

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF TN

DOUG GOLD and CHRISTY GOLD,)
individually, and on behalf of their minor)
children H. G. and J. G., JAMES WALKER)
and JENNIFER WALKER, individually,)
and on behalf of their minor child A. W.,)
LEE MILLER and JANA MILLER,)
individually, and on behalf of their minor)
children L. M. and N. M., EDWARD and)
STACEY JOYCE, individually, and on)
behalf of their minor child T. J., JON)
BOUNDS and MELYNDA BOUNDS,)
individually, and on behalf of their minor)
child R. B.,)

CIVIL ACTION NO. ~~09-0211~~

Plaintiffs,

vs.

WILSON COUNTY SCHOOL BOARD OF)
EDUCATION, JAMES M. DAVIS,)
individually, and in his official capacity as)
Director of Schools for Wilson County,)
STAN MOSS, individually, and in his)
official capacity as Principal of Lakeview)
Elementary School, and BERTIE)
ALLIGOOD, individually, and in her)
official capacity as Assistant Principal of)
Lakcview Elementary School)

Defendants.

VERIFIED COMPLAINT

COME NOW Plaintiffs and aver the following:

INTRODUCTION

1. This is a civil rights action about school officials censoring private religious expression of students and their parents on posters and announcements placed at Lakeview Elementary School ("Lakeview"). In particular, this action challenges Wilson County Board of Education policy no. 1.806 that allows school officials to ban any

material they deem “inappropriate” in a forum otherwise suitable for expression and their determination that phrases with religious words - like “In God We Trust” and “come and pray” - are inappropriate for the forum.

2. In this action, Plaintiffs seek injunctive relief, declaratory relief, and nominal damages, pursuant to 42 U.S.C. §§ 1983 and 1988, against Defendants named herein.

3. This action is premised on the United States Constitution concerning the denial of Plaintiffs’ fundamental guarantees, namely, their right to free speech, guarantee against hostility toward their religion, right to due process, and right to equal protection, by Defendants named herein.

4. Defendants’ actions have deprived and will continue to deprive Plaintiffs of their paramount rights and guarantees provided under the United States Constitution.

5. Each and every act of Defendants alleged herein was committed by Defendants, each and every one of them, under the color of state law and authority.

JURISDICTION AND VENUE

6. This Court has jurisdiction over Plaintiffs’ federal claims under 28 U.S.C. §§ 1331 and 1343, and request for declaratory relief under 28 U.S.C. §§ 2201 and 2202.

7. Venue is proper in the Middle District of Tennessee under 28 U.S.C. § 1391(b) because the claims arise in this district and Defendants reside in this district.

PLAINTIFFS

8. Doug Gold (“Mr. Gold”), Christy Gold (“Mrs. Gold”), H. G. and J. G. all live in the same household and are all residents of Wilson County, Tennessee (referred to collectively as “Golds”). Mr. Gold and Mrs. Gold are the parents and legal guardians of

H. G. and J. G. H. G., a minor, is ten (10) years old and is currently in the fourth grade at Lakeview. She plans to attend the fifth grade at Lakeview for the 2009/2010 school year. J. G., also a minor, is currently six (6) years old and he is currently in the first grade at Lakeview. He intends to attend the second grade at Lakeview for the upcoming school year of 2009/2010.

9. James Walker (“Mr. Walker”) and Jennifer Walker (“Mrs. Walker”) are and were at all times pertinent the parents and legal guardians of their daughter A. W. and live in the same household with her (referred to collectively as “Walkers”). They are all residents of Wilson County, Tennessee. A. W., a minor, is currently ten (10) years old and in the fifth grade at Lakeview.

10. Lee Miller (“Mr. Miller”) and Jana Miller (“Mrs. Miller”) are and were at all times relevant herein the parents and legal guardians of L. M. and N. M. (referred to collectively as “Millers”). They all live in the same household and are all residents of Wilson County, Tennessee. L. M. is a minor, currently nine (9) years old and currently in the third grade at Lakeview. He intends to attend the fourth grade at Lakeview for the next school year of 2009/2010. N. M., also a minor, is currently six (6) years old and in kindergarten at Lakeview. He intends to attend the first grade at Lakeview for the upcoming school year of 2009/2010.

11. Edward Joyce (“Mr. Joyce”) and Stacey Joyce (“Mrs. Joyce”) are and were at all times relevant herein the parents and legal guardians of T. J. (referred to collectively as “Joyces”). They live in the same household with T, J. and are residents of Wilson County, Tennessee. T. J., a minor, is currently eight (8) years old and is currently in the third grade at Lakeview. He intends to attend the fourth grade at Lakeview for the upcoming school year of 2009/2010.

12. Jon Bounds (“Mr. Bounds”) and Melynda Bounds (“Mrs. Bounds”) are and were at all times relevant herein the parents and legal guardians of R. B. and live in the same household with R. B. (referred to collectively as “Bounds”). They are all residents of Wilson County, Tennessee. R. B., a minor, is currently ten (10) years old and is currently in the fifth grade at Lakeview.

