

FREEDOM FROM RELIGION *foundation*

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December 29, 2021

SENT VIA EMAIL & U.S. MAIL: jghudson@k12.wv.us

John G. Hudson
Superintendent
Putnam County Schools
77 Courthouse Drive
Winfield, WV 25213

Re: Unconstitutional Religious Assignment

Dear Superintendent Hudson:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation that recently occurred in Putnam County schools. As you may recall, 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 Putnam County Schools parent has reported concerns of religious indoctrination occurring at Winfield Elementary School. Our complainant reports that a first grade teacher at the school assigned students a “Jesus is Born! Informational booklet” coloring assignment. The informational booklet recounts events in the bible from Luke 2:1-20 and Matthew 2. For example, one page explains:

One day, the angel Gabriel was sent by God to the Virgin Mary. He told her that she would have a baby, who would save the world. This baby’s name was going to be Jesus. He would be called Son of God.

We write to ask that the District take immediate action to ensure that teachers at Winfield Elementary School are no longer giving religious assignments to students, or in any way promoting or endorsing religion.

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 teachers use their position to promote their personal religious beliefs, 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)).

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 occurring in Winfield Elementary School, 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 or promoting their personal religious beliefs. We ask that the District immediately investigate this situation and ensure that all of its teachers, including the first grade teacher at Winfield Elementary School who assigned this religious booklet, fully comply with the Establishment Clause. 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,

A handwritten signature in blue ink that reads "Chris Line". The signature is written in a cursive, flowing style.

Christopher Line
Staff Attorney
Freedom From Religion Foundation