

FREEDOM FROM RELIGION *foundation*

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July 24, 2017

Dr. David Bowlin
Superintendent
Ohio Distance & Electronic Learning Academy
121 S Main St #310
Akron, OH 44308

Re: Unconstitutional teaching of creationism

Dear Superintendent Bowlin:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a serious constitutional violation occurring within OHDELA's online public school program. FFRF is a national nonprofit organization with more than 27,000 members across the country, including over 700 members in Ohio. Our purpose is to protect the constitutional principle of separation between state and church.

A concerned parent of an OHDELA student contacted us to report that the school's biology classes include a unit on "biogenesis" that teaches the biblical view of creation. We understand that the class readings for this unit include young earth creationist Walter Brown's book *In the Beginning: Compelling Evidence for Creation and the Flood*, a book promoted exclusively by Brown's own religious ministry, the Center for Scientific Creation.

We write to ensure that OHDELA does not permit its teachers to promote their personal religious beliefs to students while acting on behalf of the school.

As you may be aware, teaching creationism or any of its offshoots, such as intelligent design, in a public school is unlawful, because creationism is not based in fact. Courts have routinely found that such teachings are religious, despite many new and imaginative labels given to the alternatives. The Supreme Court has struck down the teaching of "scientific creationism" in public schools. *Edwards v. Aguillard*, 482 U.S. 578 (1987). And federal courts consistently reject other efforts to undermine evolution or to supplement its teaching with religious ideology in the public schools:

- *Epperson v. Arkansas*, 393 U.S. 97 (1968) (holding that school officials may not prohibit the teaching of evolution);
- *Freiler v. Tangipahoa Parish Bd. of Educ.*, 201 F.3d 602 (5th Cir. 2000) (holding that reading a disclaimer before teaching evolution violates the Establishment Clause);
- *Pelozo v. Capistrano Unified Sch. Dist.*, 37 F.3d 517 (9th Cir. 1994) (holding school's prohibition on teaching creationism valid because permitting a teacher "to discuss his religious beliefs with students during school time on school grounds would violate the Establishment Clause.");
- *Webster v. New Lenox Sch. Dist. No. 122*, 917 F.2d 1004 (7th Cir. 1990) (holding school board's prohibition on teaching "creation science" valid because the board had a responsibility to ensure that the teacher was not "injecting religious advocacy into the classroom.");

- *Kitzmiller v. Dover Area Sch. Dist.*, 400 F. Supp. 2d 707 (M.D. Pa 2005) (holding that a policy requiring students to hear a statement that intelligent design is alternative to Darwin's theory of evolution violates the Establishment Clause);
- *McLean v. Arkansas Bd. of Ed.*, 529 F. Supp. 1255 (D.C. Ark., 1982) (striking down a state statute mandating "balanced treatment for creation science and evolution science" because it violated the Establishment Clause).

Every attempt to smuggle religion into science classrooms by means of "alternative theories" has failed. Any theory that "depends upon 'supernatural intervention,' which cannot be explained by natural causes, or be proven through empirical investigation, and is therefore neither testable nor falsifiable" is "simply not science." *Dover*, 400 F. Supp. 2d at 717 (quoting *McLean*, 529 F. Supp. at 1267). Creationism, intelligent design, and other claims of supernatural intervention in the origin of life (like biogenesis) subordinate observed data to statements based on authority, revelation, or religious belief. Documentation offered in support of these claims is typically limited to the special publications of their advocates. These publications do not offer hypotheses subject to change in light of new data, new interpretations, or demonstration of error. This contrasts with science, where any hypothesis or theory always remains subject to the possibility of rejection or modification in the light of new knowledge. *Id.* at 737.

Evolution, like gravity, is a scientific fact. Teaching that there is a scientific controversy about the validity of evolution or the Big Bang is akin to teaching astrology with astronomy or alchemy beside chemistry. It is not a school's job to reconcile science with religion or to discuss with students how their personal religious beliefs align or misalign with reality. As the Supreme Court has noted, "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. v. Doe*, 530 U.S. 290, 310 (2000) (quoting *Lee v. Weisman*, 505 U.S. 577, 589 (1992)).

It is wildly inappropriate for a set of religious beliefs to be pushed on a captive audience of public school students. Such entanglement between Christianity and the school's science curriculum alienates those students who practice other religious faiths and those who are nonreligious. OHDELA has a constitutional obligation to ensure that "teachers do not inculcate religion" and are not "injecting religious advocacy into the classroom." *Lemon v. Kurtzman*, 403 U.S. 602, 619 (1971); *Webster*, 917 F.2d at 1007. Sectarian instruction also violates Ohio's Education Code, which requires all school programs to be nonsectarian.

We urge OHDELA to conduct an immediate investigation and to take appropriate corrective action regarding this unconstitutional conduct. The school must inform instructors that incorporating religious theories into their lessons and/or using materials that promote such religious views is plainly unconstitutional in a public school. Please inform us in writing of the actions that you are taking to remedy this constitutional concern so that we may inform our complainant.

Sincerely,



Sam Grover
Staff Attorney

Cc: Lisa Burke, Internal Counsel, Ohio Council of Community Schools
via lisa@ohioschools.org