DEFENDANTS

13. Defendant Wilson County School Board of Education (“Board”) is a public entity established, organized, and authorized under and pursuant to the laws of Tennessee, with the authority to sue and be sued in its own name. They act as the governing body for Wilson County Public Schools, and set policy for the school system.

14. Defendant James M. Davis (“Director Davis”) is Director of Schools for Wilson County, being appointed as such by the Board. In his official capacity, Davis is responsible for carrying out the policies and procedures of the Board. This Defendant is sued in his official and individual capacities.

15. Defendant Stan Moss (“Principal Moss”) is and was at all times relevant herein the Principal of Lakeview. In his official capacity, Principal Moss, among other duties, oversees and implements Wilson County School System policies, as set out by the Board, and as they apply to Lakeview. He is responsible for administering any policies pertaining to expressive activities on school grounds. This Defendant is sued in his official and individual capacities.

16. Defendant Bertie Alligood (“Assistant Principal Alligood”) is and was at all times relevant herein the Assistant Principal of Lakeview. In her official capacity, Assistant Principal Alligood, among other duties, oversees and implements Wilson

County School System policies under the direction of the Principal. This Defendant is sued in her official and individual capacities.

STATEMENT OF FACTS

History of Posters at Lakeview

17. Lakeview is located in Mt. Juliet, Tennessee. It is an elementary school that functions under the jurisdiction, supervision, and control of the Board.

18. Lakeview has historically allowed students, parents, and outside groups to place posters and announcements describing student-related activities or events in various hallways at the school, particularly, in the main lobby area and the hallway leading into the cafeteria.

19. Outside groups that have used hallways at Lakeview for announcements and notices include Girl Scouts, Cubs Scouts, and Big Brothers/Big Sisters.

“See You At The Pole” and “National Day of Prayer” Posters at Lakeview

20. On a yearly basis, students and parents affiliated with Lakeview have placed posters and/or announcements in the hallways of Lakeview informing students of an event called “See You At The Pole” (“SYATP”).

21. SYATP is an annual event that takes place on the fourth Wednesday of September on school campuses across the country, ranging from pre-school to college. The National Network for Youth Ministries coordinates the promotion of SYATP and maintains a year-round website. On this day set aside for SYATP, students gather before school around the school flag pole and pray for their school, teachers, community and families.

22. Students and parents affiliated with Lakeview have also placed posters and/or announcements in the hallways of Lakeview informing students of an event known as “National Day of Prayer” (NDP).

23. NDP is an annual observance held on the first Thursday of May. The call for national prayer harkens back to the formation of our country, and has continued throughout our history, including President Abraham Lincoln’s proclamation in 1863 to set aside a day for “humiliation, fasting, and prayer.” In 1952, a joint resolution of United States Congress declared an annual national day of prayer. For NDP each year, the President of the United States signs a proclamation encouraging all Americans of all faiths and ages to meet in public and pray for our nation. Students typically meet on school property and pray before the school day.

24. An informal group of parents, known as “Praying Parents,” has helped organize SYATP and NDP events at Lakeview. There is no official organization or structure for Praying Parents. There is no official membership for this group. Praying Parents receives no funding or support from the school system. The group is a small and loose collection of parents who have children at Lakeview, and who wish to pray for the school. This group has involved differing levels of participation from the Golds, Walkers, Millers, Joyces, and Bounds.

25. Beginning in the 2005/2006 school year, various students attending Lakeview created posters about SYATP and NDP in anticipation of these two events. Lakeview officials have had no involvement with the posters. Without the benefit of any school funds or supplies, students and their families have made these posters during family time at home, and at their own expense, as a means of announcing and generating interest in these particular events.

26. Posters and notices about SYATP and NDP were placed in the hallways of Lakeview, and subsequently removed, without incident during the 2005/2006, 2006/2007, and 2007/2008 school years.

27. With both SYATP and NDP, parent(s) of participating students collected the posters and placed them in the hallways of Lakeview for several days leading up to the event. Parents also put up other notices about these events in the main lobby area of the school. Due to the nature of these particular events, the posters and notices have invariably referred to God and prayer.

28. Per custom, the posters and notices have been placed in the same hallways of Lakeview used for announcements and notices posted by students, parents, and outside groups for other events.

29. The Golds have been involved with SYATP and NDP events at Lakeview ever since their oldest child, H. G., started kindergarten in the 2004/2005 school year. In May of 2006, Mrs. Gold organized the NDP event at Lakeview.

30. The Walkers have participated in SYATP and NDP events at Lakeview since their first son began kindergarten back in 2002. For the six of her seven years as a parent at the school, Mrs. Walker has helped students with the SYATP event, and has helped lead the effort for the NDP event, at Lakeview.

