



April 4, 2007

Chris Manno, Superintendent
Burlington Township School District
1508 Mount Holly Rd.
Burlington, N.J. 08016

Dear Superintendent Manno:

The American Center for Law and Justice (ACLJ) has learned of Burlington Township School District's recent simulated hostage drill in which the fictitious terrorists were from a "right-wing fundamentalist group called the 'New Crusaders' who don't believe in separation of church and state. The mock gunmen went to the school seeking justice because the daughter of one had been expelled for praying before class."¹ Many Christian students, parents, and members of the community were stunned and appalled by the school's mockery of their religious beliefs.

By way of introduction, the ACLJ is a non-profit, public interest law firm. Our organization exists to educate the public and the government about the constitutional rights of citizens, particularly in the context of the expression of religious sentiments. ACLJ attorneys have argued before the Supreme Court of the United States in a number of significant cases involving the freedoms of speech and religion. For example, in *Board of Airport Commissioners v. Jews for Jesus*, 482 U.S. 569 (1987), the Court unanimously struck down a public airport's ban on First Amendment activities. In *Board of Education v. Mergens*, 496 U.S. 226 (1990), the Court held by an 8-1 vote that allowing a student Bible club to meet on a public school's campus did not violate the Establishment Clause. In *Lamb's Chapel v. Center Moriches School District*, 508 U.S. 384 (1993), the Court unanimously held that denying a church access to public school premises to show a film series on parenting violated the First Amendment. Also, in *McConnell v. FEC*, 540 U.S. 93 (2003), the Court unanimously held that minors enjoy the protection of the First Amendment.

We are writing this letter on behalf of the thousands of ACLJ members across the country, as well as numerous residents of the Burlington community, that have expressed to us their outrage and disgust over the school's hostage drill. After discussing the relevant facts, this

¹ David Levinsky, *Hostage Drill Prepares School for Crisis*, Burlington County Times, Mar. 23, 2007.

letter explains that the First Amendment to the United States Constitution prohibits the kind of public hostility toward Christianity demonstrated by the Burlington Township School District. It is both inappropriate and unconstitutional for a public school to single out one religious group for negative, disparaging treatment. **We demand an official apology by the Burlington Township School District acknowledging that the storyline for the hostage drill was inappropriate and will not be used again in the future.**

Statement of Relevant Facts

On March 23, 2007, the Burlington County Times reported that Burlington Township High School conducted a simulated hostage drill to test the reactions of the police, faculty and school administration. Officials were quoted as saying, “We need to practice under conditions as real as possible in order to evaluate our procedures and plans so that they’re as effective as possible.”²

According to the article, two officers, playing the role of the armed intruders, invaded the school and pretended to shoot several students. Although the full student body was not present for the drill, several students volunteered to act as hostages or wounded victims. The officers barricaded themselves in the school’s media center with ten student hostages. The school resource officer and the Burlington County Joint Tactical Team worked to secure the school, and faculty members simulated a school lockdown and evacuation.

While preparing for a potential hostage situation is certainly a legitimate and important activity, the school went far beyond what was necessary to fabricate an outrageous storyline for the mock attack. According to the Burlington County Times,

Investigators described [the gunmen] as **members of a right-wing fundamentalist group called the “New Crusaders” who don’t believe in separation of church and state.** The mock gunmen went to the school seeking justice **because the daughter of one had been expelled for praying before class.**³

Many Christian students were outraged by the school’s mockery of their religious beliefs, and parents and other members of the community are equally offended by the school’s anti-Christian animosity. This kind of anti-Christian bigotry by public school officials is despicable and is unrelated to the legitimate purposes of a hostage drill. The Constitution forbids public school officials from demonstrating this kind of hostility toward religious beliefs with which they disagree.

We are aware of the school district’s recent statement that any “perceived insensitivities” to religious members of the community demonstrated by the hostage drill are “regrettable” and that the school respects the constitutional right of students to pray and form Bible

² *Id.*

³ *Id.* (emphasis added).

clubs. We are also aware of a statement that “[t]he scenario chosen was intended to be generic in nature and never intended to offend any group, affiliation or religious belief.” **These statements do not constitute a public apology** by the Burlington Township School District; the school must acknowledge that the story-line for the mock attack **was inappropriate, should not have been used, and will not be used again in the future.**

Statement of Relevant Law

By targeting and publicly demeaning the Christian religion, the Burlington Township School District violated the Establishment Clause of the First Amendment. The Supreme Court of the United States has explained that government action violates the Establishment Clause if its primary purpose or effect is to advance or inhibit religion or if it creates and excessive government entanglement with religion. *Lemon v. Kurtzman*, 403 U.S. 602, 612-613 (1971). The Court has consistently recognized that the Establishment Clause prohibits government antagonism towards religion. In *Lynch v. Donnelly*, the Court stated that the Constitution “affirmatively mandates accommodation, not merely tolerance, of all religions, *and forbids hostility toward any.*” 465 U.S. 668, 673 (1984) (emphasis added).

