Appignani Humanist Legal Center

1821 Jefferson Place NW, Washington, DC 20036 | T 800.837.3792 202.238.9088 | F 202.238.9003 | legal@americanhumanist.org | www.humanistlegalcenter.org

October 10, 2019

Via Email
Sandra Reed, Superintendent
Bay St. Louis Waveland School District Administration
200 N. Second St.
Bay St. Louis, MS 39520
sreed@bwsd.org

Amy Coyne, Principal
Bay High School
750 Blue Meadow Rd.
Bay St. Louis, MS 39520
acoyne@bwsd.org

Re: Establishment Clause Violations

Dear Ms. Reed and Ms. Coyne,

A parent of children in the Bay St. Louis Waveland School District ("District") has contacted our office to request assistance regarding several serious and ongoing violations of the Establishment Clause of the First Amendment occurring at Bay High School.

The American Humanist Association ("AHA") is a national nonprofit organization with over 34,000 members across the country, including many in Mississippi. The mission of AHA's legal center is to protect one of the most fundamental principles of our democracy: the constitutional mandate requiring a separation of church and state. We have litigated constitutional cases in state and federal courts from coast to coast, including in Mississippi. *See M.B. v. Rankin Cty. Sch. Dist*., 2015 U.S. Dist. LEXIS 117289 (S.D. Miss. 2015).

Our complainant reports that Mr. Eric Collins, a teacher and football coach at Bay High School, regularly abuses the authority of both of his positions to proselytize Christianity to his students. Specifically, we have been apprised of the following incidents:

- Mr. Collins told his class that he hoped the students would all "find Jesus someday."
- Mr. Collins told his students during a Personal Finance class that both he and his father had "found Jesus." In the same class, Mr. Collins asked one of his students what "God intended them to do with their money."
- On a separate occasion, Mr. Collins expressed his opinion to students that the Big Bang theory is false because "God created life."

- In his capacity as coach of the Bay High School Tigers football team, Mr. Collins organizes weekly team breakfasts and meetings for players at a local church called the "Power House of Deliverance" every Friday morning. (See enclosed screenshots from the Bay High School Tigers' Facebook account).
- Mr. Collins sent letters home with players that include scripture. The example which we were provided is dated July 2, 2019, and reads: "The scripture says in Galatians 6:9, 'Let us not become weary in working hard, for at the proper time we will reap a harvest if we do not give up!'" (See enclosed photos.)
- Both Mr. Collins and other athletic coaches reportedly participate in prayers with players before games.

No child, Christian or non-Christian, should go to school to have his or her teacher's religious beliefs overtake the atmosphere of the classroom or extracurriculars. "Parents don't drop off their children at the school house door to have their child's religious beliefs affirmed, questioned or compromised." *Rankin*, 2015 U.S. Dist. LEXIS 117289, *23. We write to demand that the District take affirmative steps to rein in Mr. Collins' inappropriate and unconstitutional behavior immediately.

The First Amendment's Establishment Clause "commands a separation of church and state." *Cutter v. Wilkinson*, 544 U.S. 709, 719 (2005). It requires the "government [to] remain secular, rather than affiliate itself with religious beliefs or institutions." *Cty. of Allegheny v. ACLU*, 492 U.S. 573, 610 (1989). The government "may not promote or affiliate itself with any religious doctrine or organization," nor "discriminate among persons on the basis of their religious beliefs and practices." *Id.* at 590-91. "Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa." *Everson v. Bd. of Educ.*, 330 U.S. 1, 16 (1947). Indeed, the Establishment Clause "create[s] a complete and permanent separation of the spheres of religion activity and civil authority." *Id*. at 31-32. Separation "means separation, not something less." *McCollum v. Bd. of Educ*., 333 U.S. 203, 231 (1948). In "no activity of the State is it more vital to keep out divisive forces than in its schools, to avoid confusing, not to say fusing, what the Constitution sought to keep strictly apart." *Id.*