31. The Millers have been involved with SYATP and NDP activities since the 2004/2005 school year, when their first child L. M. began attending Lakeview. For the past two years, Mrs. Miller has helped hang the posters in connection with both of these events.

32. The Joyces have sporadically participated in SYATP and NDP events since the 2001/2002 school year when the oldest daughter began school at Lakeview.

33. The Bounds have been involved with SYATP and NDP activities since the 2001/2002 school year when their first daughter began attending Lakeview.

Board Policy Regulating Posters

34. As of June 3, 2004, the Board had in place a written policy, no. 1.806, concerning materials posted and distributed in schools in their district, including Lakeview. The policy provides in pertinent part as follows:

No part of the school system, including the facilities, the name, the staff, and the students, shall be used for advertising or promoting the interests of any commercial, political, or other non-school agency or organization except that:

* * *

4. The principal shall screen all materials prior to distribution to ensure their appropriateness. The principal may prohibit materials that:

- Would be likely to cause substantial disruption of the operation of school;
- Violate the rights of others;
- Are obscene, lewd, or sexually explicit; or
- Would reasonably cause students to believe they are sponsored or endorsed by the school.

35. Pursuant to Board policy no. 1.806, the principal of Lakeview can screen and prohibit materials he deems inappropriate. Up and until the 2008/2009 school year, neither the principal, nor director of schools, nor the Board, nor anyone else affiliated with Lakeview or the Wilson County School System, ever indicated that there was anything inappropriate about the posters or notices regarding SYATP and NDP events.

36. Pursuant to Board policy no. 6.316, students in the Wilson County School System are subject to expulsion or suspension for the willful and persistent violation of school rules.

ACLU Lawsuit Regarding SYATP, NDP, and Posters about these Events

37. In 2006, American Civil Liberties Union, on behalf of an unidentified Doe family (referred to collectively as “ACLU”), brought legal action against Wilson County School System and Lakeview school officials, claiming that actions and policies at Lakeview violated constitutional rights, and sought a variety of changes at the school.

38. Among other things, ACLU sought to bar SYATP and NDP events at Lakeview, as well as the posting of posters, notices, and other materials concerning these two events.

39. Mr. Gold, Mrs. Gold, Mr. Walker and Mrs. Walker intervened in the ACLU case as Intervenor-Defendants because the ACLU intended to eliminate their and their children’s expressive activities at Lakeview.

40. The bench trial for the ACLU case was held on December 12 and 13, 2007, and an Order and Judgment by the District Court followed on May 29, 2008. The Court found in favor in part for ACLU and in favor in part for School Defendants and Intervenor-Defendants.

41. The Court held that Lakeview administrators and some teachers improperly advanced religion at Lakeview in violation of the First Amendment, but specifically declined to ban SYATP, NDP, or the promotional posters and notices for these events. In respect to these events, posters, and notices, the Court ordered specifically:

(3) The individual Defendants and their successors and all parties’ officers, agents, servants, employees, and attorneys acting in concert or participation with them are hereby permanently enjoined, restrained, and directed as follows:

* * *

(g) Lakeview School may permit the See You At The Pole™ event and the National Day of Prayer event to take place on school property during non-

instructional hours if the Wilson County Board of Education approves of such activities in advance in accordance with applicable written Board policy; further, no school system employee may organize or promote such events or attend or participate in such events except for the limited purpose of supervising students and/or public school property; further, any flyers, signs, posters, notices or announcements promoting such events must include a disclaimer that the Wilson County School System and the administration of the Lakeview School do not endorse or sponsor the events; further, "I Prayed" stickers may not be worn by Lakeview School administrators, teachers and staff during instructional time, but students may do so; and further, any equipment owned by the Wilson County School System may be used at the event if reasonable compensation is paid for its use in accordance with applicable written Board policy.

42. In light of the Court's directive on SYATP and NDP events at Lakeview, Golds and Walkers fully expected to participate in and promote SYATP and NDP at Lakeview as they had in past years. For the 2008/2009 school year, they thought it would continue to be appropriate to put up posters made by students and their families in the customary places of the hallways at Lakeview, and other notices about the events, as long as the posters and notices contained a disclaimer that Wilson County School System and Lakeview did not sponsor or endorse the events. Millers, Joyces, and Bounds were aware of the outcome of the ACLU lawsuit and joined in this expectation.

2008 SYATP Event and Censoring of Posters

43. For the 2008 SYATP event, as had been done in years prior, interested students and families intended to advertise the event through home-made posters to be placed in the hallways of Lakeview.

44. Mrs. Walker volunteered to help students organize and promote the 2008 SYATP. She emailed interested families about making posters for the event, including Golds, Millers, Joyces, and Bounds.

45. In this email, Mrs. Walker asked that the families set out information describing the event and informed them of the theme verse established by the national

SYATP organization, that being, “Speak, for your servant is listening.” 1 Sam. 3:9. She further informed families that they could use cut-outs or other phrases advertising the SYATP event.

