



January 13, 2026

**VIA EMAIL AND FEDEX**

U.S. Department of Education  
Office of Civil Rights  
400 Maryland Avenue, SW  
Washington D.C. 20202  
ocr@ed.gov

Harmeet Dhillon  
U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Avenue, NW  
Washington D.C. 20530  
Harmeet.Dhillon@usdoj.gov

***RE: Marshall Elementary School's Unconstitutional Viewpoint  
Discrimination, Violation of Students' First Amendment Rights, and  
Interference with Parental Rights***

Dear Department of Justice and Department of Education,

The American Center for Law & Justice represents a parent and her minor child, a student at Marshall Elementary School in USD 389, a school district in Eureka, Kansas. We write regarding the District's egregious conduct in engaging in viewpoint-based discrimination against students who identified conservative political figures as role models, and the subsequent directive instructing students not to report concerns to their parents. The District's actions constitute clear violations of the First Amendment's Free Speech Clause, the Free Exercise Clause, and the Fourteenth Amendment's Due Process Clause protecting parental rights.

This complaint alleges:

1. **Religious Discrimination:** Prohibiting students from identifying religious figures as role models while permitting and even encouraging students to identify secular role models for a school assignment;

2. **Political/Viewpoint Discrimination:** Prohibiting students from identifying conservative political figures as role models while permitting other political figures and politically-active athletes;
3. **Violation of Free Speech Rights:** Engaging in viewpoint-based censorship of student expression;
4. **Violation of Parental Rights:**
  - Instructing students not to report concerns to their parents;
  - Retaliating against parents who raised concerns;
  - Refusing reasonable accommodation;
5. **Retaliation:** Punishing students and parents for exercising their constitutional rights.

### Statement Of Facts

#### **The Assignment and Discriminatory Treatment**

On or about October 28, 2025, Ms. Kacey Countryman, a guidance counselor at Marshall Elementary School, assigned sixth-grade students a project titled “Find Your Voice” as part of the “Leader in Me” program in guidance class. Students were instructed to identify their role models and write them on a whiteboard for class discussion. One student was serving as student-led teacher that day and was responsible for calling on classmates and writing their responses on the board.

When a student identified Charlie Kirk as a role model, Ms. Countryman got very uncomfortable and refused to allow this name to be written on the board, yelling that he was “not a hero,” and that he was not a role model. The student teacher had already started writing Charlie Kirk’s name on the board, and was ordered by Ms. Countryman to remove it. When another student selected President Donald J. Trump as a role model, Ms. Countryman reiterated her prohibition even more angrily, stating that students could not write political or religious figures on the board, and in fact excluded political and religious topics altogether. However, Ms. Countryman permitted other controversial figures to be listed as heroes. The names of football players (including those who have engaged in political activism) were permitted on the board. The names of classmates were also permitted. No restriction was placed on potentially controversial secular figures. Only religious and political figures were excluded. Children were allowed to list these figures in their written assignments, but were prohibited from acknowledging the names of religious or political heroes publicly on the board.

This was not a momentary lapse in judgment but a deliberate policy that was later defended when challenged. The selective prohibition created immediate confusion among students about whose voices were valued and whose were not. One child, the student-led teacher responsible for writing heroes’ names on the board, was

placed in the uncomfortable position of having to enforce the teacher's viewpoint-based censorship against her classmates. Another child wanted to identify his mother as his role model but was afraid to do so because his mother participates in politics and advocates for veterans in Washington D.C. The teacher's blanket prohibition on "political" figures left him confused and anxious about whether honoring his mother would get him in trouble.

Other students in the class were similarly confused about why some role models were acceptable while others—including the sitting President of the United States—were deemed inappropriate. The assignment was titled "Find Your Voice," yet students learned that their voices would be silenced if they didn't conform to the teacher's preferred viewpoints.

### **Parent Complaints and School Response**

On November 5, 2025, two days after learning of the incident, our client contacted Principal Stacy Coulter to raise concerns about the above incident.

