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Mr. Kelly Rodgers, Superintendent
North Little Rock School District
2700 Poplar Street
North Little Rock, Arkansas 72114

Re: Teaching of intelligent design in Lakewood Middle School

Dear Mr. Rodgers:

The American Civil Liberties Union of Arkansas is a non-profit organization dedicated to preserving and defending the civil liberties and constitutional rights guaranteed by the United States and Arkansas constitutions. I am a cooperating attorney with the ACLU of Arkansas and write on its behalf. It has come to our attention that a teacher at Lakewood Middle School, Ms. Honnye Athanasiou, has improperly injected "intelligent design," a variation on creation-science, into her World History class. Ms. Athanasiou's lesson, which purported to present students with the "Arguments for Creation," violated the Establishment Clause of the First Amendment to the U.S. Constitution and must not be repeated.

The Establishment Clause provides that, "Congress will make no law respecting an establishment of religion, or prohibiting the free exercise thereof." U.S. Const. Amend. 1. The First Amendment applies to the states through the Fourteenth Amendment. Governments are not permitted to promote a particular religion or prefer one religion over another. The objective of the First Amendment is to prevent "a union of government and religion [which] tends to destroy

government and degrade religion.” *Engel v. Vitale*, 370 U.S. 421, 430 (1962). The First Amendment thus prohibits public-school officials from promoting, sponsoring, or endorsing any particular religion, belief, or religious activity.

Consistent with these principles, the federal courts have recognized that public-school instruction in creationism or other religious beliefs about the origin of life – whether presented alone or in conjunction with instruction about evolution – has no secular purpose and plainly violates the Establishment Clause. *See, e.g., Edwards v. Aguillard*, 482 U.S. 578, 586, 592 (1987) (striking down Louisiana Balanced Treatment for Creation-Science and Evolution-Science in Public School Instruction Act as unconstitutional because “[t]he preeminent purpose of the Louisiana Legislature was clearly to advance the religious viewpoint that a supernatural being created humankind”); *Freiler v. Tangipahoa Parish Bd. of Educ.*, 185 F. 3d 337, 344-45 (5th Cir. 1999) (overturning school-board policy requiring teachers to read classroom disclaimer questioning validity of evolution and promoting creationist beliefs where the disclaimer as a whole further[ed] a contrary purpose, namely the protection and maintenance of a particular religious viewpoint”); *Daniel v. Waters*, 515 F.2d 485, 487, 489 (6th Cir. 1975) (declaring a Tennessee statute to be unconstitutional because it barred public school use of any textbook teaching evolution “unless it specifically state[d] that it is a theory as to the origin and creation of man and his world and is not represented to be scientific fact” and unless “an equal amount of emphasis” was devoted to creationism); *McLean v. Ark. Bd. of Educ.*, 529 F. Supp. 1255, 1274 (E.D. Ark. 1982) (enjoining statute authorizing teaching of creation-science in public schools and holding that “[n]o group, no matter how large or small, may use the organs of government, of which the public schools are the most conspicuous and influential, to foist its religious beliefs on others”).

Like creationism and creation-science, “intelligent design” – featured prominently in Ms. Athanasiou’s lesson – is “a religious view, a mere re-labeling of creationism, and not a scientific theory.” *Kitzmiller v. Dover*, 400 F. Supp.2d 707, 726 (M.D. 2005) (striking down public school board policy promoting the teaching of intelligent design). Positioning “arguments for creation” opposite “arguments for evolution,” as in Ms. Athanasiou’s PowerPoint presentation, creates a “contrived dualism’ . . . recognized to be a creationist tactic that has ‘no scientific factual basis or legitimate educational purpose.’” *See id.* at 725 (quoting *McLean*, 529 F. Supp. at 1266). Indeed, the arguments and purported evidence of design included in Ms. Athanasiou’s lesson are recycled creationist claims, dressed up as pseudo-science, and have been universally rejected by the legitimate scientific community.

In fact, intelligent design “is not supported by any peer-reviewed research, data or publications.” *Id.* at 745.

To be sure, public schools may provide instruction about religious traditions and beliefs, including the history of religion, comparative religion, scripture as literature, the role of religion in history, and the religious influence on art, music, literature and social studies. But these lessons must be objective and unbiased and must approach these topics from an academic perspective. There is a “difference between teaching *about* religion, which is acceptable, and teaching religion, which is not.” *Roberts v. Madigan*, 921 F.2d 1047, 1055 (10th 1990) (internal quotation marks omitted). Ms. Athanasiou’s decision to inject creationist doctrine into her history class failed to appreciate that difference and plainly violated the Establishment Clause.

The Constitution’s prohibition on public-school-sponsored religious indoctrination is not hostile to religion, as some claim. Rather, it is a product of the recognition that the “preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere,” and that “religious beliefs and religious expression are too precious to be either proscribed or prescribed by the State.” *Lee v. Weisman*, 505 U.S. 577, 589 (1992). Parents and faith communities, not the government, have the right to direct the religious upbringing of their children.

We trust that once it was made aware of this situation, the North Little Rock School District took steps to bring Ms. Athanasious’ improper conduct to a halt and request confirmation that this is, in fact, the case. However, Ms. Anathansiou’s impermissible injection of her religious beliefs into the classroom is not an isolated occurrence within your District, as the ACLU is aware of at least one prior incident.

Therefore, in order to ensure compliance with the Constitution throughout your District, the ACLU requests that the District impose disciplinary measures, lodge an ethics complaint addressing a breach of professional competence standards, and put in place a system to monitor her future conduct. Moreover, the ACLU also requests that the District issue written clarification to all teachers, substitute teachers and administrators explaining that the teaching or endorsement of creationism, creation science, or intelligent design is prohibited by law. If desired, the ACLU stands ready to review drafts or provide whatever other assistance may be needed to develop appropriate teaching parameters.

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Because of the importance of this matter we ask that you respond to this letter within ten days to let us know whether the District is taking appropriate actions to prevent future violations. If you have any questions, or wish to discuss this further, please do not hesitate to contact me.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee J. Muldrow", written over a horizontal line.

Lee J. Muldrow
Cooperating Attorney, ACLU of Arkansas

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