

# FREEDOM FROM RELIGION *foundation*

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**SENT VIA EMAIL & U.S. MAIL: [rsaxe@k12.wv.us](mailto:rsaxe@k12.wv.us)**

Ryan S. Saxe  
Superintendent  
Cabell County Schools  
2850 5th Avenue  
Huntington, WV 25702

Re: Unconstitutional Proselytizing in Health Class

Dear Superintendent Saxe:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a serious constitutional violation occurring in Cabell County Schools. FFRF is a national nonprofit organization with more than 35,000 members across the country, including members in West Virginia. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

A concerned parent has reported that Mrs. [REDACTED], a health teacher at Milton Middle School, has abused her position as a public school teacher by proselytizing her students and denigrating LGBTQ students and non-Christians students and parents. Our complainant reports that last week, Mrs. [REDACTED] went on a three minute rant where she taught from the bible, expressed disgust that some students don't believe in God, and denigrated non-Christians by implying they are not, and cannot, be brought up with "morals and values." Mrs. [REDACTED] also admitted that she is aware she cannot promote and endorse her personal religious beliefs in class, but that she tries "to squeeze it in a little bit without getting in too much trouble." Mrs. [REDACTED] is aware that she is breaking the law and yet continues to do so anyway.

Please see the following transcript:

...And the thing is, I'm hoping that you are all brought up by a good family or person, whoever's raising you, that they're teaching you right from, and that it's not okay to be sexually active. **If you look at the bible, it says sex isn't for love.** It is for what? When is the time you should? After marriage. Now so many kids are so against me in my first and second period, you would have a heart attack. It makes me sick how they believe, and I'm thinking the upbringing you guys are having from your parents... I'm not saying anything bad about your parents. It's just different nowadays. And I hate it. **They say Mrs. [REDACTED], all you do, everything you teach about sexually transmitted disease stuff, you keep referring back to the bible. And I said, because... I almost said because I'm**

**right, but you know, you can't force somebody to believe in God.** Whether you do or not, that's your opinion. But I just can't get my head in there where people don't really think there's a ... I just... I don't know. I'm just kind of shocked.

**They'll know one day, won't they? That's what worries me. I don't want anybody to be lost. So I try to squeeze it in a little bit without getting in too much trouble. But there are so many kids that don't believe in God, and they don't believe in values, and they don't care whatever they do, whatever.**

However they want to dress, whatever way they want to act, if they want to be with a boy or girl, that's their choice. And that's fine. I'm not arguing. I'm just saying I don't believe in that. And it's just, I'm trying to teach you guys when you learn about the body, you need to understand that when your hormones start being released you're going to start having a little bit of sexual feelings or thoughts.

That's normal, everybody does that. The thing is, you have to learn to control those hormones because when they start getting released, yeah, you're going to start thinking differently. That's just normal action. That's what happens. Okay? The thing is that you have to choose, what are you going to do with those feelings and thoughts? **And if you're brought up with morals and values, then God's going to be there to help you make better decisions.** You're going to mess up, right? We all mess up all the time, okay? I'm just trying to tell you to be very careful. You guys are the ones that have to get a grip on those hormones because they will ruin your life if you don't.

We write to ask that the District take immediate action to ensure that Mrs. [REDACTED] is no longer discussing her religious beliefs to students, teaching from the bible, or denigrating non-Christians.

Because Mrs. [REDACTED] has admitted that she is aware of, and yet unwilling to follow, the law, which prohibits religious indoctrination in the classroom, she has admitted that she is not fit to be a public school teacher. She understood the law and deliberately violated it, imposing her religion on other people's children in the process. The District should strongly consider removing her from her position immediately.

It is a fundamental principle of Establishment Clause jurisprudence that a public school may not advance, prefer, or promote religion. *See generally, 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). Public schools must remain neutral with regard to religion. “[O]ne of the core objectives of modern Establishment Clause jurisprudence has been to prevent the State from sending a message to non-adherents of a particular religion ‘that they are *outsiders*, not full members of the political community.’” *Deal v. Mercer Cty. Bd. of Educ.*, 911 F.3d 183, 189-190 (4th Cir. 2018) (quoting *Moss v. Spartanburg Cty. Sch. Dist. Seven*, 683 F.3d 599, 607 (4th Cir. 2012)).

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). If the District turns a blind eye to the overt proselytization in Mrs. [REDACTED]’s classroom, it becomes complicit in an egregious constitutional violation and breach of trust.

Please note that it is not a violation of the free speech rights of teachers when a school district regulates what they teach to students while acting in their official capacities. Teachers have access to a captive audience of students due to their position as public educators. Therefore, the District has a duty to regulate religious proselytizing during school-sponsored activities. “Because the speech at issue owes its existence to [his] position as a teacher, [the School District] acted well within constitutional limits in ordering [the teacher] not to speak in a manner it did not desire.” *Johnson v. Poway Unified Sch. Dist.*, 658 F.3d 954, 970 (9th Cir. 2011), *cert. denied*, 132 S. Ct. 1807 (2012) (upholding decision of school board to require a math teacher to remove two banners with historical quotes referencing “God”); *see also Garcetti v. Ceballos*, 547 U.S. 410, 421 (2006) (“We hold that when public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline.”). Courts have upheld the termination of teachers who violate the principle of separation between church and state. *See, e.g., Grossman v. S. Shore Pub. Sch. Dist.*, 507 F.3d 1097 (7th Cir. 2007) (upholding termination of guidance counselor who prayed with students).

The District must make certain that none of its employees are unlawfully and inappropriately indoctrinating students in religious matters by teaching from the bible, promoting their personal religious beliefs, and denigrating non-Christian students and their parents. We ask that the District immediately investigate this situation and ensure that Mrs. [REDACTED] either fully complies with the Establishment Clause and stops violating the rights of her students and their parents, or is removed from her position. The District’s response must be commensurate with the deliberate nature of this violation of students’ rights—Mrs. [REDACTED] knew that she was trampling their rights and the law and she did it anyway. Please respond in writing, outlining the steps the District will take to end this serious constitutional violation so that we may notify our complainant.

Sincerely,



Christopher Line  
Staff Attorney  
Freedom From Religion Foundation