



Mr. Richard Buchenic, Superintendent of Schools  
c/o The Board of Education of Hubbard, OH  
150 Hall Ave. Suite B  
Hubbard, OH 44425-2099  
Fax: (330) 534-0522

November 17, 2009 – sent via facsimile and U.S. Mail

Re: [REDACTED]  
(Violation of Student's Right Not to Engage in Pledge of Allegiance)

Dear Mr. Buchenic:

We have been contacted by a Hubbard High School student, [REDACTED] who has been repeatedly written up and sent to the office for exercising her right to refuse to stand for the Pledge of Allegiance. During the months of October and November, 2009, [REDACTED] a student at Hubbard High School, refused to stand for the Pledge of Allegiance, during the recitation of the same in the first period class overseen by Lisa Shattuck. Ms. Shattuck regularly instructs [REDACTED] to stand and recite the pledge. [REDACTED] regularly refuses. Upon refusal, Ms. Shattuck directs [REDACTED] to see the assistant principal, Brandi Gough. Ms. Gough warned [REDACTED] that that if this continues she would be subject to "some discipline." (What that discipline would be was left vague, but the warning was certainly intimidating.) [REDACTED] in the exercise of her First and Fourteenth Amendment rights, appropriately refused to participate in the pledge observance.

This action on the part of the supervisees of the School Board violates both U.S. law and statutory Ohio law. The Ohio Revised Code, Sec. 3313.602(A) contains the following proscription—

The board of education of each city, local, exempted village, and joint vocational school district shall adopt a policy specifying whether or not oral recitation of the pledge of allegiance to the flag shall be a part of the school's program and, if so, establishing a time and manner for the recitation. *The policy adopted under this division shall not require any student to participate in the recitation and shall prohibit the intimidation of any student by other students or staff aimed at coercing participation.*

(Emphasis added.)

In addition, the acts and omissions of your supervisees constitute a violation of [REDACTED] rights under the First Amendment and the Fourteenth Amendment of the U.S. Constitution.

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We propose the following resolution:

- Have the School Board adopt a written policy that incorporates the mandate under Ohio Revised Code, Sec. 3313.602(A), forbidding “the intimidation of any student by other students or staff aimed at coercing participation” in reciting the Pledge;
- Advise the teachers and administrators at Hubbard High School that students who do not wish to participate in the Pledge of Allegiance will not be required to do so, and will not be required to stand during the Pledge observance.
- Issue a written apology to [REDACTED]

If we do not hear from you within 14 days of the date of this letter, we will assume that our offer of resolution is rejected, and we will consider what action, including legal action, seems appropriate. If litigation were to become necessary, the School Board, as well as the individuals responsible, would be liable for actual damages, as well as our attorney's fees, if we were successful.

Sincerely,

[REDACTED]  
Carrie L. Davis  
Staff Counsel  
[REDACTED]

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