The Supreme Court "has been particularly vigilant in monitoring compliance with the Establishment Clause in elementary and secondary schools," *Edwards v. Aguillard*, 482 U.S. 578, 583-84 (1987), where "there are heightened concerns with protecting freedom of conscience from [even] subtle coercive pressure." *Lee v. Weisman*, 505 U.S 577, 592 (1992). *See Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 303 (2000) (student-led, student-initiated prayers before high school football games unconstitutional); *Lee,* 505 U.S. at 592 (nondenominational prayer at graduation unconstitutional). As the Fifth Circuit noted in 1993, "*Lee* is merely the most recent in a long line of cases carving out of the Establishment Clause what essentially amounts to a *per se* rule prohibiting public-school-related or -initiated religious expression or indoctrination." *Doe v. Duncanville Indep. Sch. Dist*., 994 F.2d 160, 165 (5th Cir. 1993) (*Duncanville I*).[1] The Fifth Circuit, which has jurisdiction over Mississippi,

[1] *See, e.g.*, *Santa Fe*, 530 U.S. at 294 (student prayers at football games unconstitutional); *Lee*, 505 U.S. at 580-83 (1992) (prayers at graduation ceremonies unconstitutional); *Wallace v. Jaffree*, 472 U.S. 38, 40-42 (1985) (moment of silence to start school day unconstitutional); *Stone v. Graham*, 449 U.S. 39 (1980) (posting of Ten Commandments on classroom walls unconstitutional); *Sch. Dist. Abington v. Schempp*, 374 U.S. 203, 205 (1963) (daily scripture readings unconstitutional); *Engel v. Vitale*, 370 U.S. 421, 422-23 (1962) (school prayer unconstitutional); *Karen B,*, 653 F.2d 897, *summarily aff'd*, 455 U.S. 913 (1982) (prayers by students and teachers in classroom unconstitutional).

also has a legion of cases prohibiting public schools from indoctrinating students during school activities.[2]

Indeed, the Supreme Court's cases place an *affirmative duty* upon public schools to "be certain . . . that subsidized teachers do not inculcate religion." *Lemon v. Kurtzman*, 403 U.S. 602, 619 (1971). Any "[s]chool sponsorship of a religious message is impermissible." *Santa Fe*, 530 U.S. at 309-10. *See Engel*, 370 U.S. at 424 ("by using its public school system to encourage recitation of the Regents' prayer, the State of New York has adopted a practice wholly inconsistent with the Establishment Clause.").

The Fifth Circuit has also specifically made clear that public schools may not permit teachers to endorse religion during school activities. *See Ingebretsen v. Jackson Pub. Sch. Dist*., 88 F.3d 274, 280 (5th Cir. 1996) (statute encouraging prayers at school-sponsored events unconstitutional); *Doe v. Duncanville Indep. Sch. Dist*., 70 F.3d 402 (5th Cir. 1995) (*Duncanville II*) (a school official's silent participation in student-initiated, student-led prayers preceding basketball games violated Establishment Clause); *Duncanville I*, 994 F.2d at 163; *Karen B v. Treen*, 653 F.2d 897 (5th Cir. 1981) (state statute and derivate school policy encouraging prayer at the start of the school day unconstitutional).[3]

To comport with the Establishment Clause, governmental activity must: (1) have a secular purpose; (2) not have the effect of advancing or endorsing religion; and (3) not foster excessive entanglement with religion. *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963); *Walz v. Tax Commission*, 397 U.S. 664, 669-70 (1970); *accord Allegheny*, 492 U.S. at 592.[4] Government action "violates the Establishment Clause if it fails to satisfy any of these elements." *Edwards*, 482 U.S. at 583. In addition to this tripartite test, the Supreme Court in *Lee* formulated the separate "coercion test," declaring that "*at a minimum*, the [Establishment Clause] guarantees that government may not coerce

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[2] *See, e.g., Doe v. Sch. Bd*., 274 F.3d 289, 294 (5th Cir. 2001) (statute authorizing prayer in classrooms unconstitutional); *Doe v. Santa Fe Indep. Sch. Dist*., 168 F.3d 806, 816 (5th Cir. 1999), *aff'd*, 530 U.S. 290 (2000) (graduation and football prayers unconstitutional); *Ingebretsen v. Jackson Pub. Sch. Dist*., 88 F.3d 274, 280 (5th Cir. 1996) (prayers at school-sponsored events unconstitutional); *Doe v. Duncanville Indep. Sch. Dist*., 70 F.3d 402, 407 (5th Cir. 1995) (school officials' supervision of student-initiated and student-led prayers preceding basketball games violated Establishment Clause); *Duncanville I*, 994 F.2d at 163; *Hall v. Bd. of Sch. Comm'rs,* 656 F.2d 999, 1003 (5th Cir. 1981) (permitting students to conduct morning devotional readings over the school's public address system violated Establishment Clause); *Meltzer v. Bd. of Pub. Instruction*, 548 F.2d 559, 574 (5th Cir. 1977) (en banc) (same). *See also Herdahl v. Pontotoc County Sch. Dist.*, 933 F. Supp. 582, 591 (N.D. Miss. 1996) (same); *S.D. v. St. Johns Cty. Sch. Dist*., 632 F. Supp. 2d 1085, 1093 (M.D. Fla. 2009).

