

FREEDOM FROM RELIGION *foundation*

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May 23, 2018

SENT VIA EMAIL & U.S. MAIL: khris.thexton@usd428.net

Khris Thexton
Superintendent
Great Bend USD 428
District Education Center
201 S. Patton Road
Great Bend, KS 67530

Re: Unconstitutional Religious Promotion

Dear Superintendent Thexton:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to a constitutional violation that occurred in Great Bend USD 428. FFRF is a national nonprofit organization with 33,000 members across the country, including members in Kansas. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

It is our understanding that on May 20, 2018 during the Great Bend High School graduation ceremony, Principal Tim Friess made religious remarks to students and parents in attendance. He began his remarks by “thank[ing] God for the beautiful day that He has blessed us with...” He then told a religious story,

I want to end by reading [...] from an unknown author: “The road to Success is not straight. There is a curb called Failure, a loop called Confusion; speed bumps called Friends; red lights called Enemies; and caution lights called Family. You will have flat tires called job. But, if you have a spare tire called Faith, and, most importantly, a driver called Jesus, you will make it to a place called Success!”

He concluded his remarks with, “may God bless each of you.”

We write to ensure that District employees are not promoting their personal religious beliefs to students in violation of the Establishment Clause of the First Amendment. High school graduations and other school-sponsored events must be secular to protect the freedom of conscience of all students.

Public school teachers and administrators may not promote religion to students. The Supreme Court has continually struck down teacher or school-led religious promotion in public schools. *See, e.g., Engel v. Vitale*, 370 U.S. 421 (1962) (declaring prayers in public schools unconstitutional); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963) (declaring

unconstitutional devotional Bible reading and recitation of the Lord's Prayer in public schools); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturning law requiring daily "period of silence not to exceed one minute . . . for meditation or daily prayer"). The religious remarks at issue here took place on school property during a high school graduation ceremony. Principal Friess was certainly acting in his official capacity as school principal at that time.

The District has an obligation under the law to make certain that "subsidized teachers do not inculcate religion." *Lemon v. Kurtzman*, 403 U.S. 602, 619 (1971). Courts have held that "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)). And 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). This extends to public school administrators as well. By allowing religious remarks during its graduation ceremony, the District abridges that obligation and alienates the 38% of younger Americans who are not religious.¹

Nothing in the law prevents students, teachers, or school administrators from freely exercising their religion on their own time and in their own way. But public school principals may not promote religion during school-sponsored events. This is a violation of students' right of conscience and of the trust that parents have placed in the District to educate their children without encroaching on their right to raise their family in whatever religion they choose, or no religion. Please inform us in writing of the steps that the District takes to remedy this constitutional violation and ensure that future school-sponsored events do not include religious promotion.

Sincerely,



Christopher Line
Patrick O'Reiley Legal Fellow
Freedom From Religion Foundation

¹ Robert P. Jones & Daniel Cox, *America's Changing Religious Identity*, PUBLIC RELIGION RESEARCH INSTITUTE (Sept. 6, 2017), available at www.ppri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.

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June 8, 2018

Christopher Line
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JUN 11 2018

Re: Letter of May 23, 2018 re: Commencement comments at
Great Bend High School, Great Bend, Kansas
Our File No. 3805.1907

Dear Chris:

I am writing to respond to your letter of May 23, 2018 addressed to U.S.D. 428 in Great Bend, Kansas. This office represents the District. First, let me say we appreciate your patience in awaiting a response to your letter. I spoke with the superintendent by phone within a day or two of their receipt of your letter but he was leaving for a vacation out of the country so we were unable to meet until he returned. I did meet with him on June 6, 2018 and learned he had already addressed with Mr. Friess the comments made at the graduation ceremony.

The district has several policies in place intended to prohibit and avoid any constitutionally prohibited speech/conduct regarding religion. In relevant part, they provide:

“... no religious belief or non-belief should be promoted or disparaged by the district or its employees...
teachers may teach about religion, religious literature and history but are prohibited from promoting, expounding upon, criticizing, or ridiculing a religion...
use of religious texts is prohibited if used to promote a particular religious doctrine...
School ceremonies shall be secular in nature. While recognizing the significance of tradition, the Board requires that graduation exercises and dedication ceremonies be secular in nature.”

When the superintendent spoke with the Principal about his comments and the District's policies, the Principal agreed that his comments were not in accordance with the policies and assured the superintendent that they would not happen again.

We hope this satisfies your inquiry and appreciate your interest. If you have any questions or comments, please feel free to contact me.

Sincerely,

WATKINS CALCARA, CHTD.



Mark A. Rondeau

MAR/aao

cc: U.S.D. 428