

School Erases First-Amendment Rights, Punishes Second Grader for Sharing Her Faith

Can you imagine your child coming home from school crying because they were bullied by school administrators for sharing the gospel? A public school student's religious liberty is something the ACLJ has fought to protect from the very beginning when Chief Counsel Jay Sekulow argued and won *Board of Education v. Mergens* at the Supreme Court in 1990. We are certainly not going to let this school in Des Moines, Washington, get away with this.

We were astonished when we were first contacted by a second-grade student's parents who said their little girl had been sent to the principal's office at North Hill Elementary School no less than 10 times since Jan. 1 for witnessing to classmates on the playground.

But it only gets worse. Not only were they scolding her for talking about Jesus to her classmates outside of instruction time, but they were stopping her at the entrance to the school every morning to inspect her backpack and remove any Christian tracts. Her mother witnessed this exchange one morning when dropping her daughter off and immediately confronted the principal. The principal told her that her child was not allowed to pass out tracts or crosses to students because it was upsetting parents, and the school wanted her to confirm that there were no tracts in her daughter's backpack every morning before dropping her off from now on. Christian tracts were being treated as contraband, as if speaking about Jesus were an illicit drug.

Once the parents contacted the ACLJ, we provided a letter explaining the First Amendment protections and their

application to students in public school, fully expecting the principal would immediately apologize for violating this child's rights. Instead, the principal doubled down and stated that it is school policy that students cannot distribute materials that "Cause a disruption or interfere with school activities."

This, in fact, is not the case. The Highline School District has a Freedom of Expression policy that only prohibits the distribution of written materials that cause a disruption of school activities "*in an assembly or classroom setting*"—not outside on the playground.

Furthermore, it is well-settled Supreme Court precedent that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate" (*Tinker v. Des Moines Indep. Community Sch. Dist.*, 1969). Students are free to express their religious views while at school, which includes sharing Bibles, Christian tracts and crosses.

According to the court in *Tinker*, concern that a substantial disruption *could* occur as a result of permitting students to exercise their First Amendment rights is an insufficient reason to restrict student speech:

But, in our system, undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression. Any departure from absolute regimentation may cause trouble. Any variation from the majority's opinion may inspire fear. Any word spoken, in class, in the lunchroom, or on the campus, that deviates from the views of another person may start an argument or cause a disturbance. But our Constitution says we must take this risk

It is abundantly clear that school officials must be able to affirmatively establish that they have a substantial reason to interfere with a student's First Amendment rights and stating "because it is upsetting parents" as the reason certainly does

not meet this constitutional threshold.

When these parents asked why their daughter had been sent to the principal's office over 10 times while on the playground, the principal stated that their daughter asking her classmates if they wanted to talk about Jesus upset parents. The principal did, however, agree that their child could continue to talk about Jesus as long as the other students consent to the conversation.

I don't know about you, but years ago when I was a second grader, my fellow classmates certainly didn't ask my permission before they said any mean thing under the sun to me, because it certainly is not a requirement for students to ask permission when talking with other students. But more importantly, this standard certainly discriminates against this second-grade student if she is the only one required to ask permission to discuss anything at all, much less her faith. She was trying to save her classmates, a noble task that shows love as opposed to the common grade-school bullying. Nonetheless, because of her religious beliefs, the faculty has decided to single her out for disparate treatment.

Enough is enough! The actions of the school officials were particularly egregious in this case because they not only violated this student's rights but also publicly humiliated her. They will not get away with this. The ACLJ will ensure that this little girl's religious liberties are respected once and for all. We recently sent a demand letter to the school; and if the school does not take immediate corrective action, we are ready to file in court if necessary.

The ACLJ will always protect our schoolchildren regardless of the political climate of the public school system. {eo}

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