

FREEDOM FROM RELIGION *foundation*

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August 3, 2023

SENT VIA EMAIL & U.S. MAIL: jarajf@nv.ccsd.net

Jesus F. Jara
Superintendent
Clark County School District
5100 West Sahara Ave
Las Vegas, NV 89146

Re: Unconstitutional Religious Message

Dear Superintendent Jara:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in the Clark County School District. FFRF is a national nonprofit organization with more than 40,000 members across the country, including more than 300 members in Nevada. 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 District community member contacted us to report that a District employee includes religious messages in her official Clark County School District email signature. Our complainant reports that they received an email from [REDACTED] that included the religious message: “‘God's love is like an ocean; you can see its beginning but not its end.’ - Rick Warren.”

We write to request that the District ensures [REDACTED] removes the religious message from her email signature in order to avoid giving the impression that the District promotes or favors religion.

It is well-settled law that public schools may not promote or show favoritism toward religion. *See generally Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962). The statements of a District employee through their official email are attributable to the District. It is inappropriate and unconstitutional for the District or its agents to promote a religious message because it conveys government preference for religion over nonreligion.

When District employees use official channels of communication to promote their religious beliefs, it sends a message of exclusion that needlessly alienates the students and families who are among the 37 percent of Americans who are non-Christians, including the nearly one in three

adult Americans (29 percent) who are religiously unaffiliated.¹ This “[s]chool sponsorship of a religious message is impermissible because it sends the ancillary message to . . . 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, 309–10 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)).

Furthermore, it is not a violation of the free speech rights of employees when a school district regulates what employees say while acting in their official capacity. *See, e.g., Johnson v. Poway Unified Sch. Dist.*, 658 F.3d 954, 970 (9th Cir. 2011), *cert. denied*, 132 S. Ct. 1807 (2012) (“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.”); *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.”).

Please note that the Supreme Court’s recent decision in *Kennedy v. Bremerton School District* does not apply to the facts at hand. The *Bremerton* decision simply affirms that public school faculty and staff may pray silently and privately during times when they are not acting in their official capacity as District representatives. *Kennedy v. Bremerton Sch. Dist.*, 142 S.Ct. 2407, 2432–33 (2022). Here, it is clear that [REDACTED]’s emails sent through the District’s official communications system pursuant to her duties as a District employee are not private speech.

We understand, of course, that the District cannot monitor every email sent by employees. But we do ask that it take the appropriate steps to ensure that employees, including [REDACTED], are made aware of their constitutional obligation to remain neutral toward religion while acting in their official capacity. Please ensure that [REDACTED] removes the religious scripture from her email signature. We ask that you notify us in writing of the steps the District takes to remedy this violation so that we may inform our complainant.

Sincerely,



Christopher Line
Staff Attorney
Freedom From Religion Foundation

¹ Gregory A. Smith, *About Three-in-Ten U.S. Adults Are Now Religiously Unaffiliated*, Pew Research Center (Dec. 14, 2021), www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/.