

Are Teachers Protected Under the First Amendment?

Viki Knox is on administrative leave after sharing her beliefs about homosexuality on her personal Facebook page.

Although the New Jersey schoolteacher is getting plenty of opposition from civil rights groups, Knox is also finding support from the likes of the American Civil Liberties Union. Knox is also winning legal support.

The Alliance Defense Fund sent a letter to the Township of Union Public School District to make sure officials understand that retaliation against a teacher who expressed her Christian views about homosexual behavior on her personal Facebook page would violate the First Amendment and federal law.

“Teachers should not be punished for exercising their constitutionally protected right to free speech in their own personal communications,” says ADF senior counsel Byron Babione. “Viki communicated her religious views on a matter of public importance, and contrary to what activist groups might say, she did so in a respectful, appropriate, and constitutionally protected manner. To punish her for that would be completely illegal.”

The ADF letter explains that any retaliation on the part of the district against Knox would violate her constitutionally protected rights and subject the district to financial and legal liability under federal law. That violation could cost taxpayers tens of thousands of dollars in damages, attorneys’ fees, and litigation costs.

“While noting the Bible’s teaching that homosexual conduct is sinful, Ms. Knox discussed her ‘friends and loved ones who are practicing/living as homosexuals’ and emphasized how she ‘love[s]’ and ‘care[s] about them,’” the ADF letter explains.

“She also stressed that, of course, she does not mistreat persons who engage in homosexual behavior, and in fact, she communicates ‘love’ to them. Ultimately, then, Ms. Knox did what many other teachers do—and, indeed, what the Constitution guarantees them the right to do—and she respectfully communicated through a personal channel of expression her views on a public matter.”

The letter cites relevant court decisions which state that public employees have “a constitutional right to speak on matters of public concern without fear of retaliation” and that “public employers cannot silence” or otherwise punish “their employees simply because they disapprove of the content of [their] speech.”

The ADF concluded its letter by reinforcing the point that the First Amendment fully protects Knox’s expression and the School District cannot her for it. In fact, the ADF argued, the Constitution flatly prohibits the district from punishing Knox for her Facebook comments.

If a school district can punish a teacher for what she writes on her personal Facebook page, what does that mean for the rest of us? Is the First Amendment still alive and well?