

FREEDOM FROM RELIGION *foundation*

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April 25, 2025

SENT VIA EMAIL & U.S. MAIL: ppeter1@isd77.org

Paul Peterson
Superintendent
Mankato Area Public Schools
P.O. Box 8741
Mankato, MN 56002

Re: Unconstitutional Official Promotion of Religion

Dear Superintendent Peterson:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in Mankato Area Public Schools. FFRF is a national nonprofit organization with more than 42,000 members across the country, including more than 900 members and two chapters in Minnesota. 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 employee has reported that [REDACTED], a school counselor at Mankato West High School, has been using his position to promote his personal religious beliefs to students. Our complainant reports that Mr. [REDACTED] displays religious iconography in his office, including a basket of crosses for students to take. We understand that students routinely meet with Mr. [REDACTED] in his office. We further understand that Mr. [REDACTED] previously displayed a religious shrine in his office that was taken down at the District's request, but he has since replaced the shrine with other religious items.

We write to request that the District immediately ensure that Mr. [REDACTED] ceases using his position as a District employee to impose his personal religious beliefs upon students.

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 displays a District employee puts up for public view in their school are attributable to the District. It is inappropriate and unconstitutional for the District or its agents to display religious imagery on school property in clear view of students and other employees because it conveys government preference for religion over nonreligion. Offering crosses to students is highly coercive in such a personal environment.

When District employees use their official position to promote their personal religious views, it sends a message of exclusion that needlessly marginalizes the students and families who are among the 37 percent of Americans who are non-Christians, including the nearly one in three adult Americans 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 2022 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 quietly and privately during times when they are not acting in their official capacity as District representatives. *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 513–14 (2022). Here, Mr. [REDACTED] exceeds the scope of private prayer by displaying religious items in his District office and offering crosses to students who meet with him in his official capacity as a counselor.

We ask that the District take the appropriate steps to ensure that employees, including Mr. [REDACTED] are made aware of their constitutional obligation to remain neutral toward religion while acting in their official capacity. Please ensure that Mr. [REDACTED] removes the religious displays from his office and understands he cannot discuss his personal religious beliefs with students. We ask that you notify us in writing of the steps the District takes to remedy this violation so that we may inform our concerned employee.

Sincerely,



Kyle J. Steinberg
Anne Nicol Gaylor Legal Fellow
Freedom From Religion Foundation

¹ Gregory A. Smith, *Religious ‘Nones’ in America: Who They Are and What They Believe*, Pew Research Center, Jan. 24, 2024, <https://www.pewresearch.org/religion/2024/01/24/religious-nones-in-america-who-they-are-and-what-they-believe/>.