



FREEDOM FROM RELIGION FOUNDATION

P.O. Box 750 • Madison WI 53701 • (608) 256-8900 • www.ffrf.org

October 11, 2010

SENT VIA FAX & U.S. MAIL
(252) 641-5714

Dr Wayne M Talley
Superintendent
Edgecombe County Public Schools
412 Pearl St
PO Box 7128
Tarboro NC 27886

Re: Illegal Prayer in a Kindergarten Classroom

Dear Dr. Talley:

I am writing on behalf of a concerned district parent and taxpayer, and other members of the Freedom From Religion Foundation (FFRF), to alert you to an egregious constitutional violation occurring at Stocks Elementary School. FFRF is a national nonprofit organization with over 15,500 members, including over 300 members in North Carolina. Our purpose is to protect the constitutional principle of separation between state and church.

It is our information and understanding that a kindergarten teacher at Stocks Elementary School leads students in prayer every day before they each lunch. Our complainant informs us that her five-year-old kindergarten student came home last week singing the following (to the tune of "Frere Jacques"):

"God, our father,
God, our father,
Once again,
Once again,
We will ask a blessing,
We will ask a blessing,
Amen, Amen"

We ask that you commence an immediate investigation into this allegation and take prompt action to halt prayers occurring at public schools in your district.

It is well settled that a public school teacher may not lead, direct or ask her students to engage in prayer, even if it's delivered in the form of a song. The Supreme Court has continually struck down formal and teacher or school-led prayer in public schools. *See,*

e.g., *Engel v. Vitale*, 370 U.S. 421 (1962)(declared prayers in public schools unconstitutional); *Abington Township Sch. Dist. v. Schempp*, 374 U.S. 203 (1963)(declared unconstitutional devotional Bible reading and recitation of the Lord's Prayer in public schools); See also *Lee v. Weisman*, 505 U.S. 577 (1992)(ruled prayers at public high school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985)(overturned law requiring daily "period of silence not to exceed one minute ... for meditation or daily prayer."); *Jager v. Douglas County Sch. Dist.*, 862 F.2d 825 (11th Cir. 1989), cert. den., 490 U.S. 1090 (1989)(holding unconstitutional pre-game invocations at high school football games). Even when student-initiated, the Supreme Court have found these prayers unconstitutional. See generally, *Sante Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 308 (2000)(struck down a school policy that authorized students to vote on whether to hold a prayer at high school football games). In all of the aforementioned cases, the federal courts have struck down prayer in public schools because it constitutes a government-endorsement of religion, which violates the Establishment Clause of the First Amendment. This is particularly true (and more egregious) when the prayer is delivered and taught to a captive group of impressionable school children as young as five.

You have 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. South Bend Comm. Sch. Corp.*, 93 F.3d 327 (7th Cir. 1993)(quoting *Bishop v. Arnov*, 926 F.2d 1066, 1077 (11th Cir. 1991). Your school district should make certain that its teachers are not unlawfully and inappropriately indoctrinating students in religious matters.

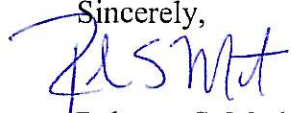
Furthermore, while acting in their official role as public school teachers, and while they are present in the classroom or public school, teachers may not pray with students. Courts have upheld the termination of teachers who do. See, e.g., *Grossman v. South Shore Public Sch. Dist.*, 507 F.3d 1097 (7th Cir. 2007); *Webster v. New Lenox Sch. Dist.*, 917 F.2d 1004 (7th Cir. 1990); *Roberts v. Madigan*, 921 F.2d 1047 (10th Cir. 1990).

This practice also violates the District's own policy. School Board Policy 2710 (Religion in the Schools) states "The school system and its employees shall not conduct, sponsor, or endorse any form of religious indoctrination or exercise, including prayer, at school functions." See School Board Policy 2710 #14. While "during the school day, students may... engage in voluntary prayer among themselves" it is impermissible for such activities to be "organized or promoted by school staff." *Id.* at #10. This policy certainly prohibits kindergarten teachers from teaching their students mealtime prayer songs.

Instructing kindergarteners to pray before their meals violates the U.S. Constitution and District policy. Edgecombe County Public Schools must take immediate action to stop its teachers from imposing their religious beliefs and practices on their students. Teachers in your district must be directed to adhere to current law and District policy.

We ask that you immediately commence an investigation into this matter and halt this abuse of power. Please promptly inform us in writing of the steps you are taking to protect the rights of conscience of your students and of district parents, who have the right to direct the religious, or non-religious, upbringing of their children.

Sincerely,



Rebecca S. Markert
Staff Attorney

CC: Russell Johnson, Principal Stocks Elementary