[3] So too have other circuits. *See, e.g.,*,*Borden v. Sch. Dist*., 523 F.3d 153, 174 (3rd Cir. 2008) (coach silently bowing head and kneeling while team prayed violated Establishment Clause); *Holloman v. Harland*, 370 F.3d 1252, 1285 (11th Cir. 2004) (teacher's practice of initiating silent prayer with her students with "let us pray" and ending it with "amen" violated Establishment Clause); *Marchi v. Board of Coop. Educ. Servs*., 173 F.3d 469, 477 (2d Cir. 1999).

[4] These discrete requirements were enshrined in *Lemon v. Kurtzman*, 403 U.S. 602, 612 (1971) into what is now known as the "*Lemon* test." But these requirements long predate *Lemon*. *See Schempp*, 374 U.S. at 222 ("[W]hat are the purpose and the primary effect of the enactment? If either is the advancement or inhibition of religion then the enactment" violates "the Constitution*."). See also Torcaso v. Watkins*, 367 U.S. 488, 489-90 (1961) (invalidating law because "the purpose or effect" favored god-believers over atheists).

anyone to support or participate in religion or its exercise." 505 U.S. at 587 (emphasis added).[5] *See Santa Fe*, 530 U.S. at 291 (student-initiated, student-led prayers before football games violated Establishment Clause under the traditional three-prong analysis as well as the separate coercion test).

Where, as here, *infra*, government action fails the coercion test, there is no need to test the action under the tripartite "*Lemon* analysis." *Duncanville*, 994 F.2d at 166 n.7. *See generally Lee*:

> [T]he controlling precedents as they relate to prayer and religious exercise in primary and secondary public schools compel the holding here that the policy of the city of Providence is an unconstitutional one. We can decide the case without reconsidering the general constitutional framework by which public schools' efforts to accommodate religion are measured. Thus we do not accept the invitation of petitioners and amicus the United States to reconsider our decision in *Lemon v. Kurtzman*, *supra*. The government involvement with religious activity in this case is pervasive, to the point of creating a state-sponsored and state-directed religious exercise in a public school. Conducting this formal religious observance conflicts with settled rules pertaining to prayer exercises for students, and that suffices to determine the question before us.

505 U.S. at 586-87.

Mr. Collins' conduct emphatically violates the Establishment Clause under the coercion test, putting your school district at risk for serious legal repercussions and Mr. Collins' at risk for personal damages for violating well-settled law. *See Rankin,* 2015 U.S. Dist. LEXIS 117289 (in a case brought by the AHA, the Court found the defendant school district in Contempt of Court for continuing to endorse religion after signing a consent decree stipulating that it would cease such practices. The Court awarded the student plaintiff $7,500 for past violations and ordered that the District would pay an additional $10,000 for every violation thereafter. The Court also awarded AHA and its cooperating attorneys $57, 367 in attorneys' costs and fees).

In *Lee*, the Court held that a public school's inclusion of a nonsectarian prayer in a graduation ceremony was unconstitutionally coercive, even though the event was technically voluntary and students were not required to participate in the prayer. 505 U.S. at 586. This is because "State exerts great authority and coercive power . . . because of the students' emulation of teachers as role models and the children's susceptibility to peer pressure." *Edwards*, 482 U.S. at 584. Thus, when a teacher or coach (or, as here, both) proselytizes or prays with students, his actions are coercive because such a message coming from a person in a position of authority "no doubt will be perceived by the students as inducing a participation they might otherwise reject." *Duncanville I*, 994 F.2d at 165. "'[T]he government may no more use social pressure to enforce orthodoxy than it may use more direct means.'" *Santa Fe*, 530 U.S. at 312 (quoting *Lee*, 505 U.S. at 580).