46. The Golds received the email about SYATP posters. H. G. made a poster for SYATP, as did her brother J. G.

47. The Millers received the email from Mrs. Walker and anticipated L. M. making a poster sometime prior to the 2008 SYATP event.

48. The Joyces received the email from Mrs. Walker about SYATP event and posters, and decided to participate as they had in previous years. They made one poster on behalf on their entire family.

49. The Bounds received the email from Mrs. Walker about making posters for the SYATP event. R. B. made a poster. Another poster was made on behalf the Bounds family as a whole.

50. A. W., youngest child of the Walkers, made two posters for the SYATP event.

51. Mrs. Gold printed the disclaimers to be placed on all SYATP posters hung in the Lakeview hallways. The disclaimer read: “See You At The Pole is a student initiated and student led event and is not endorsed by Lakeview Elementary or Wilson County Schools.”

52. The 2008 SYATP event was scheduled for September 24, 2008. On the Friday before, September 19, Mrs. Walker and Mrs. Gold met at the school to hang available posters about the SYATP event.

53. Mrs. Walker arrived at Lakeview first on September 19 and was soon informed by a school secretary that SYATP posters would not be allowed at the school in

their present form. Specifically, Mrs. Walker was told: “You can’t hang up those posters. They have the word ‘God’ on them. Mr. Moss said they can’t be hung up like that.”

54. Principal Moss was not at the school at that time, but he placed a telephone call into the office while Mrs. Walker was still there. Principal Moss asked for and spoke with Assistant Principal Alligood and directed her to speak with Mrs. Walker about the SYATP posters.

55. Mrs. Walker was directed to go to Assistant Principal Alligood’s office to discuss the SYATP posters. At that point, Mrs. Gold arrived with the disclaimers for the posters. She accompanied Mrs. Walker and they visited with Assistant Principal Alligood together.

56. Assistant Principal Alligood informed Mrs. Walker and Mrs. Gold that posters containing religious references, like “In God We Trust,” “God Bless America,” and “come and pray,” were precluded by Board policy and prohibited in the hallways as inappropriate. Mrs. Walker reminded Assistant Principal Alligood that each SYATP poster would contain a disclaimer stating that neither Lakeview nor Wilson County School System was sponsoring the event. Assistant Principal Alligood replied that the posters would still be inappropriate.

57. Mrs. Walker and Mrs. Gold further explained their understanding of the recent Court Order, urging that the posters containing religious sayings should be allowed in the school, just like any other poster or notice, and that a prohibition on religious content would violate their constitutional rights. In consideration of this concern, Assistant Principal Alligood agreed to contact Director Davis for further input.

58. After reaching Director Davis by telephone, Assistant Principal Alligood passed on Mrs. Gold's and Mrs. Walker's comments and concerns, including their understanding that the posters should be allowed under the Court Order. But Director Davis was not persuaded and confirmed the interpretation of Board policy banning all religious references on posters.

59. Following this conversation with Director Davis, Assistant Principal Alligood reiterated to Mrs. Walker and Mrs. Gold that the posters, with phrases like "In God We Trust" and "come and pray," did not comply with Board policy and would not be permitted at Lakeview. She confirmed that religious references of students would be inappropriate for presentation in the hallways.

60. Mrs. Walker asked what they could do to alleviate the concern. Assistant Principal Alligood noted that there was not enough time for families to remake posters. She passed along Director Davis' directive that they cover up the religious phrases on the posters or forego placing them in the hallways altogether. And, she offered to provide paper for this purpose.

61. Shortly thereafter, Mrs. Gold and Mrs. Walker were supplied with green paper for covering select phrases. Per instruction, they cut up the green paper and covered up all of the religious phrases found on the posters. Mrs. Walker voiced her concern about the propriety of the censorship, but Assistant Principal Alligood advised that she was just following orders.

62. While Mrs. Walker and Mrs. Gold were conferring with Assistant Principal Alligood about the posters, Mrs. Miller was also at Lakeview, serving as a volunteer for her son Noah's classroom. After helping in that classroom, Mrs. Miller caught up with Mrs. Walker and Mrs. Gold in Assistant Principal Alligood's office to

help hang up SYATP posters. Upon arrival, Mrs. Miller learned that the Board would not permit posters with religious references.

63. Mrs. Walker and Mrs. Gold collected a total of nine (9) SYATP posters for the 2008 event.

64. Following the instruction of Director Davis, and in the presence of Assistant Principal Alligood, Mrs. Walker and Mrs. Gold began to cover up religious phrases and words on the SYATP posters in the conference room that is connected to Assistant Principal Alligood's office.

65. The Golds' posters were altered. On the poster made by H. G., the phrase "In God We Trust" was obscured by green paper. Likewise, the poster made by J. G. with the phrase "In God We 'Trust'" was buried behind green paper.

