

FREEDOM FROM RELIGION *foundation*

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SENT BY EMAIL AND MAIL TO:
phillipssm@vestavia.k12.al.us

Dr. Sheila M. Phillips
Superintendent
Vestavia Hills City Schools
1204 Montgomery Highway
Vestavia Hills, AL 35216

Re: District promotion of a religious event

Dear Superintendent Phillips:

I am writing on behalf the Freedom From Religion Foundation (FFRF) to alert you to constitutional concerns over religious promotion within Vestavia Hills City Schools (District). FFRF is a national nonprofit organization with more than 23,500 members nationwide, including members in Alabama and a state chapter, the Alabama Freethought Association. FFRF's purpose is to protect the constitutional separation between state and church.

A concerned parent of a District student contacted us to report that Ms. Patsy Smithey, a third grade teacher at Vestavia Hills Elementary East, recently promoted a "Bring your Bible to School Day" event to her students. We understand that Ms. Smithey brought up the event during class, in the middle of the school day.

We write to ensure that District staff do not promote religious events to their students in the future.

As you are probably aware, public schools may not advance, prefer, or promote religion. *See 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). An event designed to promote a religious text cannot be organized or endorsed by public school representatives.

It is unconstitutional for District staff to plan, promote, or participate in religious events. The District has an obligation under the law to make certain that "subsidized teachers do not inculcate religion." *Lemon v. Kurtzman*, 403 U.S. 602, 619 (1971). Certainly, "a school can direct a teacher to 'refrain from expressions of religious viewpoints in the classroom and like settings.'" *Helland v. S. Bend Comm. Sch. Corp.*, 93 F.3d 327 (7th Cir. 1993) (quoting *Bishop v. Arnov*, 926 F.2d 1066, 1077 (11th Cir. 1991)). The Supreme Court has recognized that "[f]amilies entrust public schools with the education of their children, but condition their trust on the understanding that the classroom will not purposely be used to advance religious views that may conflict with the private beliefs of the student and his or her family." *Edwards v. Aguillard*, 482 U.S. 578, 584 (1987). When a District teacher

promotes her personal religious beliefs to students, she violates not only the Constitution, but also parents' trust.

Religion is a divisive force in public schools. The Supreme Court has repeatedly noted that “[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 an accompanying message to adherents that they are insiders, favored members of the political community.’” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)). The promotion of a Christian event alienates those non-Christian students, families, teachers, and members of the public whose religious beliefs are inconsistent with the message being promoted by the school, including the 35 percent of young Americans who are not religious.¹

We are informed that Ms. Smithey told her class that it was their “choice” to participate in Bring your Bible to School Day and that they should ask their parents for permission. This statement does not mitigate the impression of District sponsorship of the bible and Christianity that Ms. Smithey has created. Moreover, federal courts have summarily rejected arguments that voluntariness excuses a constitutional violation. *See Lee v. Weisman*, 505 U.S. 577, 596 (1992) (“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 price of resisting conformance to state-sponsored religious practice.”); *Schempp*, 374 U.S. at 288 (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.’”).

We request that the District investigate this situation and take action to ensure that Ms. Smithey and its other staff members understand and respect their constitutional obligation to remain neutral toward religion while acting in their official capacity. Please respond in writing with the steps taken to ensure this violation does not recur, so that we may notify our complainant.

Sincerely,



Sam Grover
Staff Attorney

cc: Principal Mark Richardson, Vestavia Hills Elementary East via richardsonml@vestavia.k12.al.us

¹ *America's Changing Religious Landscape*, PEW RESEARCH CENTER (May 12, 2015), available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/.