Nothing more need be shown; as discussed above, a finding of coercion "is sufficient" to find government action unconstitutional under the Establishment Clause. *Lee*, 505 U.S. at 604 (Blackmun, J., concurring); *accord Lee*, 505 U.S. at 586-87. Even so, Mr. Collins' active proselytizing clearly violates the Establishment Clause pursuant to the tripartite *Schempp* and *Lemon* analysis.

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[5] "Although . . . proof of government coercion is not necessary to prove an Establishment Clause violation, it is sufficient. Government pressure to participate in a religious activity is an obvious indication that the government is endorsing or promoting religion." *Lee*, 505 U.S. at 604 (Blackmun, J., concurring).

First, his actions lack any secular purpose. *See Peloza v. Capistrano Unified Sch. Dist.*, 37 F.3d 517, 522 (9th Cir. 1994) (teacher's discussion of religion with students before and after class "would not have a secular purpose"). It is "settled [Supreme Court] jurisprudence that 'the Establishment Clause prohibits government from abandoning secular purposes.'" *Tex. Monthly, Inc. v. Bullock*, 489 U.S. 1, 8-9 (1989) (citing cases pre- and post-dating *Lemon v. Kurtzman*, 403 U.S. 602 (1971)).[6] Where the government promotes an "intrinsically religious practice," – such as prayer or evangelism – it "cannot meet the secular purpose prong." *Jager v. Douglas Cty. Sch. Dist*., 862 F.2d 824, 829-30 (11th Cir. 1989).[7] *See Santa Fe*, 530 U.S. at 309-10 ("infer[ring] that the specific purpose of the policy" permitting but not requiring student-led prayers was religious, not secular); *Ingebretsen*, 88 F.3d at 279 ("Returning prayer to public schools is not a secular purpose."); *Karen B.*, 653 F.2d at 901 (no secular purpose in authorizing teacher-initiated prayer at the start of school day), *aff'd*, 455 U.S. 913 (1982); *Kitzmiller v. Dover Area Sch. Dist.*, 400 F. Supp. 2d 707, 763 (M.D. Pa. 2005) (no secular purpose for teaching "intelligent design" as part of a science curriculum).

Second, Mr. Collins' conduct unconstitutionally advances and endorses religion. *Duncanville I*, 994 F.2d 160; *Duncanville II*, 70 F.3d 402; *Ingebretson*, 88 F.3d 274*; Karen B,* 653 F.2d 897; *Doe v. Santa Fe Indep. Sch. Dist.,* 168 F.3d 806 (5th Cir. 1999), *aff'd*, 530 U.S. 290 (2000). The Supreme Court has held that government action violates the Establishment Clause when, "irrespective of government's actual purpose, the practice under review in fact conveys a message of endorsement or disapproval [of religion]." *Wallace*, 472 U.S. at 56 n.42 (quotation marks omitted). The "prohibition against governmental endorsement of religion 'preclude[s] government from conveying or attempting to convey a message that religion or a particular religious belief is favored or preferred.'" *Allegheny*, 492 U.S. at 593 (citation omitted). Whether "the key word is 'endorsement' 'favoritism,' or 'promotion,' the essential principle remains the same. The Establishment Clause, at the very least, prohibits government from appearing to take a position on questions of religious belief[.]" *Id.* at 593-94.

The Fifth Circuit held in *Karen B* that "encouraging observance of a religious ritual in the classroom" constituted impermissible endorsement of religion. 653 F.2d at 901. And in *Duncanville I*, the Fifth Circuit ruled that when school authorities "manifest approval and solidarity with student religious exercises, they cross the line between respect for religion and endorsement of religion." *Duncanville II*, 70 F.3d at 405-06 & n.4. The dissent agreed that there "is practically no doubt" that the Supreme Court's cases prohibit "teachers from actively joining in the student-led prayers." *Id.* at 409 (Jones, J., concurring and dissenting). *See also Hall v. Bd. of Sch. Comm'rs,* 656 F.2d 999, 1002 (5th Cir. 1981) ("The use of the textbook, with its fundamentalist perspective, comes close to being a per se violation of the establishment clause.").

With these authorities in mind, it is impossible to draw any other reasonable conclusion from Mr. Collins' actions than that he approves of those who adhere to his Christian faith and disapproves of those who do not. Appearances matter to the effect analysis, as even the "mere appearance of a joint exercise of authority by Church and State provides a significant symbolic benefit to religion," and,

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[6] *E.g.*, *Stone v. Graham*, 449 U.S. 39 (1980) (*per curiam*); *Edwards v. Aguillard*, 482 U.S. 578 (1987); *Epperson v. Arkansas*, 393 U.S. 97 (1968); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963); *Torcaso v. Watkins*, 367 U.S. 488 (1961).

