



LOUDOUN COUNTY PUBLIC SCHOOLS

OFFICE OF THE SUPERINTENDENT

21000 Education Court
Ashburn, Virginia 20148
(571) 252-1020

Daniel Smith, Ed.D.
Acting Superintendent

March 31, 2023

Via Email Only

Richard L. Mast
Hugh C. Phillips
Liberty Counsel
PO Box 540774
Orlando, FL 32854



Re: Use of Religious Quotes in Public Employee's Email Signature Block

Dear Messrs. Mast and Phillips:

I am in receipt of your March 23, 2023, letter regarding your client [REDACTED] request to retain a religious quote in her Loudoun County Public Schools (LCPS or "School Division") employee email signature block. Of course, Ms. [REDACTED] is entitled to express her religious views privately, and, under LCPS School Board Policy 7566 (Employee Technology Acceptable/Responsible Use), she may make occasional personal use of School Division technology, including her email address, for non-work purposes when this use does not consume a significant amount of LCPS resources, does not interfere with her job performance or other School Division responsibilities, and is otherwise in compliance with LCPS policies.

It is my understanding, however, that Ms. [REDACTED] is not including religious quotes in only her private correspondence, but also uses these religious quotes in her communications to students and their parents in her capacity as an LCPS employee. These communications are not private expression, but rather constitute school-sponsored speech bearing the ostensible endorsement of the School Division — particularly when such emails reflect the "lcp.org" email domain.

Simply put, the general inclusion of religious quotes in communications LCPS employees send while in their public capacities is not private expression and runs afoul of the Establishment Clause, and as such, bars LCPS, as a local governmental entity, from taking sides in religious disputes or favoring or disfavoring anyone based on religion or belief, or lack thereof. To be clear, LCPS's determination is not based on any particular religious viewpoint, and LCPS would take a consistent approach as it has here with respect to *any* religious expression incorporated in an LCPS employee's email signature block of which it becomes aware.

While LCPS currently permits its employees to personalize their LCPS email signature blocks, as a public employer, LCPS has an interest in regulating the speech of its employees, particularly as such expressed speech imputes to LCPS's general endorsement thereof. To that end,

Policy 7566 authorizes, and calls for, the Superintendent's established procedures containing the appropriate "uses, ethics and protocols for use of technology," which are memorialized in LCPS Regulation 7566. Relevant here, 7566-REG(D)(16), under the header "LCPS Staff Responsibilities," provides that LCPS employees will:

Utilize proper network and email etiquette. Harassment, discriminatory remarks, hate mail and threats, obscene or vulgar *language, and conduct prohibited* by the Employee Handbook, School Board policy, or *by law are prohibited in email or other electronic communications*. Staff should not use LCPS equipment or technology to send, receive, view or download illegal material.

(Emphasis added). Given that the use of a religious quote in a public employee's email signature block violates the Establishment Clause—as discussed above—it therefore violates the above-cited Regulation governing LCPS staff email etiquette.

Therefore, to resolve this employment dispute in a manner that permits Ms. [REDACTED], a public employee, to retain a religious quote in her LCPS email signature block would be in violation of the First Amendment and Loudoun County School Board policy and its implementing regulations. I do want to make clear Ms. [REDACTED] is entitled to include religious expressions in any private emails she sends, provided they otherwise comply with LCPS policies and applicable law, but we are constrained by applicable law and policy to prohibit her from doing so in emails she sends in her public role as an LCPS employee.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Smith", with a long horizontal flourish extending to the right.

Daniel W. Smith, Ed.D.
Acting Superintendent

cc: Via Email
LCPS School Board
Robert Falconi, LCPS Division Counsel