

LIBERTY COUNSEL



Post Office Box 540774
Orlando, FL 32854-0774
Telephone: 407•875•1776
Facsimile: 407•875•0770
www.LC.org

122 C Street N.W., Suite 360
Washington, DC 20001
Telephone: 202•289•1776
Facsimile: 202•737•1776

Post Office Box 11108
Lynchburg, VA 24506-1108
Telephone: 407•875•1776
Facsimile: 407•875•0770
liberty@LC.org

Reply to: Florida

April 19, 2017

VIA EMAIL ONLY

Jeff Eakins, Superintendent
Hillsborough County Public Schools
901 E. Kennedy Blvd.
Tampa, FL 33601
Jeff.eakins@sdhc.k12.fl.us

TIME SENSITIVE LEGAL CORRESPONDENCE

Re: teacher banning cross necklaces and engaging in classroom political activism

Dear Superintendent Eakins:

By way of brief introduction, Liberty Counsel is an international non-profit litigation, education, and policy organization specializing in constitutional law, with offices in Florida, Virginia, and Washington, D.C. As part of our work in the public interest, Liberty Counsel provides *pro bono* legal representation in matters within our mission of First Amendment advocacy, including the rights of public school students and their parents.

We write on behalf of parents of children in the classroom of teacher Lora Jane Riedas, a math teacher at Riverview High School, who report that **Ms. Riedas has prohibited at least three children from wearing Christian cross necklaces in her classroom, claiming on occasion that they are “gang symbols.”** They are not gang symbols, but are symbols of personal faith. A picture of one of the crosses, less than an inch tall, is attached.

Subsequent to her cross ban, Ms. Riedas singled out at least one of the students for a number of false “misbehavior” allegations.¹ One of our student clients reports that she had just sat down in class, and placed her books on her desk, when Ms. Riedas approached her. Referencing the tiny cross necklace which was around the student’s neck, Ms. Riedas said,

¹ Our clients report that Ms. Riedas will frequently tell students who draw her ire to “get out of my class” with no reason given, as well as engage in collective punishment (“if one person doesn’t turn in homework, you all get zeroes”). Our clients report another student was told to “get out of my class” simply for wearing a red “Make America Great Again” hat while working on an assignment, and otherwise being nondisruptive. She had not told him previously to remove the hat, and the only thing she said about it was “get out of my class.”

"I need you to take your necklace off." Our client asked "Why?" and Ms. Riedas refused to explain, stating "That's disrespectful; you have to take it off." Our client did not want to be disrespectful, so she took it off, but she felt bad because she felt she was being forced to deny her faith. All of our clients are afraid to openly wear their cross necklaces in class any more.

Ms. Riedas has further engaged in impermissible LGBT political activism in the classroom, and has indicated her intent to further do so during instructional time. **Ms. Riedas is planning to promote GLSEN's² "Day of Silence" coercive political activities during instructional time in her classroom on Friday, April 21, 2017.**

In addition to being opposed to student religious expression, we understand that Ms. Riedas is the sponsor for the R.G.S.A Gay-Straight Alliance ("GSA") at Riverview High School, and that her classroom is permanently decorated with LGBT political themes, including a large display on her wall stating "ALLY," a "Safe Space" poster and door sticker, and assorted other LGBT promotional material, including buttons prominently displayed on her desk, facing students, stating "I Love My LGBT Students" and "PROUD Public Employee." These buttons make other students feel marginalized and excluded, and not full members of the classroom community. Moreover, at the beginning of the semester, Ms. Riedas placed LGBT rainbow stickers on students' classroom folders without their consent, which were there one day when the students arrived. One of our clients reports that after she removed the LGBT sticker, Ms. Riedas' behavior toward her changed markedly for the worse.