[7] *See McCreary Cty., Ky. v. ACLU of Ky.*, 545 U.S. 844, 864 (2005); *Stone v. Graham*, 449 U.S. 39, 41 (1980); *Jaffree v. Wallace*, 705 F.2d 1526, 1534-35 (11th Cir. 1983), *aff'd* 472 U.S. 38 (1985); *N.C. Civil Liberties Union v. Constangy*, 947 F.2d 1145, 1150 (4th Cir. 1991).

therefore, has the impermissible primary effect of advancing religion. *Larkin v. Grendel's Den*, 459 U.S. 116, 126-27 (1982). The Supreme Court has stated that:

> an important concern of the effects test is whether the symbolic union of church and state effected by the challenged governmental action is sufficiently likely to be perceived by adherents of the controlling denominations as an endorsement, and by the nonadherents as a disapproval, of their individual religious choices.

School Dist. v. Ball, 473 U.S. 373, 390 (1985) (internal citation omitted).

Simply "permit[ting] [a teacher] to discuss his religious beliefs with students during school time on school grounds would violate the Establishment Clause." *Peloza*, 37 F.3d at 522. Even allowing a teacher to wear a t-shirt promoting "Jesus" would violate the Establishment Clause. *See Downing v. W. Haven Bd. of Educ*., 162 F. Supp. 2d 19, 27-28 (D. Conn. 2001) ("For the defendants to have permitted Downing to wear a shirt during classroom instruction that was emblazoned with the words 'JESUS 2000 - J2K' would likely have violated the Establishment Clause."); *see also Roberts v. Madigan*, 921 F.2d 1047, 1056-58 (10th Cir. 1990) (a teacher's display of a Bible in his classroom "had the primary effect of communicating a message of endorsement of a religion"). Here, Mr. Collins is not merely "discussing" his religious beliefs with students, which alone would be constitutionally suspect, but is *affirmatively endorsing them* before a captive audience of students – in word, in deed, and in writing. This has the obvious effect of furthering Mr. Collins' faith at the exclusion of all other religions and non-religion in violation of the First Amendment.

Lastly, Mr. Collins' actions have excessively entangled his government employer with religion. *See Duncanville II*, 70 F.3d at 406 (faculty's participation in "prayers improperly entangle[d] [the school] in religion"); *Karen B*, 653 F.2d at 902 (permitting teachers to lead prayers would result in "excessive governmental entanglement with religion."); *Bishop v. Aronov*, 926 F.2d 1066, 1073 (11th Cir. 1991) ("a teacher's [religious] speech can be taken as directly and deliberately representative of the school"); *Mellen v. Bunting*, 327 F.3d 355, 375 (4th Cir. 2003) (university's sponsorship of prayer excessively entangled university with religion); *N.C. Civil Liberties Union v. Constangy*, 947 F.2d 1145, 1151-52 (4th Cir. 2991) (when "a judge prays in court, there is necessarily an excessive entanglement of the court with religion."); *Hall v. Bradshaw*, 630 F.2d 1018, 1021 (4th Cir. 1980) (prayer on a state map fostered unconstitutional entanglement). In *Hall*, the Fourth Circuit held that a nondenominational prayer printed on a state map, which had a "limited audience and distribution," violated the Establishment Clause, even in the absence of "compelled recitation of the prayer or subjection to ridicule as part of the captive audience" and that the prayer could "seem utterly innocuous." *Hall*, 630 F.2d at 1019-21 n.1. The facts here are far more egregious, as there is nothing "innocuous" about a teacher encouraging impressionable young students in a captive audience to pray to "find Jesus," among Mr. Collins' many other religious exhortations. *See, e.g.*, *Santa Fe*, 530 U.S. at 309-10.