66. The Walkers' posters were altered. On one of A. W.'s posters, the "and pray" portion of "come and pray" was covered, leaving just the word "come." On her other poster, the phrase of "In God We Trust" was covered up by green paper.

67. The Joyce's family poster was altered by green paper with the purging of both the phrase "In God We Trust here in America" and the theme bible verse for SYATP.

68. The posters made by the Bounds were altered. With the poster made by R. B., the SYATP theme verse - "Speak, for your servant is listening" 1 Sam 3:9 - was covered up. This same bible verse was concealed on the Bounds family poster.

69. After green paper was superimposed on each of these posters to cover up the religious sayings describing the event, Mrs. Gold, Mrs. Walker, and Mrs. Miller hung the edited posters in the hallways of Lakeview.

Impact of Censorship on Plaintiffs

70. The Golds are a family of Christians. Mrs. Gold was appalled by the alterations to her children's SYATP posters and the affront to their beliefs. She called Mr. Gold and told him about the forced concealment of the phrase "In God We Trust." Mr. Gold was appalled as well. When J.G. arrived home from school that Friday, he proclaimed: "Mama, they messed up my poster!" His sister, H. G., also uttered her objection to the change. The Golds firmly believe school officials evinced hostility toward the concept of God in general and their faith specifically.

71. The Walkers are Christians. Mrs. Walker was insulted and visibly upset over the barring of the very mention of God or prayer or bible verses on SYATP posters. She was upset about how it affected her own child as well as other children at Lakeview. She called and told her husband, Mr. Walker, about the policy and he shared in her frustration. Upon finding out about it, A. W. was upset too. In light of the Court Order, the Walkers could not understand how the Board could take a position so hostile toward the private religious expression of students and their families.

72. Later that day, on September 19, Mrs. Miller advised her family of what she learned about the posters and the ban on religious references. L. M. had considered making a poster and submitting it late, but he was deterred by the ban on religious references. The Millers are professing Christians and viewed the effort as an attempt to belittle their religion. They also believed the restriction would eviscerate any meaningful description of the SYATP event.

73. Mrs. Joyce was helping at a book fair in the library at Lakeview that Friday morning of September 19. She saw Mrs. Gold and Mrs. Walker at the school and learned that they were forced to use green paper on her family poster to eliminate the theme bible verse and the phrase of "In God We Trust here in America." She was

advised that religious references on the poster must be censored per Board policy. Mrs. Joyce was shocked by the suppression of words like “God.” She was also perplexed as to why “In God We Trust” would be censored since the same phrase is found on American currency. Later, her son T. J. saw the poster and didn’t understand why the school required the concealment. The Joyces are a family of patriotic Christians and were outraged over the censorship of religious phrases. They felt as though the Board was saying that there is something wrong with God and prayer in connection to America.

74. The Bounds did not learn about restriction on the posters until later that Friday after school. The news upset Rachel as well as Mr. Bounds and Mrs. Bounds. They found the school’s censorship of the official theme verse for SYATP to be outrageous. To them, the restriction was not only an affront to their Christian faith, but largely affected what they were trying to say in describing the SYATP event.

Further Confirmation of On-going Censorship

75. After being told about the ban on religious expression on September 19, 2008, Mr. Walker contacted Director Davis for a clarification of Board policy. He sought this clarification on behalf of himself, his family, and other participating families. Being a party in the prior ACLU lawsuit, he knew that this interpretation of Board policy flew in the face of the Court’s Order.

76. Mr. Walker asked Director Davis if the Board was actually requiring phrases such as “In God We Trust,” “God Bless America,” or “Come Pray With Us” to be covered up on SYATP posters. Director Davis confirmed to Mr. Walker any such phraseology on SYATP posters would be inappropriate and would have to be excised or covered up as a matter of Board policy. Mr. Walker conveyed his belief that children had a constitutional right to use their own words on the posters, and this was reflected in the

Court's Order, but Director Davis disagreed with Mr. Walker's assessment, and directed him to forward any other questions to the Board attorney.

77. On that same day, in the early afternoon of September 19, counsel contacted Board attorney about this censorship issue. Upon failing to reach Board attorney by telephone, counsel emailed Board attorney, advising of his receipt of phone calls from concerned parents at Lakeview. Counsel informed of the unconstitutional nature of the policy and asked that the censorship of the posters be rescinded.

78. Later that afternoon, on September 19, Board attorney emailed counsel back and advised that he "respectfully disagree[d]." He elaborated: "The Director is of the opinion that scriptural references would be in violation of the Court's Order and that is the position that the school system has taken."

79. In response to this email, also on September 19, counsel asked for further clarification, reminding Board attorney that the Court Order did not preclude the mention of bible verses or any other religious reference, as long as posters contained the requisite disclaimer. No reply was forthcoming on this day.