Ms. Riedas' clearly seeks opportunities to engage in GLSEN-directed classroom activism, which has called on teachers to use its "Educator Guide"³ to promote GLSEN's views about homosexuality and gender confusion on "Day of Silence," **and to do so this Friday, April 21, 2017.**

GLSEN's guide encourages teachers to require students to engage in numerous forms of coercive, group, political activism, from grades K-12, regardless of parent desires or student religious beliefs, with no opt-out from classroom coercion. Students can either "go along to get along," or risk being "outed" as disagreeing with the teacher and GLSEN's LGBT viewpoint. Among other things, GLSEN tells teachers to be "creative" with your "**assignments and activities and methods of participation**" to coerce students to engage in divisive political activism during instructional time, including the following:

»**Support students who choose to remain silent on Day of Silence. . .**

»**Print out information on the Day of Silence, other silent protests throughout history, and statistics of anti-LGBTQ discrimination and bullying, like from the most recent National School Climate Survey. Have students read and silently write about what they learned and what they can do to make a difference.**

»**Have your students participate in the National Group Silence: 3:00 pm ET for 5 minutes. Discuss the history behind the Day of Silence and anti-LGBTQ discrimination.**

² Gay Lesbian Straight Education Network

³ <https://www.glsen.org/sites/default/files/NEW%20DOS%20Educator%20Guide.pdf>

»**Plan a letter-writing lesson where students call on local state legislators, principals, or superintendents** to support LGBTQ youth in schools.

»**Have students read GLSEN’s Pronoun Resource or other GSA resources and write about actions they can take** to be more inclusive of transgender and gender nonconforming people.

»Ask students and colleagues to reflect on LGBTQ inclusion in your school policies, special events, and curriculum. **Have students design their own lessons, policies, or events focused on LGBTQ inclusion.**

On her personal Twitter,⁴ Ms. Riedas retweeted GLSEN’s “guide”⁵ at 10:12 AM on Wednesday, April 5, 2017. She “liked” the same GLSEN “guide” on GLSEN TampaBay’s Facebook at 1:15 PM⁶ later that same day. On Thursday, April 6, she tweeted her wholehearted agreement (“This.”) with the idea of “Creating Gender Inclusive Schools,” which seeks to promote gender confusion among young people, with the idea that there are more than two genders, male and female. On Friday, April 7, at 8:55 AM, Ms. Riedas retweeted “**favorite queer web series for kids**” from “huffpostqueer” stating “**Here’s how to talk to kids about what it means to be an LGBTQ ally,**” again, apparently during school time.

Tweeting on Twitter and otherwise encouraging fellow teachers to use GLSEN’s political activism “guide” during the school day, and join her in creating a politically-charged classroom environment is not part of Ms. Riedas’ education duties, and violates District policy. “It is the policy of the Board that **students, staff members, and District facilities not be used for promoting the interests of any nonschool agency or organization**, public or private, without the approval of the Superintendent.” (Emphasis added). See [Policy 9700 - Relationships with Special Interest Groups](#). GLSEN is clearly a nonschool agency, and Ms. Riedas is promoting its interests in her official capacity, and within her classroom.

In addition, [Policy 3231 - Outside Activities of Instructional Staff](#),⁷ states that “Instructional staff members”

- A. **may not dedicate work time to an outside interest, activity, or association.**
- B. **may not use school property or school time to solicit . . . for private enterprises.**
- D. **may not campaign on school property during working hours on behalf of any political issue . . .**
- E. **should refrain from expressions that disrupt the efficient operation of the school** and/or interfere with the maintenance of discipline by school officials. (Emphasis added).

The outside activities Ms. Riedas has promoted on social media during working hours violate all of these restrictions. Her LGBT politically-activist classroom environment is just as

⁴ <https://mobile.twitter.com/lorajane>

⁵ https://mobile.twitter.com/GLSEN_TampaBay/status/849671145414475776?p=v

⁶ <https://www.facebook.com/GLSENTampa/posts/10154589255004952>

⁷ <http://www.sdhc.k12.fl.us/policymanual/detail/146>

inappropriate as a teacher decorating her classroom space in Democratic or Republican party slogans and campaign literature, or badges stating “I love Republican Students;” “I Love Democrat Students;” “I Love Pro-Choice Students;” “I Love Pro-Life Students.”

