

April 11, 2013

cfrazier@rcsd.ms

Re: Unconstitutional Christian Assembly at Northwest Rankin High School

Mr. Frazier:

We were recently contacted by several Northwest Rankin High School students who informed us that the school held a mandatory assembly during school hours at which a pervasively Christian presentation was made by members of Pinelake Baptist Church

This practice is unquestionably a serious violation of the separation of church and state required by the Constitution.

The American Humanist Association (“AHA”) is a national nonprofit organization with over 10,000 members and 20,000 supporters across the country, including in Mississippi. Our purpose is to protect one of the most fundamental principles of our democracy: the mandate requiring separation of church and state embodied in the Establishment Clause of the First Amendment.

The First Amendment “command[s] that there should be ‘no law respecting an establishment of religion.’” *Lemon v. Kurtzman*, 403 U.S. 602, 612 (1971). This includes any state-sponsored religious activity in a public school. A religious activity is “state-sponsored” under the Establishment Clause if “an objective observer in the position of a secondary school student will perceive official school support for such religious [activity].” *Board of Educ. v. Mergens*, 496 U.S. 226, 249–50 (1990). Northwest Rankin High School officials, by sponsoring a Christian presentation, have clearly violated the Establishment Clause.

On Tuesday April 9th, you sent an e-mail to all faculty members at around 9:00 a.m. instructing them to send students to a last-minute mandatory assembly in the Performing Arts Building (“PAB”) without mentioning the purpose of the assembly.¹ As revealed in a video of the entire event presented to us, once the students and faculty arrived in the PAB, a representative from Pinelake Baptist Church started to give a presentation about finding “hope” in “Jesus Christ.” After a short introduction, he played a video for the students. In the video, two young men were interviewed who had once led “troubled” lives. To find hope, the men described various behaviors such as turning to drugs, sex, cutting, suicide, and the like. They then explained how turning to Jesus Christ solved their problems and recommended that other

¹ The substance of the email, with names and e-mail addresses redacted, is available here: <http://i.imgur.com/SmSmm8S.png>

people turn to Jesus Christ as well. The video immediately delved into a full-blown lecture of the supposed miracles, powers, and teachings of Jesus Christ and encouraged all students to turn to him.

Once the video ended, the Baptist Church representative summarized the video in regards to how Jesus Christ helped the young men and other troubled teens, and told the students that Jesus could help them too. He went on for about five minutes or so explaining the story of Jesus, his supernatural powers, and how those who do not believe in Jesus should do so now. Concluding this discussion, the representative led the students in a Christian prayer.

At no time did a school official turn off the video. Indeed, the presentation was mandatory and faculty stood near the exit door, preventing students from leaving. According to the students, a principal harassed several students who attempted to leave and told them to sit back down.

Pursuant to Supreme Court precedent, the school's sponsoring of and affiliation with, as well as endorsement of, Christianity through this event was unconstitutional.² In *Lee v. Weisman*, a middle school principal invited "a rabbi to deliver prayers at the graduation exercises." 505 U.S. 577, 581 (1992). The Court observed that "there are heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools." *Id.* at 592. As a result, the Court concluded that prayer during a school ceremony "bore the imprint of the State and thus put school-age children who objected in an untenable position," by forcing the student to choose between religious conformity and missing graduation. *Id.* at 590. The Court reasoned:

The undeniable fact is that the school district's supervision and control of a high school graduation ceremony places public pressure, as well as peer pressure, on attending students to stand as a group, or, at least, maintain respectful silence during the Invocation and Benediction. This pressure, though subtle and indirect, can be as real as any over compulsion[, because] for many, if not most, of the students at the graduation, the act of standing or remaining silent was an expression of participation in the rabbi's prayer.

Id. at 592–93. Thus, "for the dissenter of high school age, who has a reasonable perception that she is being forced by the State to pray in a manner her conscience will not allow," compels religious participation and is "forbidden by the Establishment Clause of the First Amendment." *Id.* at 593, 599.

The "Establishment Clause plainly forbids public schools from sponsoring an official prayer for young children." *Mellen v. Bunting*, 327 F.3d 355, 376 (4th Cir. 2003). It is also well

² See e.g., *Santa Fe Independent School Dist. v. Doe*, 530 U.S. 290, 309-10 (2000); *Lee*, 505 U.S. at 590; *Sch. Dist. of Abington Tp., Pa. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421, 425 (1962); *McCollum v. Board of Education*, 333 U.S. 203 (1948). See also *Cole v. Oroville Union High Sch. Dist.*, 228 F.3d 1092, 1101–03 (9th Cir. 2000) (ruling that sectarian and proselytizing valedictory speech at graduation would violate the Establishment Clause); *S.D. v. St. Johns County Sch. Dist.*, 632 F. Supp. 2d 1085, 1096 (M.D. Fla. 2009) (Because school officials selected a song for students to sing in an assembly with a sectarian and proselytizing message, and students who refused faced being excluded from the assembly or possibly being ostracized, was a governmental advancement or promoting of a religion in violation of the First Amendment; a preliminary injunction was granted).

settled that public schools are prohibited from devotional reading of Bible passages to students. *Hall v. Bd. of Sch. Com'rs of Conecuh County*, 656 F.2d 999 (5th Cir. 1981) (primary effect of Bible literature course was advancement of religion, in violation of Establishment Clause). See also *Meltzer v. Bd. of Pub. Instr. of Orange County, Fla.*, 548 F.2d 559 (5th Cir. 1977) *on reh'g*, 577 F.2d 311 (5th Cir. 1978). Certainly, urging students to turn to Jesus Christ and making repeated references to his teachings in the Bible cannot be understood as anything but direct promotion of religion and Christianity specifically.

That the person delivering the presentation was a student representing Pinelake Baptist Church does not absolve the school and its officials from liability. See *Santa Fe*, 530 U.S. 290 (student-led, student-initiated invocations prior to football games violated Establishment Clause); *Cole*, 228 F.3d at 1104. It is sufficient that the presentation was school-sponsored and held on school grounds during class-time.³ The fact that this event was *mandatory*, and was promoted by the school principal only compounded the Establishment Clause violation.

Making attendance voluntary would not cure the constitutional infirmity. The “government may no more use social pressure to enforce orthodoxy than it may use more direct means.” *Santa Fe*, 530 U.S. at 312. The school cannot host, during school hours, a presentation promoting Christianity or any other religion. While students can host individual, private student-group meetings promoting religion during lunch or recess hours, the school can take no part in it.

The event promoted by this school was conducted during class-time and was mandated by the principal. It has hard to imagine a more blatant violation of the Establishment Clause than the one complained of herein. The law prohibiting this type of endorsement and coercion is well-settled. As such, not only will the school, in its official capacity, be liable for this constitutional infringement pursuant to 42 U.S.C.A. § 1983, but the school officials responsible for the event will be *personally* liable too, in their individual capacities.

This letter serves as official notice of your unconstitutional conduct and as a demand that you terminate this and similar programming immediately. We specifically insist that you cancel the similar presentation scheduled for Friday, April 12, 2013.

Sincerely,

William Burgess

³ See e.g., *Doe v. Duncanville Indep. Sch. Dist.*, 70 F.3d 402 (5th Cir. 1995) (School district’s practice of allowing its employees to supervise student prayers during basketball practices and games violated Establishment Clause).