



June 16, 2016

Dr. Neal Jackson
Beulah Baptist Church
8454 Howard Mill Rd
Bennett, NC 27208

Dear Dr. Jackson:

Thank you for reaching out to me with questions and concerns regarding a recent student drama performance and several issues related to religious activities at North Moore High School (NMHS). I appreciate the opportunity to clear up some misconceptions and otherwise address your concerns. To that end, I have reproduced the eight issues raised in your June 14 email to my Executive Assistant, Ms. Sonya Potter, and provide my responses below.

1. "The Moore County Board of Education (MCBOE) position on the freedom school employees have to invite their students or players to church events."

NHMS and Moore County Schools (MCS) have a legal obligation to respect both the rights and the restrictions imposed on its employees by the free speech, free exercise, and establishment clauses of the First Amendment to the United States Constitution. To that end, the Moore County Board of Education has adopted the enclosed Policy 5900 (Religion in the Schools), and our legal counsel has drafted the enclosed legal memorandum, which has been distributed to all school principals.

As indicated in the policy and in the memorandum, employees may, among other things, (1) privately pray, read scripture, and engage in other non-disruptive religious practice during "down time" in the work day to the same extent they may engage in comparable non-religious activities; (2) meet with other employees for prayer, Bible study, or other religious activities during lunch or before or after school to the same extent they may engage in comparable non-religious activities; and (3) join students and parents in prayer, church activities, or other religious activities outside of school and while acting in a purely personal capacity. When employees are interacting with students in the course of discharging their professional duties, on the other hand, they may neither promote nor disparage religion or any particular church or faith tradition. This means, among other things, that employees may not proselytize to students or take actions designed to influence them in their religious convictions or actions, such as inviting them to private church events.

It is important to note that the purpose of these rules is to enforce the religious *neutrality* that is required of school districts and their employees under Supreme Court precedents. The same rule that prevents Christian teachers from inviting students to services at their churches also prevents Muslim teachers from inviting students to services at mosques and atheist teachers from inviting students to meetings of atheist groups. The goal is by no means to *suppress* religion; it is, at least in part, to *protect* religion by preserving it as a private matter to be taught at home and in the faith traditions and houses of worship selected by parents, not school officials.

2. "The MCBOE position on the freedom athletic coaches have to pray with their players before or after games."

As explained in the enclosed policy and memorandum, the basic rule from the federal courts is that coaches may not actively pray with students when they are interacting with their students in their official capacity *as coaches*, including at competitions, practices, and team meetings. Coaches may, on the other hand, maintain a "respectful posture" while students pray voluntarily of their own accord. It is also fine for coaches to pray with students and parents at church or in the community when they are acting in a purely personal capacity and not as representatives of the school. Specific questions are considered in light of both general legal principles and the circumstances of each case.

3. "The MCBOE position on what is permissible and appropriate for a student play."

It is impossible to articulate or define all of the possible "permissible and appropriate" content for a student play. For context, however, your June 9 email makes clear that your concern centers on the play "Love/Sick" that was recently performed at NMHS. There have been many misunderstandings on this subject, so please let me begin by clarifying some facts:

- The play was selected by students and vetted by school staff;
- The performance included only seniors and was performed only for members of the theater department. It was not an "open" production;
- Mrs. Purvis included a note on the parent invitations warning them of the "PG-13" content;
- The play lasted 30 minutes and consisted of 5 short segments about human relationships, including one on marriage, one on divorce, and one on love at first sight;
- The original script was heavily edited. For example, the scene that was posted on the Haymaker blog was entirely cut and not included in the performance. Many lines were also rewritten; and
- In one scene, a boy is having trouble saying something to another boy and finally blurts out that he loves him. The scene contains no sexual content or innuendo.

I understand why this subject matter would cause concern for some in our community and respect your point of view. Based on all the information I have received, however, I do not think it is accurate to say that this play "promoted homosexuality," as you stated in your June 9 email. This was one brief scene in a series of vignettes, and homosexuality was not a key theme. One scene did briefly acknowledge the existence of same-sex relationships and same-sex attraction. It neither promoted nor condemned those social realities.

