



November 14, 2016

VIA FAX AND EMAIL

Dr. Gregory Hutchings, Jr.
Superintendent, Shaker Heights City School District
E: hutchings_g@shaker.org

William Clawson
Director, Shaker Heights School Board
E: clawson_w@shaker.org

Re: your students' First Amendment expression

To the Board and administration of the Shaker Heights City School District:

The ACLU of Ohio is gravely concerned that Shaker Heights High School student Myyah Husamadeen is about to be punished for exercising her First Amendment rights. Last week, Myyah and a friend used social media to express their political views. For this "offense," the School District punished Myyah's friend with suspension, and we understand that it plans to punish Myyah this week.

The students' messages, which were tweeted from outside of school, not during school hours or using school devices, were critical of racial commentary that had been posted online by another student. While it is important to respect the privacy of a person's communication, there is no reasonable expectation of privacy in a broadly posted message. Moreover, a school social media usage policy must give way to the higher dictate of the Constitution, especially where the expression concerns important matters of public interest.

To discipline students for expressing their political views violates their First Amendment right to freedom of expression. It also teaches the students of the Shaker Heights City School District a very distorted civics lesson: that to use their own time to express themselves on issues of important social concern risks punishment when they return to school. The ACLU of Ohio urges the District to rescind Myyah's suspension, and to make clear to Shaker students that the United States Constitution protects their right to express their views, in this instance and in the future.

AMERICAN CIVIL
LIBERTIES UNION
OF OHIO FOUNDATION
4506 CHESTER AVENUE
CLEVELAND, OH 44103-3621
T/216.472.2220
F/216.472.2210
WWW.ACLUOHIO.ORG
contact@acluohio.org

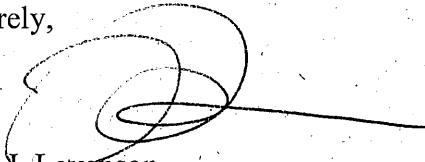


The U.S. Supreme Court has reaffirmed time and again the principle that public school students “do not shed their constitutional rights to freedom of speech and expression at the schoolhouse gate.” *Tinker v. Des Moines Independent Community School Dist.*, 393 U.S. 503, 506 (1969). The First Amendment’s protection is at its most potent when applied to political viewpoint speech – like this – when made in a public forum – like the internet. See *McCullen v. Coakley*, 134 S.Ct. 2518, 2529 (2014); *Reno v. American Civil Liberties Union*, 521 U.S. 844, 870 (1997). When students express political views using social media, completely outside of the school environment, schools have no authority to regulate or punish their expression. See *Mahaffey ex rel. Mahaffey v. Aldrich*, 236 F.Supp.2d 779, 785-86 (E.D. Mich. 2002); *Thomas v. Board of Education, Granville Central School Distr.*, 607 F.2d 1043, 1050-52 (2nd Cir.1979).

Suspending Myyah will not only violate her constitutional rights. It will send a message to all students that they should not use the platforms available to them to create a dialogue around race in a social context.

We urge you to cancel your planned disciplinary action, which amounts to retaliation against Myyah for exercising her First Amendment rights. We suggest that it would instead be more appropriate to use the surrounding events as an opportunity to engage your students in a dialogue around race issues at Shaker Heights High School and nationally.

Sincerely,



Freda J. Levenson
Legal Director
ACLU of Ohio

CC: Todd Davidson; Alex Liston Dykema; Jeffrey Isaacs; Annette Tucker Sutherland