The totality of Ms. Riedas’ behavior is very concerning: banning cross necklaces on the one hand, while promoting wholesale LGBT political activism on the other. By retweeting GLSEN’s “guide” for classroom activism, Ms. Riedas is encouraging other teachers to engage in what she herself appears to be preparing to do on Friday, April 21: classroom activism during instructional time, requiring students who do not agree with “Day of Silence” to participate in various forced activities entirely unrelated to math class, and rewarding students who participate in the political activity she herself favors.

Ms. Riedas has violated the Code of Ethics of the Education Profession of Florida, State Board of Education Rule 6B-1.006, FAC (3) Obligation to the student, and (4) Obligation to the public, as well as the District’s mirror policy, [Policy 3210, Standards of Ethical Conduct](#).⁸ State BOE Rule 6B-1.006 (3) requires that a teacher shall not (d) “intentionally suppress or distort subject matter;” (e) “intentionally expose a student to unnecessary embarrassment or disparagement;” (f) “intentionally violate or deny a student’s legal rights; (g) “harass or discriminate against any student on the basis of . . . religion, sex, . . . beliefs . . . or social and family background;” or (h) “exploit a relationship with a student for personal gain or advantage.”

In banning cross necklaces from three different students in her classroom, Ms. Riedas has “**intentionally violate[d] or den[ied] a student’s legal rights.**” The right to wear a cross necklace is clearly established. There is no question that students have the right to wear religious jewelry, despite any specious claim of “gang affiliation” by Ms. Riedas. Subsequent to her cross ban, Ms. Riedas has subjected at least one of the students “to **unnecessary embarrassment or disparagement,**” in singling the student out for false allegations of student behavior violations. In her numerous promotions of homosexuality in the classroom, including GLSEN’s “guide” she has indicated an intent to “**intentionally . . . distort subject matter**” which is beyond the scope of classroom instruction. In the cross ban and subsequent harassment, Ms. Riedas has violated the prohibition on harassment or discrimination “**against any student on the basis of . . . religion . . . political beliefs . . . or social and family background.**” The same holds true for any of the activities from GLSEN’s “guide” which she plans to foist upon the students, as well as the final prohibition on “**exploit[ing] a relationship with a student for personal gain or advantage,**” in that she holds a position of power over students, and is using that to push her own politically activist LGBT beliefs upon them.

Ms. Riedas has violated State BOE Rule 6B-1.006 (4), which states that a teacher’s obligation to the public requires that a teacher “(a) Shall take reasonable precautions to **distinguish between personal views and those of any educational institution or organization with which the individual is affiliated.**” Rather than a distinction, Ms. Riedas has actually encouraged other teachers to engage in the same classroom political activism advocated by GLSEN’s “guide.” Ms. Riedas has also “(c) **use[d] institutional privileges for personal gain or advantage**” in promoting her own politically activist LGBT viewpoint to the students, which are a captive audience. Her choice of buttons and classroom décor give the overwhelming impression that her lesbian identity is foremost in her mind at all times, and is

⁸ <http://www.sdhc.k12.fl.us/policymanual/detail/139>

designed to show students in no uncertain terms how she views the world. Christian symbols, however, are banned from her classroom, and students who wear them draw her ire and risk retaliation. Ms. Riedas is clearly unable to leave her personal biases outside the classroom environment, calling into question her fitness to be a neutral sponsor of GSA, and even her employment.

These are serious legal and ethical violations. As a teacher in the public schools, Ms. Riedas is bound to respect all laws applicable to public schools, including the First Amendment, and its protection of student religious expression, as well as parental rights.

