



# FREEDOM FROM RELIGION FOUNDATION

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May 20, 2010

**SENT VIA U.S. MAIL AND FAX  
(216) 475-1824**

Ms. Linda Reid  
Superintendent  
Garfield Heights City School District  
5640 Briarcliff Dr.  
Garfield Heights OH 44125

Re: URGENT: Cancel Inappropriate and Unconstitutional  
Fourth Graders Church Visit

Dear Superintendent Reid:

I am writing on behalf of concerned Maple Leaf Intermediate School staff, parents and local taxpayers to alert you to serious constitutional violations occurring in your district. The Freedom From Religion Foundation (FFRF) is a national nonprofit organization with nearly 15,000 members across the country including more than 350 members in Ohio. Our purpose is to protect the constitutional principle of separation between state and church.

We wrote to your predecessor, Superintendent Jeanne Sternad, in 2007, regarding a Maple Leaf Intermediate School "field trip" to a local church for religious programming. Enclosed please find a copy of that letter and the District's inadequate response. Our complainant informs us that nothing has changed since our original letter.

It is our information and understanding that a "field trip" is scheduled on May 26 and 27 for all 4<sup>th</sup> graders at Maple Leaf Intermediate School to attend religious instruction at Garfield Heights Church of the Nazarene. We understand that this is the fourth consecutive year that the school has held this church visit. It is our understanding that the school has promoted such visits as Bible story programs. We received information that the programs incorporate proselytizing of the students and ask that they accept Jesus Christ as their savior.

Your District is acting with blatant disregard for the Establishment Clause of the First Amendment. Despite our prior warning, the District continues to sponsor religious programming for 4<sup>th</sup> grade students at Maple Leaf Intermediate School.

It is well settled 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 Twshp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962). Moreover, “the preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere.” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 310 (2001)(quoting *Lee v. Weisman*, 505 U.S. at 589). In *Lee v. Weisman*, 505 U.S. 577 (1992), the Supreme Court extended the prohibition of school sponsored prayers beyond the classroom to all school functions (Holding prayers at public high school graduations an impermissible establishment of religion). Thus, religious programming as part of a school “field trip” is in violation of the Establishment Clause.

The Constitution’s prohibition against school sponsored religious exercise cannot be overcome by claiming such activities are “voluntary.” As the Supreme Court said in *Engel*, “Neither the fact that the prayer may be denominationally neutral nor the fact that its observance on the part of students is voluntary can serve to free it from the limitations of the Establishment Clause ...” 370 U.S. at 430. In *Schempp*, the Court said the offending religious practices were not “mitigated by the fact that individual students may absent themselves upon parental request, for that fact furnishes no defense to a claim of unconstitutionality under the Establishment Clause.” 374 U.S. at 224-25. It makes no difference if the school requires parents to opt-in to religious practices. *See Karen B. v. Treen*, 653 F.2d 897 (5<sup>th</sup> Cir. 1981)(Finding required express written permission by parents for students to participate in prayer did not cure Establishment Clause violations).

Our organization was a litigant in a case with facts similar to the circumstances in your District. In *Doe v. Porter*, 88 F.Supp.2d 904 (E.D. Tenn. 2002), we challenged the practice of allowing religious instruction by an outside group in a Tennessee public school. In affirming the unconstitutionality of the practice, the Sixth Circuit Court of Appeals (which Ohio is in) found that there was no secular purpose to the program, the program communicated a message of government endorsement of religion and the program fostered excessive entanglement between the state and religion. *Doe v. Porter*, 370 F.3d 558 (6<sup>th</sup> Cir. 2004).

As was pointed out in our 2007 letter to the District, the field trip cannot be construed to be a bona fide release time program. Even if it were, it still would conflict with *Zorach v. Clauson*, 343 U.S. 306 (1952), and the line of cases following *Zorach*.

Besides the fundamental legal problems with sending public school students on a field trip to receive religious instruction, there are many good policy reasons to oppose the practice. Parents should control the manner in which their children receive instruction on religious subjects. It is an egregious abuse of government power to proselytize a captive audience of young school children in this manner. No public school should dictate what church to visit or what God to believe in or not believe in. Surely the school would not promote a field trip in which religious leaders would proselytize to young students on Islam, Judaism, Scientology, Hinduism or other faiths.

This school endorsement of Christianity is particularly troubling for those parents and students that are not Christians. The “[s]chool sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are nonadherents ‘that they are outsiders, not full members of the political community and 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 (2001)(quoting *Lynch v. Donnelly*, 465 U.S. at 668)(O’Connor, J., concurring). Nine and ten year old children in a public school should not have to be made to feel like outsiders because they do not fit with what the school says is orthodox.

You must cancel the unconstitutional and inappropriate upcoming church visit involving Maple Leaf Intermediate fourth grade students and ensure that this practice is ended permanently. Please advise us immediately of these actions so we may contact our complainant.

Sincerely,



Patrick C. Elliott  
Attorney

Enc.

Cc: Principal Tom Matthews  
Assistant Principal Gwen Abraham