

ACLJ Strikes Blow for Christian Student's First Amendment Rights

"In our system, state-operated schools may not be enclaves of totalitarianism. School officials do not possess absolute authority over their students. ... [S]tudents may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved. ... [S]chool officials cannot suppress 'expressions of feelings with which they do not wish to contend.'" *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 511 (1969) [quoting *Burnside v. Byars*, 363 744, 749 (5th Cir. 1966)].

In other words, students have First Amendment rights that public school officials must respect. Or, as the *Tinker* Court put it, "students ... [do not] shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."

In the legal community, we call this settled law. Yet while these pronouncements by the United States Supreme Court concerning student speech rights on campus are nearly 50 years old, we continue to hear from parents about public school officials who apparently remain unaware of these foundational First Amendment principles—as well as their legal obligations in light of them. We were recently contacted by one such parent in California.

His son's elementary school teacher required students to engage in daily reading exercises, after which they were then expected to spend several minutes writing in their journals about what they had read. The students were permitted to choose their own reading material.

When this particular student turned in his journal with

writings about his readings of Bible stories, the teacher communicated that she did not feel qualified to grade his writings since she was not a pastor—even though the “grading” in question was nothing more than checking to see whether the student had actually done the required reading and written about it in his journal. She instructed that future readings should be from books found either in her classroom or the school library.

The student, adhering to this instruction, located a book in the school library containing Christian stories and completed his next reading and writing assignment based on this book. Again, however, the teacher bristled at the journal entry, telling the student she had already warned him about using the Bible for his readings.

When the student explained that he had followed her instruction and used a book he found in the school library, the teacher again changed the game. This time, she demanded that he use a different, non-religious book for his next journal entry.

If he again chose to write about Christian-themed stories, she told him, he would be penalized by missing recess to stay inside and complete a different reading exercise and journal entry.

Unsure how to properly resolve the situation, the father reached out to us for help. We provided him with information explaining the free speech rights of students on campus, including the right to be free from viewpoint-based discrimination by school officials. Armed with this information, the parent met with the school’s administration to discuss the discriminatory nature of his son’s treatment by his teacher.

We are pleased to report that the administration, after receiving a copy of the information we provided, agreed with

the parents' concerns and took the necessary steps to ensure such religious discrimination would not continue.

This is an important victory, as well as a reminder of why we must continue to be vigilant to ensure the freedoms we enjoy today continue for our children tomorrow.

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