



April 17, 2018

VIA CERTIFIED U.S. MAIL AND EMAIL

Mr. John Scheu, Superintendent
Sidney City Schools
750 S. Fourth Avenue
Sidney, OH 45365
[REDACTED]

RE: March 14, 2018 religious assembly and coercion of student speech

Dear Superintendent Scheu:

The ACLU of Ohio has received multiple complaints detailing your unconstitutional treatment of Sydney High School students at the March 14, 2018 “#Enough” National Walkout Day protests. We write to express our grave concern over this illegal behavior and advise you that we are monitoring the District’s compliance with the constitution in connection with future student First Amendment activity at school.

As you know, on March 14 thousands of students nationwide walked out of their classrooms, held moments of silence, or participated in other peaceful expression to protest gun violence at schools. In some of these instances, students engaged in protected speech, and in some instances they engaged in civil disobedience, subjecting them to reasonable consequences. Your District did not give students an opportunity for either. Instead, you posted public school teachers—whom you trained to be armed with guns during school hours—to block every exit to the High School building and prevent students’ egress. Preempting the students from expressing themselves in any way, you marched them to an auditorium where they were made to join a sectarian prayer service on the topic of gun violence. At this assembly, you invited the county sheriff and a Methodist minister to instruct the students that school shootings result from spiritual deficit and that the solution to this issue is not political dissent, but Christian worship.

By engaging in this outrageous intimidation and coercion, your District offended both the Speech and Religion clauses of the United States Constitution’s First Amendment.

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

First, the District violated its students' Free Speech rights when it censored their planned demonstration due to the content of their message. When a public entity suppresses expression due to its content, it violates the constitution; "ideologically-driven attempts to suppress a particular point of view are presumptively unconstitutional."¹ These students planned their protest as part of a national solidarity action against gun violence.² Specifically, they protested government "inaction to do more than tweet thoughts and prayers in response to the gun violence."³ Just before the students began to deliver this message, you marshaled them into a captive space where you instructed them that their planned message was wrong, that gun violence is a spiritual issue, and that prayer is the appropriate solution. Your preemptively silencing these students, clearly based on the content of their message, was unconstitutional.

Second, the District violated its students' Religious rights when it supplanted their planned demonstration with its own religious ritual. The U.S. Supreme Court has unwaveringly maintained that a child's religious education is the province of her family, not of the public schools,⁴ and that in a public school, even "the slightest breach" of this fundamental right is illegal.⁵ This rule protects students' "freedom of conscience from subtle coercive pressure in the...public schools."⁶ Your religious coercion here was anything but subtle: the students were actually confined to the building and made to pray. Moreover, when you forced non-Methodist students to participate in a religious practice that was not their own, you sent students who are not of that faith the message "that they are outsiders, not full members of the...community, and an accompanying message to adherents that they are insiders, favored members of the...community."⁷

Third, the District exacerbated both of these First Amendment violations by employing weapons and law enforcement to enforce its coercion of students. A recent New York Times article profiled your District's practice of arming schoolteachers with semiautomatic weapons in the classroom—this, in addition to having installed video surveillance systems, armed guards, and other militarized devices in your schools.⁸ Creating a militarized or penal environment in schools puts students in a space of fear and anxiety and decreases their chances of succeeding in school, without making schools safer.⁹ These negative outcomes are heightened for children of color, who are disproportionately harmed by school penalty systems.¹⁰ And the disparate impact

¹ *Rosenberger v. Rector and Visitors of University of Virginia*, 515 U.S. 819, 830 (1995).

² #Enough National School Walkout FAQ, <https://www.womensmarch.com/enough-faq/> (accessed April 10, 2018).

³ Enough National School Walkout, https://www.actionnetwork.org/event_campaigns/enough-national-school-walkout, (accessed April 10, 2018).

⁴ *Edwards v. Aguillard*, 482 U.S. 578, 584 (1987).

⁵ *Everson v. Board of Education*, 330 U.S. 1, 18 (1947); *McCullum v. Board of Education*, 333 U.S. 203, 216.

⁶ *Lee v. Weisman*, 505 U.S. 577, 592 (1992) (collecting cases).

⁷ *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O'Connor, J., concurring).

⁸ Erica Green and Mandy Fernandez, *Trump Wants to Arm Teachers. These Schools Already Do*. New York Times, March 1, 2018.

⁹ E.g., Sarah E. Redfield and Jason P. Nance, American Bar Association, School to Prison Pipeline Preliminary Report, 23-24 (February 2016); American Civil Liberties Union, *Bullies in Blue, the Origins and Consequences of School Policing*, 29-30 (April 2017).

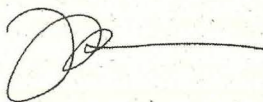
¹⁰ *Id.*

faced by students of color intersects most heavily with the impact of religious imposition upon minority-religion students. Introducing weaponized policing into learning environments is not only bad policy; when used to suppress speech and religion, it is unconstitutional.

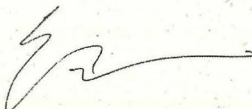
Gun violence, including school shootings, is a deeply distressing issue—particularly, we recognize, to you and your colleagues who devote their life's work to the public education of our nation's youth. But it is the role of educators to teach students to think critically about their values, especially those related to such urgent problems. In contrast, it is not the role of public schools to impose a sectarian belief system in the place of those difficult lessons.

The ACLU of Ohio will monitor future actions by the District in connection with students' First Amendment expression, including, for example, in the upcoming April 20, 2018 National Walkout Day. If you wish to discuss this matter further, feel free to reach us at [REDACTED] or by email at [REDACTED].

Sincerely,



Freda Levenson
Legal Director, ACLU of Ohio



Elizabeth Bonham
Staff Attorney, ACLU of Ohio