not provide religious instruction. In the seminal Supreme Court case on this issue, *McCullum v. Bd. of Educ.*, 333 U.S. 203 (1948), the Court held that that bible classes in public school were unconstitutional. The school district in *McCullum* allowed religious teachers, employed by private religious groups, to teach students a weekly bible class. The Court held, “Here not only are the state’s tax-supported public school buildings used for the dissemination of religious doctrines. The State also affords sectarian groups an invaluable aid in that it helps to provide pupils for their religious classes through use of the state’s compulsory public school machinery. This is not separation of Church and State.” *Id.* at 212.

Other federal courts have ruled that similar courses are unconstitutional. In FFRF’s lawsuit against religious instruction in Rhea County, Tennessee, the Court said, “This is not a close case. Since 1948, it has been very clear that the First Amendment does not permit the State to use its public school system to ‘aid any or all religious faiths or sects in the dissemination of their doctrines.’” *Doe v. Porter*, 188 F. Supp. 2d 904, 914 (E.D. Tenn. 2002) (quoting *McCullum*, 333 U.S. at 211), *aff’d*, 370 F.3d 558 (6th Cir. 2004). The Fifth Circuit Court of Appeals struck down a “Bible Literature” course, finding that the content of the course, which included “rote memorization of the bible,” was unconstitutional. *Hall v. Bd. of Sch. Comm’rs of Conecuh Cnty.*, 656 F.2d 999, 1003 (5th Cir. 1981). In a Mississippi case, the court found that “A Biblical History of the Middle East” class violated the Establishment Clause. *Herdahl v. Pontotoc Cnty. Sch. Dist.*, 933 F. Supp. 582 (N.D. Miss. 1996). The court found it significant that the bible was the only text used in the course, and that tests were given based solely on the bible text. *Id.* at 594.

The Supreme Court did not find it relevant that parents had to opt their children into the religious instruction, because the classes themselves still constituted an illegal use of the school system for a religious purpose: “Pupils compelled by law to go to school for secular education are released in part from their legal duty upon the condition that they attend the religious classes. This is beyond all question a utilization of the tax-established and tax-supported public school system to aid religious groups to spread their faith.” *McCullum*, 333 U.S. at 209–10.

Courts have summarily rejected arguments that voluntariness excuses a constitutional violation. *See Lee v. Weisman*, 505 U.S. at 596 (“It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the

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<sup>4</sup> <http://syatp.com/>.

price of resisting conformance to state-sponsored religious practice.”); *Abington Twp. Sch. Dist. v. Schempp*, 374 U.S. 203, 288 (1963) (Brennan, J., concurring) (“Thus, the short, and to me sufficient, answer is that the availability of excusal or exemption simply has no relevance to the establishment question”); *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003) (“VMI cannot avoid Establishment Clause problems by simply asserting that a cadet’s attendance at supper or his or her participation in the supper prayer are ‘voluntary.’”); *Jager v. Douglas County Sch. Dist.*, 862 F.2d 825, 832 (11th Cir. 1989), *cert. denied*, 490 U.S. 1090 (1989) (“ . . . whether the complaining individual’s presence was voluntary is not relevant to the Establishment Clause analysis . . . The Establishment Clause focuses on the constitutionality of the state action, not on the choices made by the complaining individual.”).

The fact that Larry Eddings is scheduled to teach the contemplated bible class at Milan High School only adds to the appearance that the class will advance Christianity, since Eddings has an extensive history of using his position as a District employee to promote Christianity, in defiance of the Establishment Clause.

FFRF takes these complaints very seriously. In addition to successfully stopping a Tennessee bible class in court in 2002 (discussed above), we are currently challenging a West Virginia bible class in federal court. *See FFRF v. Mercer Cnty. Bd. of Educ.*, No. 1:17-cv-00642, (D.W.Va. filed Jan. 18, 2017). If Milan High School includes a bible class this fall, regardless of the instructor, FFRF will request copies of the full curriculum and will take appropriate action if the class promotes religion in any way.

We request assurances that the District will investigate and correct each of the above complaints. Larry Eddings must not organize, promote, or participate in student religious clubs or activities; student religious clubs must be entirely student-initiated and student-run; and Milan High School should not offer a bible class to students, especially one taught by Eddings. Please provide a written response so that we may notify our local complainants that these serious constitutional violations have been resolved.

