



March 6, 2019

Mr. Dan Serrano
Principal
Perry High School
Email: serrano.dan@cusd80.com

Re: Unlawful Suspension of Logan Jones

Dear Mr. Serrano:

We represent Logan Jones regarding the violation of her First Amendment rights. Perry High School (the “School”) violated Logan’s constitutional rights when the School suspended her based on the viewpoint of her First Amendment-protected speech.

By way of introduction, Alliance Defending Freedom’s Center for Academic Freedom is a non-profit legal organization dedicated to ensuring freedom of speech and association for students and faculty so that everyone can freely participate in the marketplace of ideas without fear of government censorship.¹

As part of Spirit Week, the School designated this past Friday, March 1, as “Party in the USA Day.” Students were encouraged to participate in the celebration by wearing patriotic or other

¹ Alliance Defending Freedom has achieved successful results for its clients before the United States Supreme Court, including nine victories before the highest court in the last seven years. *See e.g. Arlene's Flowers, Inc. v. Washington*, 138 S. Ct. 2671, (Mem)-2672 (2018) (granting, vacating and remanding to Washington Supreme Court in light of *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, 138 S. Ct. 1719 (2018); *National Institute of Family and Life Advocates v. Becerra*, 138 S. Ct. 2361 (2018) (striking down state law forcing pro-life pregnancy centers to advertise for abortion industry); *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, 138 S. Ct. 1719 (2018) (upholding ADF’s client’s free-exercise rights); *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012 (2017) (striking down state burdens on ADF’s client’s free-exercise rights); *Zubik v. Burwell*, 136 S. Ct. 1557 (2016) (per curiam) (successful result for religious colleges’ free exercise rights); *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218 (2015) (unanimously upholding ADF’s client’s free-speech rights); *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751 (2014) (striking down federal burdens on ADF’s client’s free-exercise rights); *Town of Greece, N.Y. v. Galloway*, 134 S. Ct. 1811 (2014) (upholding a legislative prayer policy promulgated by a town represented by ADF); *Ariz. Christian Sch. Tuition Org. v. Winn*, 131 S. Ct. 1436 (2011) (upholding a state’s tuition tax credit program defended by a faith-based tuition organization represented by ADF).

USA-themed clothing. Accordingly, Logan wore a red sweatshirt with the message “Make America Great Again” (“MAGA”). Immediately after school was dismissed at 2:14 p.m., Logan and a few of her friends went to one of the outdoor common areas of campus to take pictures together before they went home. This is a common practice for Logan and many other students and it happens virtually every day after school without any interference by school officials. Less than five minutes after they arrived, while Logan and her friend were taking a picture in their MAGA sweatshirts and holding a flag that said “Trump” and “Make America Great Again”, a School Resource Officer approached and ordered Logan and her friends to leave. Logan inquired as to why they were being ordered to leave. The Officer said if you have questions you can take it up with Vice Principal Patterson. Logan and her friends immediately complied with the order and began packing their bags to leave. As Logan was putting the Trump flag in her backpack, the Officer took out his phone and began taking pictures of Logan. The Officer then began following Logan and the other students as they were leaving campus. The Officer ordered Logan to give him her name. Logan inquired why he needed her name because she was complying with his order and leaving campus. The Officer then instructed Logan to speak with Vice Principal Patterson. Logan and her friends again immediately complied with the Officer’s order and went to the administrative offices. Logan phoned her mother on the way to the office and informed her about the situation. Logan’s mother told her that she was coming to the school immediately and not to talk with anyone until she arrived.

When Logan arrived at the office, everyone other than Tori and Logan were ordered to leave. Logan was asked to give her name. Logan politely replied that her mother was on her way to the office and that her mother had instructed her not to answer any questions until she arrived, but that she would answer your questions when her mother arrived. Heidi Jones, Logan’s mother, arrived within approximately 10 minutes from the time that Logan phoned her at 2:23 p.m. When Heidi arrived, you were in your office. Vice Principal Patterson closed your door and began discussing the situation with Heidi and Mr. Greene. After several minutes of this conversation, you came out of your office and said “I am tired of hearing this. Logan Jones you are suspended for 10 days. Get off of school property.” The alleged reason given for Logan’s suspension was that she had failed to identify herself when asked by school officials. However, the evidence is clear that this reason was mere pretext.

Contrary to the stated reason, there is ample evidence to establish that you imposed the suspension against Logan based on a disagreement with the viewpoint of Logan’s message. Multiple videos demonstrate the hostility that School officials displayed towards the messages expressing support for President Trump and his MAGA slogan. And it is our understanding that other students have been punished as well for expressing similar viewpoints. This blatant censorship of Logan’s speech violates the First Amendment. The Supreme Court has clearly held that students retain their free speech rights while in school. Consequently, student clothing expressing a moral or political message may only be proscribed if it materially and substantially interferes with the operation of the school or infringes upon the rights of other students. Neither of these criteria is met in this case. School officials cannot utilize their unbridled discretion to censor certain viewpoints simply because they disagree with the message being conveyed. Furthermore,

students do not have the right to be exposed only to messages with which they agree: our constitutional liberties are not subject to a heckler's veto.

"It is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys."² Nor may the government engage in viewpoint discrimination, which is "an egregious form of content discrimination."³ Here, the School punished Logan for wearing a shirt and holding a flag after school hours that expressed support for the current President of the United States. This is blatant viewpoint discrimination.

DEMAND

In light of these clear constitutional violations, we demand that you (1) immediately rescind Logan's suspension and allow her to return to school tomorrow, March 7; and (2) remove any mention of the punishment from Logan's records and allow her to make up any assignments that she missed during the last three days that she was suspended.

If I have not received your agreement to these terms by 7:00 p.m. today, we will immediately begin the process of seeking judicial review of your unconstitutional actions in federal court.

Sincerely,

Tyson C. Langhofer

Tyson C. Langhofer
Senior Counsel
Center for Academic Freedom

cc: Dr. Camille Casteel, Superintendent

² *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 828 (1995).

³ *Id.* at 829.