The law is clear: students do not shed their constitutional rights at the school house gate. *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969). Where expressive conduct – wearing of religious jewelry - is not attributable to the District, and is neither disruptive, obscene, lewd, sexually explicit, nor does it promote illegal drug use, it may not be prohibited or subjected to discriminatory treatment. See *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260 (1988); *Bethel School Dist. No. 403 v. Fraser*, 478 U.S. 675 (1986); *Morse v. Frederick*, 551 U.S. 393 (2007). The Constitution does not require hostility toward religion, but neutrality. *Abington School District v. Schempp*, 374 U.S. 203 (1963). The United States Supreme Court has made clear that “private religious speech, far from being a First Amendment orphan, is as fully protected under the Free Speech Clause as secular private expression.” *Capitol Square Review and Advisory Bd. v. Pinette*, 515 U.S. 753, 760 (1995). District policies⁹ do not prohibit tiny cross necklaces, as “gang symbols,” or otherwise, as Ms. Riedas well knows. She may not use any prohibition on “gang symbols” to engage in hostility against Christian student religious expression.

The law is also clear that **parents**, not agents of the state, including Ms. Riedas, and certainly not GLSEN, **have the right to direct the upbringing and associations of their children**. The law presumes that **parents** possess what a child lacks in maturity, experience, and capacity for judgment required for making life’s difficult decisions, not activist school employees. “The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children. . . **The child is not the mere creature of the State;**” *Pierce v. Society of Sisters*, 268 U.S. 510 (1925). (Emphasis added). “The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. **This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.**” *Wisconsin v. Yoder*, 406 U.S. 205 (1972). (Emphasis added).

Parents have the fundamental right to determine the jewelry as well as the associations and activities of their minor children. School officials have no business in intentionally interfering with parent-approved religious jewelry, or in promoting their pet political ideologies during instructional time to a captive audience. **The Hillsborough County School District is hereby on notice that any further violations of student rights in this fashion will be viewed by Liberty Counsel as sufficient to support a federal lawsuit for civil rights violations.**

DEMAND

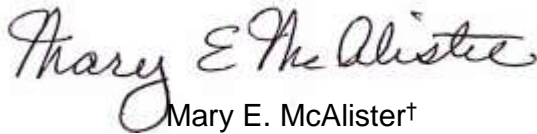
In order to prevent liability for civil rights violations, **please confirm in writing close**

⁹ Policy 5511, Dress and Grooming, <http://www.sdhc.k12.fl.us/policymanual/detail/246>

of business April 20, 2017, that the District will 1) prohibit Ms. Riedas from interfering with student religious expression, by banning cross necklaces, or otherwise appropriate clothing or jewelry containing religious references or symbols; 2) prohibit Ms. Riedas from promoting LGBT political activism during instructional time on April 21, or at any other time, using any of the attached ideas in GLSEN's "guide;" 3) require Ms. Riedas to remove partisan political LGBT materials from her classroom, and remove all unrequested LGBT stickers from each student's notebook; and 4) replace her as sponsor of GSA, and appoint a teacher of the District's choice who can be trusted to be present at non-school-sponsored student clubs like GSA in a supervisory, not activist, capacity.

If we do not receive the requested response, Liberty Counsel will take further action to prevent irreparable harm to the rights of our clients. If a federal lawsuit for civil rights violations becomes necessary to vindicate the parental and student rights, it may include any appropriate parties in their individual, as well as official, capacities.

Sincerely,



Mary E. McAlister†



Richard L. Mast, Jr. ††

Attachments
CC

Via Email

Lorajane Reidas

larajane.reidas@sdhc.k12.fl.us

Board of Education Members:

Cindy Stuart, Chair (via Secretary)

tiffany.williams@sdhc.k12.fl.us

Sally Harris, Vice Chair (via Secretary)

Yamil.Diaz@sdhc.k12.fl.us

Susan L. Valdes (via Secretary)

Yamil.Diaz@sdhc.k12.fl.us

Melisa Snively (via Secretary)

Michelle.Davenport@sdhc.k12.fl.us

Tamara Shamburger (via Secretary)

Michelle.Davenport@sdhc.k12.fl.us

April Griffin (via Secretary)

tiffany.williams@sdhc.k12.fl.us

Lynn Grey (via Secretary)

Yamil.Diaz@sdhc.k12.fl.us

† Licensed in California, Florida and Virginia

† † Licensed in Virginia