That said, it is important to understand that MCS and NMHS have not determined that same-sex relationships or homosexuality are always fair game as subjects in student plays. Nor am I prepared to say that no student play may ever touch upon these issues or even acknowledge they exist. Decisions to approve plays are made by theater directors and principals based on all the unique circumstances of each case. In this case, Mrs. Purvis also checked with a senior administrator, Dr. Eric Porter, and he also approved the production.

It would not be feasible to have a district-wide policy about what content is appropriate in a school production, because each play must be looked at in context and as a whole. School administrators will continue to review each production on a case by case basis and exercise their best judgment as to how to balance a myriad of artistic, pedagogical, ethical, and moral concerns with each decision. As Mrs. Purvis has stated to you, this incident will serve as a valuable "reference point" in future discussions about plays selected by students. I am quite sure that she has taken your concerns to heart, just as she has taken into account the parents who have written in strong support of the play as presented. There are no easy answers when it comes to selecting and editing scripts for drama productions, but respect and understanding of differing perspectives is surely a healthy thing, and I thank you for sharing yours.

4. "The MCBOE position on whether a student may pray in "Jesus" name at a graduation ceremony."

Some of the general rules that govern this issue are explained in the enclosed policy and memorandum. Additionally, our attorneys have advised me that they are two key Supreme Court cases on subject. In one case, *Lee v. Weisman*, the Supreme Court ruled that a prayer led by an adult at a graduation ceremony was unconstitutional. In the other case, *Santa Fe Independent School District v. Doe*, the Supreme Court ruled that a student-initiated prayer at a football game was unconstitutional.

These court cases are binding in North Carolina. There are also some other cases on prayer at graduation that are not binding in this state. As a public school system, we have an obligation to follow Supreme Court precedents and to apply them to specific factual scenarios. It would be difficult to say more on this subject without a lengthy legal dissertation.

For context, however, it appears that your concern centers on your understanding that a NMHS student was required to submit her speech for review and approval and that the religious content was "watered down" by the administration. What you may not know is that *all* speakers – both student and adult – are required to submit their graduation remarks for review and approval. In this case, Mrs. Purvis realized that a student's original proposal to say "Let us pray" and then lead the entire audience in a prayer in Jesus' name could be very uncomfortable for students of other faiths and likely unconstitutional as well. She therefore encouraged the student to reframe "Let us pray" into "I pray that..." followed by a discussion of the

things the student hoped and prayed for. Not only does this approach resolve the constitutional concerns raised by Supreme Court precedents, it also provides a fair and consistent way to respect the rights of students of all manner of religious perspectives. For example, imagine that a Muslim student wished to say “Let us pray” and lead a group prayer in Mohammed’s name at a high school graduation. Mrs. Purvis’ solution would avoid a scenario in which Christian, Jewish, or atheist students may feel pressured to participate in something deeply contrary to their beliefs.

5. “The MCBOE position on allowing prayer before meals when the church is providing the meal for students, athletes, or teachers.”

As a general matter, MCS and NMHS strive to adhere to the principles stated in the enclosed policy and memorandum with regard to religion in schools. It is not possible to address all possible scenarios that could fall within this broadly stated topic.

To put the issue in context, your June 9 email explains that several churches were told they can no longer say prayers or lead devotions with NMHS students when they provide meals before athletic events. Here is my understanding of the background to this issue:

- Churches apparently started delivering meals to accommodate students who were required by a coach to stay together as a team on game days between the end of school and the beginning of the game;
- Initially, the school would transport the students to the church, and students would eat there. Later, churches started bringing food to school to feed the athletes. In both scenarios, churches would lead a prayer or devotion with students before or during the meal; and
- NMHS and MCS greatly appreciate the service the churches are providing. But Mrs. Purvis astutely realized that, because the student-athletes were under order to stay together, they were essentially a “captive audience” between dismissal and game time. She also realized that allowing adults to lead them in a prayer during a time when they were required to be together as a team was likely unconstitutional.