Sincerely,



Ryan D. Jayne, Esq.  
*Elaine & Eric Stone Legal Fellow*  
*Freedom From Religion Foundation*

Enclosure





**Larry Eddings**

1 hr · Gibson, Tennessee ·



Exciting news! Milan High School will be offering a Bible class as an elective course for the 2017-2018 school year. The class will be taught by yours truly. Can you believe this is happening?!? Please join me in praying that kids will sign up for the class so it will make. Praise be to God that He has made a way for the word to go forth. Share this so many people can see it and spread the word.



**Larry Eddings**

February 28 ·

All are invited to Milan High School tomorrow night. We are not really sure what the Holy Spirit is going to do and we are ok with that. We have just positioned ourselves to receive His best. Enter through the double doors from the back parking lot. Come ready to receive!



Like Comment Share



**Larry Eddings**

March 30 at 6:07am · Brentwood, TN · 🌐

Fixing to head into Brentwood High School and pour into over 200 kids that show up for FCA! It starts at 6:45am and I am hoping that I can go live - stay tuned. Come on Holy Spirit - manifest yourself!!!

👍 Like    💬 Comment    ➦ Share

👍❤️ 90

1 share

View 6 more comments



**Felisia Warren-jones** It's truly a blessing on the road God has allowed you to travel

Like Reply 🗨️ 1 · March 30 at 9:58am



**Geoffrey Wekesa** Amen. Thank You pastor

Like Reply · March 30 at 12:31pm



**Todd D Byrd** May the Lords Glory fall

Like Reply · March 30 at 1:01pm



**Judy McGregor** You are such a gift to everyone you make a connection with

Like Reply · March 30 at 4:19pm

**Larry Eddings** Well that is a nice comment - may His name grow in fame

Like Reply · March 30 at 4:20pm



**Judy McGregor** Right on!!!

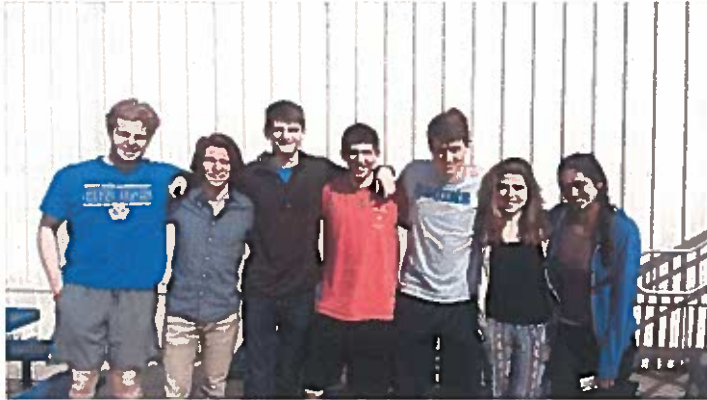
Like Reply · March 30 at 4:20pm



**Larry Eddings**

March 29 at 4:54pm · Brentwood, TN · 🌐

Got to pour into these young people at Brentwood High School today about disciple-making! What a blessing!

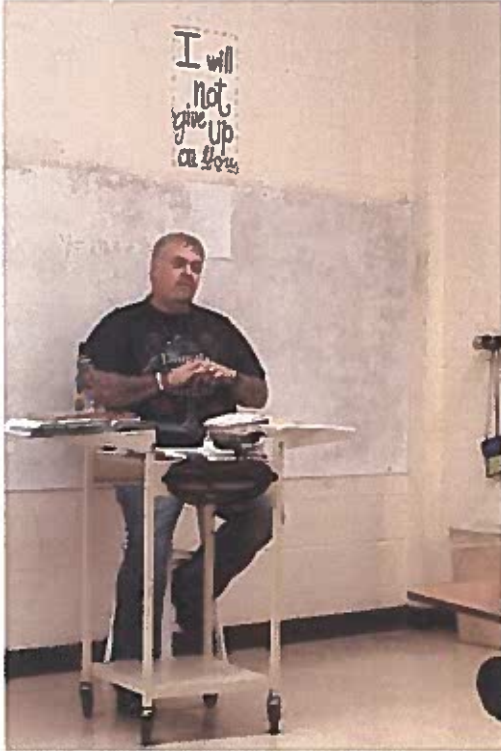


👍 Like    💬 Comment    ➦ Share



 **Larry Eddings**  
April 6 at 7:33am · 

Todd Byrd pouring into kids at Milan FCA this morning. I love this guy and his heart for people!



 Like  Comment  Share

 **Milan High FCA**  
@milanhigh\_fca

 Follow

This morning was such a blessing. Thanks for everyone who came and helped make it as spirit-moving as it was. #syatp2016 #wecryout



RETWEETS 2  
LIKES 8



3:04 PM · 28 Sep 2016