



August 9, 2013  
*VIA FACSIMILE AND U.S. MAIL*

Dr. Christine Rath, Superintendent  
Concord School District  
38 Liberty Street  
Concord, NH 03301-2934  
Fax: (603) 226-2187

Mr. Gene Connolly, Principal  
Concord High School  
170 Warren Street  
Concord, NH 03301  
Fax: (603) 223-2054

**Re: FFRF Letter Regarding Prayer at Concord High School**

Dear Superintendent Rath and Principal Connolly,

We are writing on behalf of Lizarda Urena, a mother of two students at Concord High School, who has informed us that, as a result of a letter from the Freedom From Religion Foundation (FFRF), the Concord School District will now prohibit her from praying on school property. Contrary to FFRF's misleading assertions, permitting a parent to come on campus over half an hour before the start of school to pray for the school's administrators, teachers, and students is not a violation of the Establishment Clause. The Supreme Court has unequivocally ruled that there is a distinction between the government permitting speech and endorsing speech—a distinction that FFRF ignores in demanding the censorship of Ms. Urena's prayers. We write to eliminate the confusion caused by FFRF's letter, encourage the school district to permit Ms. Urena to continue her before school prayers, and offer our legal assistance free of charge to support and defend Principal Connolly's decision to allow Ms. Urena to pray at school.

The relevant facts are as follows. After a frightening incident where bullets were discovered in a bathroom at Concord High School, Ms. Urena met with Principal Connolly to request permission to visit the campus around 7:00 a.m. each morning—forty-five minutes before the start of school and before most students are even on campus—to pray for the safety of everyone at the school. Pursuant to a neutral visitor policy, Mr. Connolly granted permission for Ms. Urena to pray. Every day thereafter, Ms. Urena would come to campus between 6:55 and 7:00 a.m. to pray for no more than 15 minutes on the steps leading to the auditorium. Ms. Urena's prayers did not interfere with classes or instructional time at the school, and the school did not provide any assistance or support to Ms. Urena in furtherance of her prayers.

It is a fundamental premise that parental involvement in their children's education is good for students. Indeed, the U.S. Supreme Court has repeatedly recognized the fundamental right of parents to direct and control the education of their children. *See Troxel v. Granville*, 530 U.S. 57, 66 (2000) (holding that the Constitution “protects the

fundamental right of parents to make decisions concerning the care, custody, and control of their children”). It is not the case that parents must leave their children at the schoolhouse gate, prohibited from crossing the threshold. Parents have legitimate rights to come to their children’s school for many purposes, whether to drop off a forgotten book, meet with a teacher to discuss behavioral problems, or stop by to offer a prayer of support and protection.

Contrary to the blatantly false claims of FFRF that the District is “placing its ‘stamp of approval’ on the religious messages contained in her prayers” by allowing Ms. Urena to pray before school, the school’s consent to her presence on campus does not amount to endorsement of prayer or a preference for religion in general. As the Supreme Court has said, “there is a crucial difference between *government* speech endorsing religion, which the Establishment Clause forbids, and *private* speech endorsing religion, which the Free Speech and Free Exercise Clauses protect.” *Bd. of Educ. of Westside Cmty. Schools v. Mergens*, 496 U.S. 226, 250 (1990). A school’s accommodation of a parent’s desire to pray for her children does not violate the Constitution. “The proposition that schools do not endorse everything they fail to censor is not complicated.” *Id.*

Notably several courts have upheld the practice of schools permitting parents on campus to pray for the safety and protection of students. *Daugherty v. Vanguard Charter Sch. Acad.*, 116 F. Supp. 2d 897 (W.D. Mich. 2000), involved a Moms’ Prayer Group that met at an elementary school during school hours to pray for the children.

The Moms’ Prayer Group is composed of parents who are concerned about their children’s education and who use prayer, among other things, as a means of contributing to the school’s educational mission. By making space available to the group on school premises ninety minutes per week, Vanguard enables parental involvement.

When a couple of parents sued the school for allowing the Moms’ Prayer Group to pray on school property, the court ruled in favor of the school, holding that “[the school’s] refusal to censor prayer in the parent room does not result in excessive entanglement...and does not, as a matter of law, violate the Establishment Clause.” *Id.* at 909. Likewise, in *Westfield High Sch. L.I.F.E. Club v. City of Westfield*, 249 F. Supp. 2d 98, 117 (D. Mass. 2003), the court upheld a school’s practice of allowing “morning prayer at the flagpole.” This should be unsurprising given the thousands of schools that allow parents and students to pray together before school and on school property at the annual See You at the Pole event.

Accordingly, we urge you to reject FFRF’s baseless assertions that the presence of a parent of two Concord High School students “raises a multitude of concerns.” We would be happy to discuss this matter further with you or your counsel, including the possibility of Alliance Defending Freedom representing your school district free of charge should FFRF bring further action challenging the practice of allowing Ms. Urena to pray before school. But if the District maintains its permanent ban prohibiting Ms. Urena from praying on campus, we will advise our client of her right to seek recourse,

including the possibility of a lawsuit, for the intentional targeting of her religious expression for censorship.

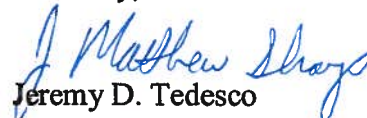
Finally, pursuant to the New Hampshire Right to Know Law § 91-A:4, on behalf of Ms. Urena, please provide me with copies of the following documents:

1. All e-mails, notes, memos, letters, or other written communications to or from the District, Concord High School, or any of its employees regarding the decision to permit Ms. Urena to pray at the High School, complaints regarding her prayers, the decision to prohibit Ms. Urena from praying on school property, or other communications regarding Ms. Urena's prayers on school property.
2. All requests by any parent, community member, community group (including the PTSA and Booster Clubs), or any other non-school employee or non-school group to use or have access to any school facilities or property under control of the District. Please provide such records for the past three (3) years.
3. All visitor logs, sign-in sheets, or other records for tracking visitors to any school facility or property. Please provide such records for the past three (3) years.

Pursuant to the requirements of the Right to Know Law, please provide your responses within five (5) business days. If these documents are in electronic form, you can send them to me via e-mail at [msharp@alliancedefendingfreedom.org](mailto:msharp@alliancedefendingfreedom.org). If you have any questions, please call us at 480-444-0020.

I look forward to your prompt response.

Cordially,

  
Jeremy D. Tedesco  
Senior Legal Counsel

J. Matthew Sharp  
Legal Counsel