Please note that whether any student's engagement with Mr. Collins' unconstitutional conduct was "voluntary" is wholly irrelevant to the legal question. *See generally Lee*, 505 U.S. at 596; *Schempp*, 374 U.S. at 288 (Brennan, J., concurring) ("the availability of excusal or exemption simply has no relevance to the establishment question"); *Mellen*, 327 F.3d at 372 ("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.'"). In its seminal school prayer case, *Engel v. Vitale*, the Supreme Court declared: "When the power, prestige and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain." 370 U.S. 421, 430-31 (1962). In *Wallace v. Jaffree*,

the Court noted that this "comment has special force in the public-school context." 472 U.S. 38, 60 n.51 (1985) (citing *Engel*). Justice Kennedy, joined by Justice Scalia, agreed that the "inquiry with respect to coercion" must be "whether the government imposes pressure upon a student to participate in a religious activity. This inquiry, of course, must be undertaken with sensitivity to the *special circumstances that exist in a secondary school* where the line between voluntary and coerced participation may be difficult to draw." *Bd. of Educ. v. Mergens*, 496 U.S. 226, 261-62 (1990) (Kennedy, J., concurring in part) (emphasis added). *See also Meltzer v. Bd. of Pub. Instruction of Orange Cty., Fla*., 548 F.2d 559, 575 (5th Cir. 1977) on reh'g, 577 F.2d 311 (5th Cir. 1978) (although Gideon Bibles were given only to students whose parents signed confirmation slips, "pressures would be exerted upon non-conforming pupils, thus [violating the Establishment Clause") (citation omitted). The District may not require students to out themselves as non-Christian or nonreligious in order to avoid a school-sponsored religious message.

Finally, please note also that Mr. Collins may not hide beyond the Free Speech or Free Exercises clauses of the First Amendment to vindicate his unconstitutional conduct. The courts have made clear that when government actors are acting in their governmental capacity—that is, as here, in the classroom or on the football field—they speak on behalf of the government, not themselves, and "government speech **must** comport with the Establishment Clause." *Pleasant Grove City v. Summum*, 555 U.S. 460, 468 (2009) (emphasis added). The Fifth Circuit has explicitly considered and rejected the argument that Free Speech or Free Exercise may excuse an Establishment Clause violation. *See, e.g., Duncanville II*, 70 F.3d at 406 ("[The school district] contends that it cannot prevent its employees from participating in student prayers without violating their employees' rights to the free exercise of religion, to association, and to free speech and academic freedom. We do not agree."). Simply put, a "public school teacher's in-class conduct is not protected by the First Amendment." *Lee v. York Cty. Sch. Div*., 484 F. 3d 687, 695 (4th Cir. 2007) (citation omitted) (school did not infringe on teacher's rights when it ordered him to remove articles detailing religious missionary activities from a classroom bulletin).[8] "Teachers and other public school employees have no right to make the promotion of religion a part of their job description." *Grossman v. S. Shore Pub. Sch. Dist*., 507 F.3d 1097, 1099-1100 (7th Cir. 2007) (upholding school's decision not to renew the contract of school guidance counselor who replaced educational literature about contraceptives with religious literature on abstinence). The District would even be permitted to restrict the teacher's conduct if it fell "short of an

[8] *See also Garcetti v. Ceballos,* 547 U.S. 410, 421 (2006) ("We hold that when public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline.); *Johnson v. Poway Unified Sch. Dist*., 658 F. 3d 954, 957 (9th Cir. 2011) (rejecting First Amendment challenge by teacher to school requiring that he remove classroom banners that read "In God We Trust," "One Nation Under God," "God Bless America," and "God Shed His Grace on Thee," and "All men are created equal, they are endowed by their CREATOR"); *Peloza*, 37 F.3d at 522 (school district's interest in avoiding violation of Establishment Clause justified prohibiting teacher from discussing religion with students before and after class and holding that to "permit [a teacher] to discuss his religious beliefs with students during school time on school grounds would violate the Establishment Clause"); *Marchi*, 173 F.3d at 477 (upholding school's cease and desist directive to teacher, and rejecting free exercise claim of teacher who shared his religious conversion experience with his students, because "that risks giving the impression that the school endorses religion" and it has a "compelling interest in avoiding Establishment Clause violations"); *Madigan*, 921 F.2d at 1056-58 (teacher could be prohibited from reading Bible during silent reading period, and from stocking two books on Christianity on shelves, because these could leave students with the impression that Christianity was officially sanctioned); *Downing*, 162 F.Supp.2d 19 (school board's response to teacher wearing "Jesus 2000" shirt was appropriate and did not violate teacher's First Amendment rights because the school would risk Establishment Clause violation).

establishment violation." *Bishop*, 926 F.2d at 1077. But, in this situation, a "clear establishment violation exist[s]," making the District's actions in enjoining the illegal activity necessary. *Id.*

In view of these authorities, it is plain that the District is in violation of the Establishment Clause. This letter serves as an official notice of the unconstitutional activity and a formal demand that the District terminate this and any similar illegal activity immediately.

