



August 26, 2024

Via email & First-Class Mail

Cindy Price, Chairperson
Pulaski County Board of Education
cindy.price2@pulaski.kyschools.us

Patrick Richardson, Superintendent
Pulaski County School District
patrick.richardson@pulaski.kyschools.us

Re: Pulaski County School District Social Media Legal Violations

Dear Chairperson Price and Superintendent Richardson:

We write on behalf of Corey DeAngelis, along with Pulaski County taxpayers, concerning the Pulaski County School District's violation of the First Amendment through its social media pages. Through this letter, we are providing the District with an opportunity to avoid litigation by committing to (1) not interfere with Mr. DeAngelis' criticism of the District on social media, (2) reopen public comment, and (3) cease any further efforts to suppress free expression.

BACKGROUND

Earlier this month, the District used its websites, billboard and social media pages to advocate against Amendment 2—the ballot initiative that would allow the state to provide financial support for education outside of the public school system. As detailed in our August 14th letter to you, those actions were illegal because they violated the state's prohibition on the use of taxpayer funds to lobby opposition to ballot measures (KRS § 65.013).

Mr. DeAngelis is a nationally recognized advocate for educational opportunity. Exercising his First Amendment rights, he posted comments critical of the District's illegal use of public resources for political advocacy on Facebook. Around August 16th, in direct response to these and other negative comments, the District blocked Mr. DeAngelis from the page, hid or deleted comments, and froze additional comments on its posts. The District's actions effectively silenced Mr. DeAngelis and others, preventing them from exercising their First Amendment rights on this important public issue. Mr. DeAngelis remained blocked with his comments deleted until around August 21.

VIOLATION OF THE FIRST AMENDMENT

The Supreme Court has made clear that government officials may be held liable under 42 U.S.C. § 1983 for violating the First Amendment when they block individuals from the official’s social media page or delete an individual’s comments from the page. *Lindke v. Freed*, 144 S.Ct. 756, 765 (2024) (recognizing, among other things, that “public schools” engage in state action when they operate social media pages). This is because official social media pages are “public forums” for purposes of the First Amendment.¹ State actors are prohibited from engaging in viewpoint discrimination in public forums, and “[v]iewpoint discrimination is apparent . . . if a government official’s decision to take a challenged action was impermissibly motivated by a desire to suppress a particular point of view.”² By attempting to suppress any suggestion that it might be violating Kentucky law by using its official page to campaign against Amendment 2, the District engaged in a textbook example of unlawful viewpoint discrimination.

CONCLUSION

To remedy your suppression of Mr. DeAngelis’s First Amendment rights and the rights of your constituents, we request that, by close of business on Friday August 30, you commit to not block Mr. DeAngelis or other members of the public from interacting with the District’s official Facebook page, and re-open your previously open posts to public comment.

Please be advised that failure to address this issue may result in further legal action. We are prepared to pursue all available legal remedies to protect our client’s First Amendment rights and to ensure the free discussion of important issues such as public elections.

You or your legal counsel should feel free to contact me at the email address below to discuss.

¹ *People for the Ethical Treatment of Animals v. Tabak*, 2024 WL 3573661 (D.C. Cir. July 30, 2024) (citing *Garnier v. O’Connor-Ratcliff*, 41 F.4th 1158, 1178–79 (9th Cir. 2022), *vacated and remanded on other grounds*, 144 S.Ct. 717 (2024); *Davison v. Randall*, 912 F.3d 666, 682 (4th Cir. 2019); *Knight First Amend. Inst. at Columbia Univ. v. Trump*, 928 F.3d 226, 237 (2d Cir. 2019), *judgment vacated on other grounds*, 141 S. Ct. 1220 (2021).

² *Davison*, 912 F.3d at 687 (quotation omitted).

Sincerely,

A handwritten signature in black ink, appearing to read 'Dean McGee', with a long horizontal flourish extending to the right.

Dean McGee, Esq.
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Liberty Justice Center
dmcgee@ljc.org