Mrs. Purvis’s reasonable solution was to allow the church representatives to identify themselves (including their church affiliation), to express their love and support for the team, and to offer a meal, but not to lead the students in a prayer or devotion. This approach allows church members to identify themselves as members of a faith community and to support the team without exposing the school system to liability or putting students in a position where they feel pressured to pray. Churches are, of course, completely free to minister to students outside the context of school and school-sponsored events in any way they see fit.

6. “The MCBOE position on the possibility of the Fellowship of Christian Athletes Club meeting during lunch hours as occurred for several years instead of meeting before school hours.”

Your June 9 email explains that this concern relates to three churches being told that they could no longer lead a Bible study or devotional during lunch hours at NMHS. Here is my understanding of some background on this issue:

- A practice had emerged by which the Fellowship of Christian Students (FCS) held two meetings per month (later changed to one per month) in the school’s media center;
- The meetings were held during all three, consecutive, thirty-minute lunches, for an hour-and-a-half total; and
- Church members would bring meals for the students and lead Bible study and devotions for FCS students during these times.

Mrs. Purvis discontinued this practice primarily because other students began complaining that the FCS was essentially taking over the media center, making it unavailable for them to use for other purposes. Her solution was to schedule all student group meetings either before or after school. FCS now meets in the mornings four times a month, and parents and churches are allowed to (and sometimes do) bring food if they wish.

Another problem with the prior arrangement is that it is inconsistent with the federal Equal Access Act, which requires all non-curricular, student-initiated student groups to be afforded *equal* access to school facilities. FCS was not the only non-curricular, student-initiated group at NMHS, but it was the only one allowed to hold meetings in the media center, during lunch, and for such a long period of time. FCS had privileged access, not equal access, to school facilities.

Finally, the prior arrangement also violated the Equal Access Act’s requirement that “non-school persons” may not “regularly attend” the meetings of non-curricular student-initiated groups. Allowing non-school adults to come to campus and lead three thirty-minute Bible studies clearly violates this requirement.

A copy of Board Policy 6841, which reflects several requirements of the Equal Access Act, is enclosed for your reference.

7. "The MCBOE position on the possibility of the Bible class that was taught in the past, being offered again as a student elective at North Moore High School."

I am not familiar with the class that used to be taught and will confine my comments to general principles.

First, it is my understanding that is not illegal for schools to teach elective courses about the Bible from a secular perspective – like the "Bible in History." It is, however, unconstitutional for schools to teach Bible classes in the way they are taught in Sunday School.

As for whether MCS would consider adding a secular class that focused on the Bible, that is something we could consider in the future in consultation with our curricular team and with due consideration to budget, staffing, course planning, curriculum alignment, and other practical realities. We cannot have schools simply adding their own courses without coordination with central office, especially where there is risk that doing it wrong could lead to a constitutional violation.

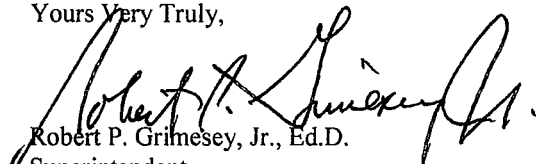
8. "The MCBOE position on how it plans to implement gender neutral bathrooms if the law is overturned."

As I'm sure you know, the North Carolina law known as House Bill 2 is currently being challenged in federal court. The school system has no choice but to respect any binding federal court decisions on this subject.

At this point, it would be premature to speculate what will happen in the litigation or how schools and school districts will need to react. All I can tell you at this point is that we are monitoring the court cases very carefully and will respond appropriately and with great respect and concern for the safety and privacy of all our students when a decision is issued.

Thank you once again for sharing your questions and concerns and for giving me the opportunity to shed at least some light on these important matters. Let there be no mistake that both NMHS and MCS strongly value their community partners, including the many churches that serve as bedrocks in our community, and that we greatly appreciate your support and concern for our staff and students.

Yours Very Truly,



Robert P. Grimesey, Jr., Ed.D.
Superintendent

encl.: Board Policy 5900
Board Policy 6841
Legal Memorandum

cc: Members, Moore County Board of Education
Jenny Purvis, Principal, North Moore High School
Eric Porter, Interim Chief Officer for Academics and Student Support Services