

# FREEDOM FROM RELIGION *foundation*

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May 26, 2022

SENT VIA EMAIL & U.S. MAIL: [phartley@hhhlawyers.com](mailto:phartley@hhhlawyers.com)

Atty. Phillip L. Hartley  
Harben, Hartley & Hawkins, LLP  
340 Jesse Jewell Parkway  
Wells Fargo Center, Suite 750  
Gainesville, GA 30501

Re: Unconstitutional Proselytizing at Graduation (Dawson County Schools)

Dear Mr. Hartley:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a serious constitutional violation that recently occurred at the 2022 Dawson County High School graduation ceremony. We appreciated your response to our September 14, 2022 letter regarding a religious classroom assignment at Dawson County Middle School, and I hope we can resolve this matter quickly as well.

A concerned district community member, who was in attendance, reported that on May 20, 2022 at the Dawson County High School graduation ceremony, Superintendent Damon Gibbs preached and promoted his personal religious beliefs to students, parents, and community members:

With this being my last graduation address, I want to take a minute to do what I decided to do almost three decades ago, teach. It seems each year I hear questions about what can and can't be said during a graduation ceremony in a public school setting. Without wasting too much of your time, I would like to clarify the issue in true teacher fashion. The best way to do this is to use practical examples. So here are two. Example number one, what I can say. I often tell students if they are looking for the answers to all of life's questions, the bible is a great place to start. **What I cannot say is that the bible is not just a book. It's 66 books, written by 40 writers over 1,500 years, historically accurate in that it predicted the birth, crucifixion, death, and resurrection of Jesus Christ. It does not simply contain the truth, it is the truth! The unwavering, inspired word of God. There is no comparable book. But just to reiterate, I cannot say that.**

Example number two. What I can say: Dealing with Covid has been difficult, but we have been very blessed to be shown grace as we navigated uncharted territory. **What I cannot say: It was only by the grace of God that we made it through the pandemic, continuing to serve children in the way we've never seen before. I pray daily for grace and mercy for each person involved. Throughout the storm, I never doubted that I am victorious. I am blessed every day I arise. I am accepted just as I am. I am loved unconditionally. I am never forsaken. I am free, richly blessed, deeply loved, highly favored, and amazingly graced. That ladies and gentlemen, you will never hear at a public school graduation.**

Superintendent Gibbs then went on to belittle the District’s transgender students:

I am at the point that I don’t care what gender you want to be. Just don’t expect me to guess your pronouns. I am obviously a little out of the loop because I recently found out that a group of kids now identify as cats. I am not joking. What are we supposed to do with that? I have one parting request for our parents: if you consider yourself a strong parent, please find someone to mentor, we need strong parent leadership in our community. We have to bring back some common sense.

Our complainant reports that students felt their happy graduation was “destroyed” by Superintendent Gibbs’ proselytizing and his disparaging remarks.

While we understand that Superintendent Gibbs is retiring, and that is why he felt he could get away with disrespecting and violating the constitutional rights of students, parents, and community members, the District must take immediate action to remedy this situation. As you are aware, we have written to the District multiple times over the past 8 years, and these violations take on new meaning given the revelation that Superintendent Gibbs intentionally disregarded the law to use his position to endorse Christianity, and to denigrate and discriminate against students whose lifestyles do not adhere to his Christian ideology.

As you are aware, 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. When the Superintendent uses a graduation speech to promote their personal religious beliefs and to denigrate students, it creates the impression in the minds of students and parents “that they are outsiders, not full 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)).

Public schools have a duty to ensure that “subsidized teachers do not inculcate religion” or use their positions of authority to promote a particular religious viewpoint. *Lemon v. Kurtzman*, 403 U.S. 602, 619 (1971). 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) (finding unconstitutional a statute allowing the teaching of creationism, a religious belief, in classrooms). The same is true of district administrators.

By promoting his personal religious beliefs at graduation, Superintendent Gibbs abridges that duty on behalf of the District. Superintendent Gibbs’ egregious endorsement of Christianity on behalf of the District turns any non-believing student, staff member, parent, or community member into an outsider. Non-religious Americans make up the fastest growing segment of the U.S. population by religious identification – thirty-seven percent of Americans are non-Christians, and this includes the nearly one in three Americans who now identify as religiously unaffiliated.<sup>1</sup>

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

This is not a question of Gibbs' free speech—Gibbs is abusing his government position. “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.”).

It is particularly alarming that as a district administrator, Superintendent Gibbs is tasked with ensuring constitutional compliance in the District, but instead he has used his position as a district administrator to promote his religion to District students and the community at large, knowingly in violation of the law. Dawson County Schools must take immediate action to ensure that its students' rights of conscience are being protected and the District must refrain from promoting religion again in the future.

While nothing can fix having “the one school event most important for [students] to attend”<sup>2</sup> marred by a superintendent proselytizing students while at the same time admitting he knew better, the District should at least reach out to its students to apologize for ruining this once in a lifetime event for them. The District must make certain that none of its employees are unlawfully and inappropriately indoctrinating students in religious matters by promoting and endorsing their personal religious beliefs. We ask that the District ensure its entire staff is trained regarding their responsibilities under the Establishment Clause, and please respond in writing, outlining the steps the District will take to remedy this serious constitutional violation so that we may notify our complainant.

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

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<sup>2</sup> *Lee*, 505 U.S. at 597.