



CONGRESSIONAL PRAYER CAUCUS FOUNDATION

September 15, 2021

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SENT VIA EMAIL & U.S. MAIL: smith_b@fairfieldcityschools.com

Billy Smith
Superintendent
Fairfield City School District
4641 Bach Lane
Fairfield, OH 45014

RE: "Appeal to Heaven" Flag

Dear Superintendent Smith:

I have the honor of serving as the President of the Congressional Prayer Caucus Foundation. The Foundation serves nearly 100 members of Congress who are part of the Congressional Prayer Caucus (the names of those members of Congress who serve on the Congressional Prayer Advisory Team are listed on the left).

In addition, the Foundation serves Legislative Prayer Caucuses in over 40 states, including Ohio, which have over 1,000 state senators and state representatives as members. These leaders are working together to preserve the integrity of our Founding Principles and to protect First Amendment rights for all.

We recently learned that the Freedom From Religion Foundation ("FFRF") wrote a letter to you complaining that a social studies teacher, Mr. Ian Lubbers, displayed an "Appeal to Heaven" flag in his classroom. FFRF claims that this flag "is associated with the Appeal to Heaven movement," is "now viewed as a Christian flag," and that it therefore is a "tacit endorsement of evangelical Christianity." FFRF's letter further complained that Mr. Lubbers has told students that his Christian faith is very important to him, and that both the flag and this statement are violations of constitutional law. We further learned that after FFRF registered its complaint, the Appeal to Heaven flag was removed. Based on this letter, we hope

the school reverses its decision and allows Mr. Lubbers to once again display this historical flag.

We can think of few better flags to display in a classroom than the “Appeal to Heaven” flag if a social science teacher, like Mr. Lubbers, is teaching early American history, particularly the early stages of the American Revolution. The USA Flag Company provides a brief history of this flag, citing and quoting the Resolution adopted by the Massachusetts Council in 1776, and noting the fact that the Appeal to Heaven flag was the official flag of Connecticut and Massachusetts troops in the Revolutionary War. See <https://blog.usaflagco.com/an-appeal-to-heaven-flag/>. See also <https://wallbuilders.com/an-appeal-to-heaven-flag/> for a more comprehensive history of the flag. There is, therefore, a very good secular reason to display this flag.

We assume that if this flag had emblazoned upon it “Appeal to Reason” that FFRF would not object. Yet references to the Bible are prolific in public spaces throughout our nation. In fact, biblical references, as well as other religious symbols that grace government buildings and monuments, are an acknowledgement of religion's rich influence on the development of this nation and its institutions. This Judeo-Christian historical influence is well documented in American history, as evidenced by the fact that *Laus Deo*, meaning Praise be to God, is engraved upon the aluminum capstone of The Washington Monument, and that inside the monument, there are a number of memorial stones with scriptural engravings from the Old and New Testaments. Similarly, the walls of the Library of Congress have inscribed upon them Psalm 19:1 (“The heavens declare the glory of God, and the firmament showest His handiwork”); John 1:5 (“The light shineth in the darkness, and the darkness comprehendeth it not”); and Micah 6:8 (“What does the Lord require of thee, but to do justly and love mercy and walk humbly with thy God?”). Chief Justice Rehnquist in *Van Orden v. Perry*, 545 U.S. 677 (2005) perhaps best illustrated the connection between religion and our nation’s history when he wrote:

Recognition of the role of God in our Nation’s heritage has also been reflected in our decisions. We have acknowledged, for example, that “religion has been closely identified with our history and government,” *School Dist. of Abington Township v. Schempp*, 374 U. S., at 212, and that “[t]he history of man is inseparable from the history of religion,” *Engel v. Vitale*, 370 U. S. 421, 434 (1962). This recognition has led us to hold that the Establishment Clause permits a state legislature to open its daily sessions with a prayer by a chaplain paid by the State. *Marsh v. Chambers*, 463 U. S., at 792. Such a practice, we thought, was “deeply embedded in the history and tradition of this country.” *Id.*, at 786. As we observed there, “it would be incongruous to interpret [the Establishment Clause] as imposing more stringent First Amendment limits on the states than the draftsmen imposed on the Federal Government.” *Id.*, at 790–791. With similar reasoning, we have upheld laws, which originated from one of the Ten

Commandments, that prohibited the sale of merchandise on Sunday. *McGowan v. Maryland*, 366 U. S. 420, 431–440 (1961); see *id.*, at 470–488 (separate opinion of Frankfurter, J.).

In this case we are faced with a display of the Ten Commandments on government property outside the Texas State Capitol. Such acknowledgments of the role played by the Ten Commandments in our Nation’s heritage are common throughout America. We need only look within our own Courtroom. Since 1935, Moses has stood, holding two tablets that reveal portions of the Ten Commandments written in Hebrew, among other lawgivers in the south frieze. Representations of the Ten Commandments adorn the metal gates lining the north and south sides of the Courtroom as well as the doors leading into the Courtroom. Moses also sits on the exterior east facade of the building holding the Ten Commandments tablets.

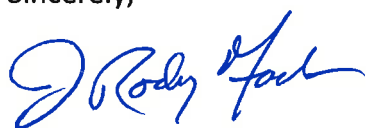
Similar acknowledgments can be seen throughout a visitor’s tour of our Nation’s Capital. For example, a large statue of Moses holding the Ten Commandments, alongside a statue of the Apostle Paul, has overlooked the rotunda of the Library of Congress’ Jefferson Building since 1897. And the Jefferson Building’s Great Reading Room contains a sculpture of a woman beside the Ten Commandments with a quote above her from the Old Testament (Micah 6:8). A medallion with two tablets depicting the Ten Commandments decorates the floor of the National Archives. Inside the Department of Justice, a statue entitled “The Spirit of Law” has two tablets representing the Ten Commandments lying at its feet. In front of the Ronald Reagan Building is another sculpture that includes a depiction of the Ten Commandments. So too a 24-foot-tall sculpture, depicting, among other things, the Ten Commandments and a cross, stands outside the federal courthouse that houses both the Court of Appeals and the District Court for the District of Columbia. Moses is also prominently featured in the Chamber of the United States House of Representatives. (Footnotes omitted).

America’s religious heritage is literally etched into our collective memory as a nation, from the federal level to our counties, cities, and towns. Although atheists may desire to remove every cross from every military cemetery and every religious reference upon our monuments and buildings, such hostility to religion is contrary to our nation’s Founders, our Constitution, and the will of our people. Certainly this is the message conveyed recently by the Supreme Court in the *Bladensburg Cross* case – *American Legion v. American Humanist Association* (2019). As the U.S. Supreme Court stated well in *Zorach v. Clauson*, 343 U.S. 306, 314 (1952): “[W]e find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence.”

We urge the school to reverse its prior decision to remove the Appeal to Heaven flag from Mr. Lubbers classroom, and to commend Mr. Lubbers for using authentic history in teaching his students. Regarding Mr. Lubbers' statement that the Christian faith is important to him, this same statement can be made by most of the taxpayers in your school district (according to FFRF's figures, 62% of Americans are religious and therefore believe in heaven). If asked about his faith by a student, it is very appropriate for Mr. Lubbers to respond.

If we can be of any service to you on this issue, feel free to contact us. We have First Amendment lawyers on staff who will work with you, without charge, if you need their services. To protect our freedom, we must exercise that freedom.

Sincerely,

A handwritten signature in blue ink that reads "J. Randy Forbes". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Congressman J. Randy Forbes

President

Congressional Prayer Caucus Foundation

National Strategic Center