

FREEDOM FROM RELIGION *foundation*

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July 21, 2022

SENT VIA EMAIL & U.S. MAIL: jbsmith@lawrenceal.org

Dr. Jon Bret Smith
Superintendent
Lawrence County Schools
14131 Market St.
Moulton, AL 35650

Re: Religious Promotion in Elementary School

Dear Superintendent Smith:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in Lawrence County Schools. FFRF is a national nonprofit organization with more than 38,000 members across the country, including members in Alabama. 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 Moulton Elementary School parent has reported that [REDACTED], a first-grade teacher at the school, taught students about Jesus Christ and Easter, and also provided students with religious coloring book pages to take home. While we are not aware of the exact religious lesson that was taught, our complainant reports that it was not included in the class' curriculum. Our complainant reported that [REDACTED] gave students a coloring book page that depicted Jesus Christ and a bible verse, Mark 16:6, which says, "Jesus is alive." Please see the attached photo.

We write to request that the District immediately investigate and ensure that [REDACTED], and any other teachers in the district, are no longer teaching students religious lessons, distributing religious materials to students, or otherwise indoctrinating students into a particular religious belief.

It is well-settled law that public schools may not advance 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). 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). Public school employees may not urge religious points of view on students. This constitutional mandate is stronger within the context of public schools, and is especially strong with young students, as is the case here.

Using a religious holiday, Easter, as a pretext to teach religious lessons in a public school is unconstitutional. 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 [REDACTED] 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 giving religious assignments, teaching about religion, or promoting their personal religious beliefs. We ask that the District immediately investigate this situation and ensure that [REDACTED] fully complies with the Establishment Clause and stops violating the rights of her students and their parents. Please respond in writing, outlining the steps the District will take to correct this serious constitutional violation so that we may notify our complainant.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Line", with a stylized flourish at the end.

Christopher Line
Staff Attorney
Freedom From Religion Foundation

CAL:cf

Enclosure