We demand a written reply within two weeks of receipt of this letter setting forth the steps you will take to rectify this constitutional infringement. While we prefer to leave it up to school administrators to determine the actions it will take to correct Establishment Clause violations, we offer the following steps that, if implemented, would resolve this matter from our perspective:

1. Adopt a formal, written policy prohibiting teachers, coaches and other school officials from proselytizing, participating in prayer with students, or other similarly unconstitutional conduct, or encouraging others to do the same;

2. Immediately halt Mr. Collins' practice of hosting football team meetings at Power House of Deliverance;

3. Enforce these policies by monitoring athletic program events and by sanctioning school officials for non-compliance with the penalties assessed for similar school code violations.

We also remind you that any actions that might be considered punitive or retaliatory toward those raising concerns about the matters described herein would be unlawful as well. Thank you for your time and attention to this important matter.

Very truly yours,
/s/ Monica L. Miller

Monica L. Miller
Legal Director and Senior Counsel
Appignani Humanist Legal Center
American Humanist Association

Enclosures (9)

[redacted]

Yesterday at 11:20 AM ·

Love the Faith of this Coachjng Team!

July 2, 2019

Dear Tigers,

By the time you read this letter summer workouts will be just about done and our fi season together will be upon us. I am encouraged by the progress we have made together since January! Keep working hard! The scripture says in Galatians 6:9, "Let us not become weary in working hard, for at the proper time we will reap a harvest if we do not give up." Let's continue to earn our victories!

8:15

Bay High School Tigers's Post

Bay High School Tigers
September 6 at 7:25 AM ·

Another great morning with Power House.

46 2 Comments 5 Shares

Like Comment Share

Another great morning with Power House.

Like Comment Share

8:15

Bay High School Tigers's Post

Another great morning with Power House.

Like Comment Share

Another great morning with Power House.

Like Comment Share

8:15

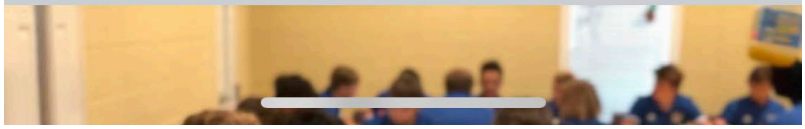
Bay High School Tigers's Post

Like Comment Share

Another great morning with Power House.

Jennifer Piazza Munson

Like Comment Share



8:15

Bay High School Tigers's Post

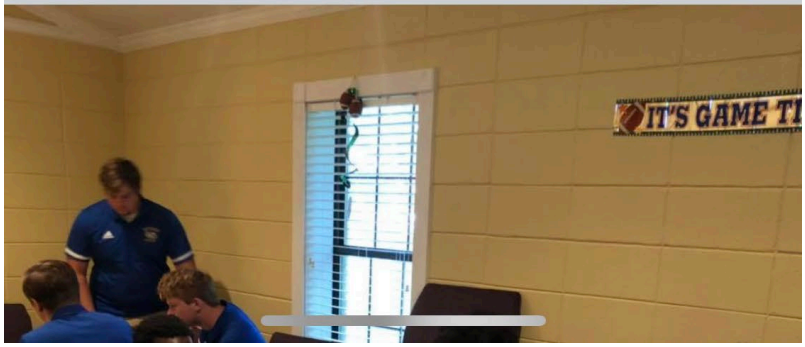
Another great morning with Power House.

Jennifer Piazza Munson

Like Comment Share

Another great morning with Power House.

Like Comment Share



8:16

Bay High School Tigers

Home Posts Videos Photos About Com

Bay High School Tigers
August 30 at 9:26 AM ·

It's was another great Friday morning breakfast. 💙💛

48 1 Comment 3 Shares

Like Comment Share

Message

8:17

Bay High School Tigers

Home Posts Videos Photos About Com

Bay High School Tigers is at **Power House of Deliverance Ministries, Inc.**
August 23 · Bay Saint Louis ·

We extend a huge thank you to these amazing people and Pastor Reed for bringing back the Friday morning football team breakfast for our Tigers!

113 7 Comments 14 Shares

Message