In *Mergens*, the Court reiterated that “[t]he Establishment Clause does not license government to treat religion and those who teach or practice it, simply by virtue of their status as such, as subversive of American ideals and therefore subject to unique disabilities.” 496 U.S. 226, 248 (1990) (citation omitted). The Court has also noted that “a pervasive bias or hostility to religion . . . could undermine the very neutrality the Establishment Clause requires.” *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 845-46 (1995).

The Burlington Township School District violated the First Amendment by choosing to intentionally and publicly disparage the Christian religion. The hostility of the school board toward Christianity was apparent because the storyline for the hostage drill was wholly unnecessary. The stated purpose of the drill was to test the reactions of the police, faculty and school administration in the event of an attack by armed gunmen. The drill would have been just as effective if no one had known the gunmen’s religion; instead, the school created a fictional background story that singled out and vilified one religion.

New Jersey courts have also emphasized that the government has an affirmative duty to refrain from showing hostility toward religion. *See, e.g., Ran-Dav’s County Kosher, Inc. v. State*, 129 N.J. 141, 175 (1992) (citation omitted); *Lakewood Residents Ass’n v. Congregation Zichron Schneur*, 239 N.J. Super. 89, 95 (Law Div. 1989); *Student Members of Playcrafters v. Bd. of Educ.*, 177 N.J. Super. 66, 76 (App. Div. 1981). The Establishment Clause’s prohibition on hostility toward members of one religion is reflected in New Jersey law. *See, e.g.,* N.J. Const. art. I, para. 5 (prohibiting discrimination in public schools on the basis of religion); N.J. stat. § 18A:36-20 (same).

It is clear that the government may not “reserve special hostility for those who take their religion seriously, who think that their religion should affect the whole of their lives, or who make the mistake of being effective in transmitting their views to children.” *Mitchell v. Helms*, 530 U.S. 793, 827-28 (2000) (plurality opinion). The Constitution “requires the state to be a neutral in its relations with groups of religious believers and non-believers; *it does not require the state to be their adversary.*” *Everson v. Board of Educ.*, 330 U.S. 1, 18 (1947) (emphasis added).

“The Establishment Clause prohibits government from making adherence to a religion relevant in any way to a person’s standing in the political community.” *Lynch*, 465 U.S. at 687 (O’Connor, J., concurring).

[G]overnment endorsement or disapproval of religion [is unconstitutional] Endorsement sends a message to nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community. Disapproval sends the opposite message.

Id. The relevant question is what “the ‘objective’ meaning of the government’s statement in the community” was. *Capitol Square Review & Advisory Bd. v. Pinette*, 515 U.S. 753, 778-79 (1995) (O’Connor, J., concurring).

By ridiculing the members of a particular faith (Christianity), the Burlington Township School District’s hostage drill has certainly made adherence to a particular religion relevant to a person’s standing in the political community. *See Lynch*, 465 U.S. at 687 (O’Connor, J., concurring). The school has sent a message to the entire community that Christians are dangerous, disfavored outsiders.

The school’s message of disapproval of Christianity was particularly harmful to students. High school students are mature enough to understand that Burlington Township School District showed hostility toward Christian beliefs and practices through its simulated hostage drill. *See Mergens*, 496 U.S. at 250. An official school message denigrating a particular religion is unconstitutional. *See generally Santa Fe Independent School District v. Doe*, 530 U.S. 290 (2000); *Lee v. Weisman*, 505 U.S. 577 (1992).

The inflammatory nature of the hostage drill was compounded by the school district’s attempts to publicize the event through local media. Emergency drills take place at schools across the country nearly every day, and most of them are not reported in the newspaper. The fact that school officials sought to publicize the fictional storyline about “a right-wing fundamentalist group called the ‘New Crusaders’ who don’t believe in separation of church and state” by commenting on the drill to a local newspaper served to increase the hostility of the school toward Christian students, parents, and members of the community.

In addition, the hostage drill's disparaging treatment of Christianity violated several principles of the Burlington Township School Board's policy on maintaining good community relations. Among the school board's stated goals are to "[d]evelop and maintain the confidence of the community in the school board and the school staff" and to "[d]evelop a climate that attracts good teachers."⁴ The confidence of the community in Burlington Township School District has been shaken by the outrageous nature of the hostage drill, and good teachers may think twice before seeking to work there. A sincere apology by the school district admitting that the story-line for the drill was inappropriate, and promising that it will not be used again in the future, would go a long way in restoring the community's faith in the school board, administration, and staff.

Conclusion

Like many Christian students, parents, and members of the Burlington Township community, the ACLJ is outraged by Burlington Township School District's portrayal of Christians as terrorists in the recent hostage drill. The First Amendment forbids this kind of government hostility toward the members of one religion.

While school officials have stated that they "cherish, respect, and celebrate the diversity of cultures and faith that exist within our community," this was not an apology admitting that the story-line for the drill was inappropriate, should not have been used, and will not be used again in the future. **We demand an official public apology by the Burlington Township School District.**

Sincerely,

Jay Alan Sekulow
ACLJ Chief Counsel

Demetrios K. Stratis
ACLJ Local Counsel

cc: Director Walter J. Corter, Burlington Township Police Department
Principal Marie Phillips, Burlington Township High School

⁴ Burlington Township Schools, Policy 1000, *Concepts and Roles in Community Relations Goals and Objectives*.