FREEDOM FROM RELIGION *foundation*

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SENT VIA EMAIL & U.S. MAIL: leila.maeda-kobayashi@k12.hi.us

Superintendent Leila Maeda-Kobayashi
Kapa‘a-Kaua‘i-Waimea Complex Area
3060 Eiwa St.
Lihue, HI 96766

Re: Unconstitutional teacher-led prayers

Dear Superintendent Maeda-Kobayashi:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding an ongoing constitutional violation in the Kapa‘a-Kaua‘i-Waimea Complex Area schools (“the Complex Area”). FFRF is a national nonprofit organization with nearly 41,000 members across the country, including members in Hawaii. 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 parent reports that a Kapa Elementary School teacher, Mrs. Elmore, is leading her first grade students in Christian prayer at the beginning of class each day. According to the parent who contacted us, Mrs. Elmore instructs students to close their eyes, stand in a circle holding hands, alternating between girls and boys, and then remain silent while Mrs. Elmore leads them in a prayer that concludes with “amen” and expects the students to also recite “amen.” Our complainant personally witnessed this practice on Monday, September 14th.

As an example, our complainant states that one of Mrs. Elmore’s morning prayers was about the students’ math diagnostic test. She reportedly prayed: “Heavenly father, please make sure these students do well on their test.” We’re told that if students begin talking during the prayer, Mrs. Elmore tells them to be silent and has told students something akin to “Shh, we are talking to God right now.”

The parent who contacted us has told their first grader that they do not have to pray with Mrs. Elmore. However, their child “does not feel comfortable” refusing to participate in the prayers.

Additionally, Mrs. Elmore has pushed her religion onto students in ways beyond leading them in daily prayers. For instance, during a journaling activity following Hurricane Lowell, Mrs. Elmore suggested that students should “thank God” for “saving them” from the hurricane in their journal entries and wrote the instruction on the classroom’s board. Our complainant’s child reportedly told them that they felt they had to thank god in their journal entry or else Mrs. Elmore would have given them a lower grade.

The parent who contacted us expressed that they “feel angry and disappointed” that a public school teacher is abusing their position to lead students in prayer and push her religion onto them. Our complainant is “concerned about the possibility of retaliation” if they try to resolve this constitutional violation alone and states that Mrs. Elmore’s unconstitutional prayer practice “has resulted in a very negative school experience” for their child.

The Complex Area must immediately investigate and ensure that Mrs. Elmore ceases abusing her position as a public school teacher to lead first graders in prayer and foist her religious beliefs onto them.

Students have the First Amendment right to be free from religious indoctrination in their public schools. Public schools may not show favoritism toward or coerce belief or participation in religion. *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); *McCollum v. Bd. of Ed.*, 333 U.S. 203 (1948). "It is beyond dispute that, at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise." *Lee*, at 587. Teachers and administrators may not teach students prayer, lead students in prayers, or teach students to believe or not believe in any religion. School-sponsored prayer "has the improper effect of coercing those present to participate in an act of religious worship." *Santa Fe*, 530 U.S. at 312.

Here, Kapa Elementary School is undeniably crossing the constitutional line by permitting Mrs. Elmore to lead her first grade class in Christian prayer every morning at the beginning of class. These classroom prayers are unconstitutionally coercive. Students are a captive audience who are not free to simply disobey their teacher's commands without threat of punishment or retaliation. Mrs. Elmore's "suggestion" that students should "thank God" in their journals is likewise coercive as students are highly likely to take a teacher's "suggestion" as a command. It is unrealistic to expect students to recognize that their teacher is violating their constitutional rights or dissent under threat of punishment. In this case, our complainant's child has expressed that they feel they must participate in the prayers and they told our complainant that they thought they had to "thank God" in their journal in order to receive a fair grade.

The District has an obligation under the law to make certain that its teachers are not violating students' rights by attempting to indoctrinate students through a coercive prayer practice or inappropriate religious instructions. 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). Parents, not public schools, have the constitutional right to guide their children's religious or nonreligious upbringing. In this instance, the Complex Area is violating parents' constitutional right to determine which religion, if any, their children believe in.

The Supreme Court's decision in *Kennedy v. Bremerton School District* did not overturn the above cited cases and does not apply here. In *Kennedy*, the Court held that a high school football coach's quiet, private post-game prayer was constitutional. 597 U.S. 507, 513–14 (2022). Throughout its opinion, the Court repeatedly stressed that the coach quietly prayed alone. *Id.* (the coach "offered his prayers quietly while his students were otherwise occupied."). The prayers "were not publicly broadcast or recited to a captive audience. Students were not required or expected to participate." *Id.* at 542. In stark contrast, Mrs. Elmore is leading a captive audience of first graders in Christian prayer every day at the beginning of class, and she's pushed her beliefs onto students in at least one classroom assignment. This is a far cry from Coach Kennedy's quiet, private prayers.

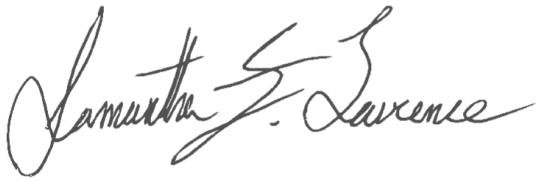
Even if Mrs. Elmore now claims that her classroom prayers and religious assignment "suggestion" were voluntary, voluntariness would not fix this situation. Courts have summarily rejected arguments that voluntariness excuses a constitutional violation. *See Weisman*, 505 U.S. at 596 ("It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice."); *Schempp*, 374 U.S. at 288 (Brennan, J., concurring) (". . . the availability of excusal or exemption simply has no relevance to the establishment question"); *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003) ("VMI cannot avoid Establishment Clause problems by simply asserting that a cadet's attendance at supper or his or her

participation in the supper prayer are 'voluntary.'"). The Complex Area cannot avoid liability by claiming that Mrs. Elmore didn't technically force her first graders to pray or "thank God."

Finally, the school's actions needlessly marginalize all students and families, such as our complainant and their child, who are non-Christians. Thirty-nine percent of the Hawaiian population is non-Christian, including the 30 percent who are nonreligious.[1] Nationally, more than half of Generation Z (those born after 1996) is non-Christian, including 43 percent who are nonreligious.[2]

In order to protect students' and parents' constitutional rights, Kapa'a-Kaua'i-Waimea Complex Area must immediately investigate and ensure that Mrs. Elmore ceases leading her students in prayer, giving them religious instructions, or otherwise pushing her beliefs onto her students. Please respond in writing with the steps the Complex Area is taking to end this serious constitutional violation so that we may inform the parent who contacted us.

Sincerely,



Samantha F. Lawrence
Staff Attorney
Freedom From Religion Foundation

[1] Pew Research Center: Hawaii (2024), https://www.pewresearch.org/religious-landscape-study/state/hawaii/.
[2] Pew Research Center (2024), http://bit.ly/48Drzce.