



Office of the Clermont County Prosecutor  
c/o Ms. Mary Lynne Birck  
123 North Third Street  
Batavia, Ohio 45103

February 3, 2009

Sent via fax to (513) 732-7592 and U.S. mail

AMERICAN CIVIL  
LIBERTIES UNION  
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Dear Ms. Birck:

It has come to our attention that you are investigating the legality of letters regarding the upcoming Williamsburg school levy written by high school students as a part of a persuasive writing exercise. We understand that, as an Assistant County Prosecutor, one of your responsibilities is to investigate violations of Ohio statutes. We also understand that on the bare facts as reported in the newspapers, some basis for your preliminary investigation might exist. Our concern, however, is with the First Amendment rights both of the students and of their teacher.

Certainly, students have the Constitutional right to communicate with the public regarding a matter of importance, such as whether their schools will have the funds needed to provide them with a quality education. Moreover, in this context, the students are commenting upon a matter going to the voters. They are thus involved in political speech, the highest form of speech protected by the First Amendment.

The teacher is protected by the First Amendment as well. The courts have held that academic freedom is, itself, protected by the First Amendment. And despite the controls on curricular choices exercised by the school district, this constitutional protection is not limited to university faculty.

At this point we make no judgment as to the specific facts. However, the fact that the Clermont County Prosecutor's office is even undertaking this investigation creates the risk that free speech will be chilled, not only in this situation but in future analogous situations as well. We certainly, for example, would not want the intervention of the Prosecutor's office if a group of students decided to write letters on an important public issue during a study hall where the study hall supervisor is charged with the



responsibility of monitoring the students' activities. We therefore implore you to conduct whatever investigation you may undertake with the degree of sensitivity to the First Amendment demands.

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Sincerely,

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