80. On the following Monday, September 22, Mr. Gold called Principal Moss to inquire further about the restriction on the SYATP posters. Mr. Gold was concerned about the prospect of another conflict and wanted to see if it could be resolved. But Principal Moss was resolute about the policy barring religious references on posters and advised that he was following the directive of Director Davis and the Board attorney on the matter. Mr. Gold indicated that he did not understand the basis for the constraint and asked Principal Moss whether he had actually read the Court Order about the SYATP and NDP events. Principal Moss said he did not. Mr. Gold advised that the Court Order

specifically allowed for posters containing the censored religious language and requested that the green paper be removed from the posters. Principal Moss refused this request.

81. Mr. Gold contacted counsel and advised of the import of his conversation with Principal Moss. Following up on his last email, counsel wrote Board attorney, via facsimile, setting out his understanding of the policy and reiterating constitutional concerns. He again asked that the policy banning religious references be rescinded. Counsel also asked to be advised of any possible misunderstanding he may have about Board policy.

82. In response, on the following day, September 23, Board attorney sent a facsimile letter to counsel. In this letter, Board attorney declined to either rescind the policy or offer an alternative view of it. Instead, board attorney steadfastly defended the policy barring religious references. He explained that their action in eliminating religious content and symbols was pursuant to the Court's Order and written policies, specifying Board policy no. 1.806 as a basis.

Future Harm to Plaintiffs

83. The Board interprets and enforces Board policy no. 1.806 to ban any religious reference on posters promoting either SYATP or NDP. This policy allows Principal Moss to screen and prohibit any material he deems inappropriate. And, as interpreted and construed by the Board, any religious reference offered by student or parent on a SYATP or NDP poster is automatically considered inappropriate.

84. The Golds' children, H. G. and J. G., want to participate in future SYATP and NDP events at Lakeview. They want to promote and advertise these events with posters, and, in so doing, they want to use this phrase of "In God We Trust" and similar phrases describing these events. But the Golds are chilled and deterred from ever

displaying these types of phrases on a poster at Lakeview because of the policy in place, and their fear of censorship, reprisal, and reprimand.

85. For the upcoming NDP, in May of 2009, A. W. wants to re-use the phrase “In God We Trust” on a NDP poster. With this poster, she further wants to ask fellow students to come, meet and pray at this event that involves prayer. But the Walkers are chilled and deterred from attempting to hang up a NDP poster containing such phraseology in 2009 because of Board policy and for fear of censorship, reprisal, and reprimand.

86. The Millers have every intention of participating in future SYATP and NDP events at Lakeview for many years to come. Their son Noah is presently in kindergarten and as a family they plan to stay at Lakeview. L. M. and N. M. further intend to make posters for future SYATP and NDP events. But the Millers are chilled and deterred from making any posters relating to these events because the Board policy bars mention of “God” and “prayer” and deprives the posters of any meaning. The Millers fear censorship, reprisal, and reprimand.

87. The Joyces love God, country, and school. T. J. still has a few years left at Lakeview, and their desire to mention God and country in the promotion of future SYATP and NDP events has not waned. T. J. and his family want to make posters in the future containing the phrase “In God We Trust here in America.” They would also like to display bible verses associated with these two events. But the Joyces are chilled and deterred from expressing their view in this way due to Board policy, and due to their fear of censorship, reprisal, and reprimand.

88. The Bounds family desires to recite bible verses on posters concerning the SYATP and NDP events. For the upcoming NDP event, R. B. would like to use a bible

verse tied to the activity to communicate them. She would also like to mention God and prayer as means of describing the event. But the Bounds are chilled and deterred from engaging in this expression because of Board policy precluding it and their fear of censorship, reprisal, and reprimand.

89. The policy and practice of Defendants named herein, as described herein, precludes the Golds, the Walkers, the Millers, the Joyces, and the Bounds, all, from exercising their fundamental constitutional rights and causes each of every one of them irreparable injury.

90. There is no adequate remedy at law that can correct the continued deprivations of Plaintiffs' cherished constitutional liberties.

FIRST CAUSE OF ACTION

VIOLATION OF FREEDOM OF SPEECH UNDER THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

91. Plaintiffs hereby incorporate and re-allege all preceding paragraphs contained herein.

92. The Free Speech Clause, as set out in the First Amendment to the United States Constitution, incorporated and made applicable to the states by the Fourteenth Amendment, provides for protection of speech and prohibits censorship of expression.

93. Defendants' policy and practices adversely impact speech by censoring and threatening to censor Plaintiffs' religious references on posters relating to SYATP and NDP.

94. Defendants' policy and practices further act as a prior restraint of Plaintiffs' expression because speech is precluded in advance of the expression.

95. Defendants' policy and practices allow school officials to exercise broad discretion in discriminating against student expression.

96. Defendants' policy and practices are content-based restrictions premised on the religious nature of the expression.

97. No legitimate state interest exists to justify the ban on Plaintiffs' religious expression.

98. Defendants' policy and practices are not narrowly drawn to accomplish any permissible governmental purpose sought to be served by their actions.

