

FREEDOM FROM RELIGION *foundation*

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April 22, 2021

SENT VIA EMAIL & U.S. MAIL: james.sturch@senate.ar.gov

The Honorable James Sturch
Arkansas State Senator
P.O. Box 2391
Batesville, AR 72503

Re: Unconstitutional Teaching of Creationism

Dear Senator Sturch:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding an issue that you recently raised during a Arkansas Senate Education Committee hearing on House Bill 1701, which would have allowed Arkansas public schools to teach creationism as a theory of how the earth came to exist. FFRF is a national nonprofit organization with more than 35,000 members across the country, including members in Arkansas. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

On April 21, 2021, during a hearing of the Arkansas Senate Education Committee, you raised some important issues surrounding the teaching of creationism in schools:

So, is my biology teacher down the hall breaking the state law because he's already teaching creationism...What is currently allowed for them to do as far as teaching theories? Is there any guidance at all? So what do the standards say, or what to the standards allow teachers to do? It's just, I eat lunch with the biology teacher down the hall when I'm there, everyday, and, you know, I know that he doesn't believe in the evolution theory, yet he teaches both. He teaches both the creationism theory and the evolution theory, one right after the other. He treats them both equally. He lets the kids have the discussion, and lets the kids kind of decide on their own which is more feasible and to me that was always the right approach. It's just, as I said, I am not against this, as far as that goes, it's just that I want to make sure that we're not going to limit that.

To answer your question, it is irrelevant whether the biology teacher you work with is violating state law by teaching creationism because it is a violation of the Establishment Clause of the First Amendment, and this has been clear for decades. Arkansas specifically has a history of losing in court while attempting to defend creationism, in various forms, in public schools.

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 struck down teaching of “scientific creationism” in public schools. *Edwards v. Aguillard*, 482 U.S. 578 (1987). Federal courts consistently reject creationism and its ilk 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.”);
- *Kitzmilller 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 or of species 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 is akin to teaching astrology with astronomy or alchemy beside chemistry. Representing unconstitutional discarded misconceptions as scientific facts does a great disservice to the scientific literacy of students. No controversy exists in the scientific community regarding the fact of evolution, and the teaching of alternative theories or a controversy is not only inappropriate and dishonest, it is unconstitutional. Time and again courts exposed these alternative theories as an attempt to foist religious beliefs onto vulnerable schoolchildren, often after a costly legal battle.

Furthermore, it is wildly inappropriate for the beliefs of one school of religious thought to be pushed on a captive audience of public school students. Such a practice alienates those who practice other religious faiths, those who are nonreligious, and those who believe that science and religion are compatible. Public school districts have 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.

We will be sending a letter to the Southside School District to ensure that this issue is resolved and that students’ constitutional rights are protected.

Sincerely,

A handwritten signature in blue ink that reads "Chris Line". The signature is written in a cursive, flowing style with a long horizontal stroke extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation