

FREEDOM FROM RELIGION *foundation*

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SENT VIA MAIL & EMAIL TO: rbobbera@k12.wv.us

Dr. Robert Bobbera
Superintendent
Mingo County Schools
110 Cinderella road
Williamson, WV 25661

Re: Unconstitutional religious assembly

Dear Superintendent Bobbera:

I am writing on behalf of the Freedom From Religion Foundation to alert you to a serious constitutional violation within Mingo County Schools. FFRF is a nationwide nonprofit organization with more than 23,500 members across the country, including members in West Virginia. FFRF's purpose is to protect the constitutional principle of the separation of state and church.

It is our understanding that Mingo Central High School held a Christian revival event during the school day on April 13. We were informed that evangelist Matt Hartley preached to students. A student reports that Hartley not only preached about Jesus, but also addressed whether being gay is a choice and whether God "made a mistake" with transgender persons. At one point, Hartley said,

I'm speaking truth to you because the enemy has lied to many of you and said, 'Go ahead and experiment to find out if you want to be a boy if you're a girl, and if you want to be a girl if you're a boy.' Let me tell you something, God never made a mistake in the gender that he made you!

We received a copy of a segment of the preaching session.¹

This type of event is blatantly unconstitutional. It is well settled that public schools may not advance or promote religion. *See generally, Lee v. Weisman*, 505 U.S. 577; *Wallace v. Jaffree*, 472 U.S. 38; *Epperson v. Arkansas*, 393 U.S. 97; *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203; *Engel v. Vitale*, 370 U.S. 421. The Supreme Court has held that "the preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere." *Santa Fe Indep. Sch. Dist.*, 530 U.S. at 310 (quoting *Lee*, 505 U.S. at 589). In *Lee* the Supreme Court extended the prohibition of school sponsored religious activities beyond

¹ <https://goo.gl/m9Eune>

the classroom to all school functions. Thus, promotion of religion as part of a school assembly violates the Establishment Clause.

Holding a school assembly with religious content by a Christian speaker gives the appearance that Mingo County Schools endorses that speaker's religious message. The "[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 accompanying message to adherents that they are insiders, favored members of the political community.'" *Santa Fe Indep. Sch. Dist.*, 530 U.S. at 309-10 (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O'Connor, J., concurring)). It is inappropriate to take away instructional time from students to expose them to Christian proselytizing.

These proselytizing assemblies are not only a violation of student and parental rights, they needlessly subject the school district to significant legal liability. See *Anderson v. Chesterfield County School Dist.*, No. 4:11-03300, (S.C. Dist. Ct. Jan. 24, 2012 Consent Decree) (Issuing an injunction against school involvement in religious activities following religious assembly and ordering the school to pay the plaintiffs' attorney fees and costs).²

We understand that Hartley also preached at a revival event on Saturday at the school. We question whether his organization followed proper procedures for hosting the Saturday event and whether they paid appropriate rent. School staff cannot promote, organize, or provide special privileges to religious events. Any use of school facilities must be strictly based on school rental policies and not on the school principal's religious affiliation or desire to support such a ministry.

Finally, the content of Hartley's talk included his personal religious opinions about gay and transgender Americans. It is shocking that a public school would allow him to address students on these subjects. His characterization of vulnerable students could lead to bullying. Schools should strive to create an inclusive, secular environment in which to educate students.

Mingo County Schools has a constitutional obligation to remain neutral toward religion. Parents, not the school district, are responsible for determining the religious or nonreligious upbringing of their children. We request that Mingo County Schools protect the rights of conscience of all its students and employees and ensure that future school assemblies do not contain religious messages. We request specific assurances that Matt Hartley will not be allowed to present at a school assembly again and that future school events will be vetted to ensure compliance with constitutional requirements.

Sincerely,



Patrick C. Elliott
Staff Attorney

²https://www.aclu.org/sites/default/files/field_document/signed_south_carolina_consent_decree.pdf