99. Defendants' policy and practices act to violate Plaintiffs' fundamental right to engage in free speech.

SECOND CAUSE OF ACTION

VIOLATION OF ESTABLISHMENT OF RELIGION UNDER THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

100. Plaintiffs hereby incorporate and re-allege all preceding paragraphs contained herein.

101. The Establishment Clause, as set out in the First Amendment to the United States Constitution, incorporated and made applicable to the states by the Fourteenth Amendment, prohibits hostility toward religion.

102. Defendants' policy and practices of isolating and banning student and parent religious references on posters are not neutral toward religion, but are invidious and hostile toward religion, specifically demonstrating hostility toward Plaintiffs' faith and belief in God.

103. No legitimate state interest exists to justify the hostility toward Plaintiffs' religion.

104. Defendants' policy and practices, and enforcement thereof, excessively entangles Defendants and government with religion by requiring school officials to investigate and monitor student and parental speech on posters for religious connotation.

105. Defendants' policy and practices act to violate Plaintiffs' fundamental right to avoid governmental hostility toward their religion.

THIRD CAUSE OF ACTION

VIOLATION OF DUE PROCESS UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

106. Plaintiffs hereby incorporate and re-allege all preceding paragraphs contained herein.

107. The Due Process Clause, as set out in the Fourteenth Amendment, and applicable to the states, provides for a fundamental right to due process under the law.

108. Defendants' policy and practices of preventing religious expression by eliminating materials deemed inappropriate fail to adequately advise, notify, or inform students and/or parents that their expressive activity is prohibited behavior at the school.

109. Because Defendants' policy and practices fail to adequately advise, notify, or inform students and/or parents, they are unconstitutionally vague on their face and as applied to Plaintiffs' expressive activities.

110. Defendants' policy and practices of providing school officials broad discretion to halt student expression at school allows these officials undue opportunity to prevent religious expression and activities on the basis of viewpoint.

111. Defendants' articulated policy preventing inappropriate materials is vaguely worded and lacks sufficient objective standards to limit the discretion of school

administrators, which allows the policy to be enforced in an *ad hoc* and discriminatory manner.

112. Defendants' policy and practices act to violate Plaintiffs' fundamental right to due process.

FOURTH CAUSE OF ACTION

VIOLATION OF EQUAL PROTECTION UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

113. Plaintiffs hereby incorporate and re-allege all preceding paragraphs.

114. The Equal Protection Clause, as set out in the Fourteenth Amendment to the United States Constitution, provides for a right to be treated equally under the law.

115. Under their policy and practices, Defendants have allowed other similarly situated students and parents at Lakeview and other schools in the school system to describe upcoming events via posters and notices in the hallways.

116. Defendants have treated Plaintiffs disparately when compared to similarly-situated students and parents in only banning religious remarks on posters in the hallways of Lakeview.

117. Defendants' policy and practices and Defendants' enforcement thereof treat Plaintiffs as second-class citizens of the school community because of their religious beliefs.

118. Defendants have no legitimate reason that would justify their banning of Plaintiffs' religious expression, while permitting similar expression, at Lakeview.

119. Defendants' policy and practices act to violate Plaintiffs' fundamental right to equal protection.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray for relief as follows:

A. That this Court assume jurisdiction over this action;

B. That this Court issue preliminary and permanent injunction enjoining Defendants, their agents, officials, employees, and all persons in active concert or participation with them, or any of them, from banning and/or threatening to ban private religious expression on posters relating to SYATP or NDP to be put in the hallways of Lakeview or otherwise enforcing Board policy no. 1.806 to restrict private religious expression at Lakeview;

C. That this Court render a declaratory judgment declaring that Defendants' policy and practices of banning religious expression on posters relating to SYATP or NDP as unconstitutional on their face, and as applied to Plaintiffs, because they violate the right to freedom of speech, freedom from hostility toward religion, due process, and guarantee of equal protection, as supplied by the First and Fourteenth Amendments to the United States Constitution;

D. Grant to each Plaintiff an award of nominal damages in an amount deemed appropriate by this Court;

E. Adjudge, decree, and declare the rights and other legal relations with the subject matter here in controversy, in order that such declaration shall have the force and effect of final judgment;

F. Grant to Plaintiffs the reasonable costs and expenses of this action, including reasonable attorney's fees and expenses pursuant to 42 U.S.C. § 1988; and

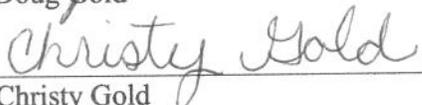
G. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted, this 3rd day of March, 2009.

VERIFICATION OF COMPLAINT

We, DOUG GOLD and CHRISTY GOLD, citizens of the United States and residents of Wilson County, Tennessee, hereby declare that we have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged therein are true and correct.

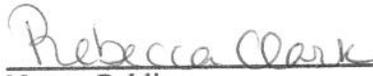


Doug Gold


Christy Gold

STATE OF TENNESSEE
COUNTY OF WILSON

On this 2nd day of March, 2009, before me, a Notary Public of the State and County aforesaid, personally appeared Doug Gold and Christy Gold, to me known (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged that they executed the foregoing instrument for the purpose therein contained.



Notary Public

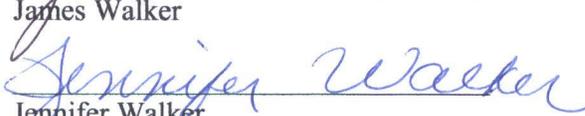
My Commission Expires:
9/3/12



VERIFICATION OF COMPLAINT

We, JAMES WALKER and JENNIFER WALKER, citizens of the United States and residents of Wilson County, Tennessee, hereby declare that we have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged therein are true and correct.



James Walker


Jennifer Walker

STATE OF TENNESSEE
COUNTY OF WILSON

On this 13 day of February, 2009, before me, a Notary Public of the State and County aforesaid, personally appeared James Walker and Jennifer Walker, to me known (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged that they executed the foregoing instrument for the purpose therein contained.



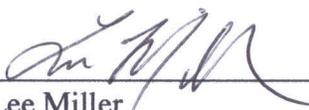
Notary Public

My Commission Expires:
7/25/09

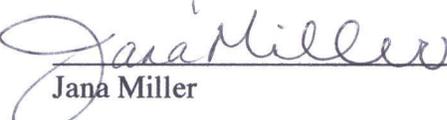


VERIFICATION OF COMPLAINT

We, LEE MILLER and JANA MILLER, citizens of the United States and residents of Wilson County, Tennessee, hereby declare that we have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged therein are true and correct.



Lee Miller



Jana Miller

STATE OF TENNESSEE
COUNTY OF WILSON

On this 19th day of February, 2009, before me, a Notary Public of the State and County aforesaid, personally appeared Lee Miller and Jana Miller, to me known (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged that they executed the foregoing instrument for the purpose therein contained.



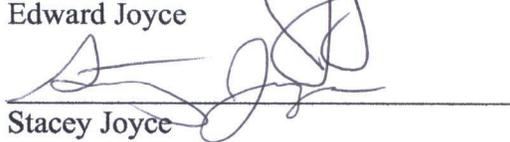
Notary Public

My Commission Expires:
9/31/12



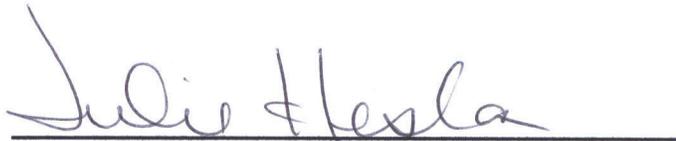
VERIFICATION OF COMPLAINT

We, EDWARD JOYCE and STACEY JOYCE, citizens of the United States and residents of Wilson County, Tennessee, hereby declare that we have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged therein are true and correct.

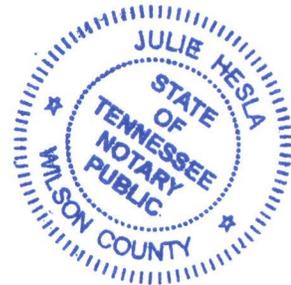

Edward Joyce

Stacey Joyce

STATE OF TENNESSEE
COUNTY OF WILSON

On this 13 day of February, 2009, before me, a Notary Public of the State and County aforesaid, personally appeared Edward Joyce and Stacey Joyce, to me known (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged that they executed the foregoing instrument for the purpose therein contained.


Notary Public

My Commission Expires:
8-12-12



VERIFICATION OF COMPLAINT

We, JON BOUNDS and MELYNDA BOUNDS, citizens of the United States and residents of Wilson County, Tennessee, hereby declare that we have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged therein are true and correct.



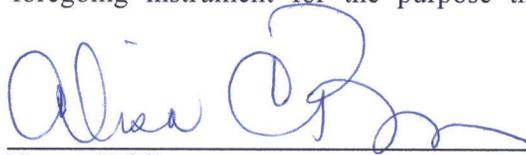
Jon Bounds



Melynda Bounds

STATE OF TENNESSEE
COUNTY OF WILSON

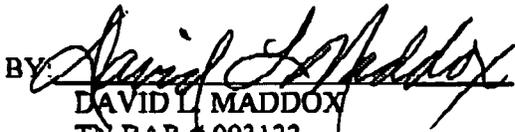
On this 18 day of February, 2009, before me, a Notary Public of the State and County aforesaid, personally appeared Jon Bounds and Melynda Bounds, to me known (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged that they executed the foregoing instrument for the purpose therein contained.



Notary Public



Respectfully submitted.

BY: 

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**pro hac vice* motion filed concurrently

***pro hac vice* motion forthcoming