Our client and another parent met with Principal Coulter and Ms. Countryman. The school administrators defended the teacher's actions. Ms. Countryman and Principal Coulter repeatedly claimed they were being "inclusive" and "neutral" by prohibiting political and religious figures from being discussed. When confronted with the contradiction—that excluding certain viewpoints is the opposite of inclusive—the administrators doubled down, arguing that allowing such discussions would create an "unsafe" environment.

Tellingly, when asked what was "unsafe" about Charlie Kirk or President Trump, neither administrator could articulate a legitimate pedagogical concern. Ms. Countryman's justification was that other kids might fire back at students who named these figures—in other words, that she was engaging in a heckler's veto, silencing conservative viewpoints because they might provoke disagreement. Ms. Countryman stated that she felt a particular student might become upset if Charlie Kirk or President Donald Trump were discussed.

Principal Coulter stated that the matter had been "addressed with the class" and was "resolved." However, the "apology" delivered to students was inadequate and confusing. Students reported that Ms. Countryman read from prepared notes and was crying, but the message failed to acknowledge the viewpoint discrimination or restore students' confidence that their voices would be respected.

### **"Don't Tell Your Parents" Directive**

Most alarmingly, following the supposed "apology," Principal Coulter and Ms. Countryman addressed the sixth-grade class. According to multiple consistent

student reports, Principal Coulter instructed the sixth-grade students that in the future, they should bring concerns to Ms. Countryman or herself first—not to their parents. The principal stated that the school should also be considered their family.

This directive—instructing children not to report concerns to their parents—violates fundamental principles of parental rights, educational ethics, and child safety. When our client raised this concern in a subsequent email, Principal Coulter initially denied making the statement, then later deflected by claiming the remark was taken out of context. Multiple students, including our client’s daughter, consistently reported hearing this directive.

Our client reasonably requested that her children be excused from Ms. Countryman’s guidance class given the demonstrated viewpoint discrimination and the school’s refusal to acknowledge or correct it. Initially, the school’s only offered accommodation was to place the children in detention during guidance periods—effectively punishing them for their parents’ objection to unconstitutional conduct.

Despite our client’s clear instruction that her child was not to attend guidance class, the school sent the child to Ms. Countryman’s class anyway. When confronted, Principal Coulter claimed there was a “misunderstanding” and that the child had “wanted to go.” Subsequently, the school informed our client’s husband (notably, not our client herself, despite her being the primary contact) that the district would no longer provide any accommodation. Moving forward, parents would be required to physically come to the school to check out each child individually before guidance class and return them afterward. For our client, who had three children attending guidance at different times throughout the week, this would require six trips to school per week—a clear attempt to burden parents into submission.

Our client presented these concerns at a school board meeting on December 8, 2025. The board met in executive session for five minutes, but no public response was provided, no corrective action has been announced, and the violations continue to remain unaddressed. Our client has been forced to withdraw her children rather than continue to subject them to these practices.

### **Statement of Law**

#### **Viewpoint Discrimination**

“If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.” *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943). It is well-settled law that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” *Tinker v. Des Moines Indep. Community Sch. Dist.*, 393 U.S. 503, 506 (1969). As the Supreme Court has noted,

School officials do not possess absolute authority over their students. Students in school as well as out of school are persons under our Constitution. They are possessed of fundamental rights which the state must respect, just as they themselves must respect their obligations to the state. In our systems, students may not be regarded as closed-circuit recipients of only that which the state chooses to communicate. They may not be confined to the expressions of those sentiments that are officially approved.

*Id.* at 511. While school officials may apply “reasonable regulation[s] [to] speech-connected activities in carefully restricted circumstances,” they may not censor student expression unless the speech “impinge[s] upon the rights of others” or creates a material and substantial disruption to the school’s ability to fulfill its educational goals. *Id.* at 509, 513.

The teacher here specifically discriminated against our client for expressing her different views. “The government may not discriminate against speech based on the ideas or opinions it conveys.” *Iancu v. Brunetti*, 588 U.S. 388, 393 (2019). “When the government targets not subject matter, but particular views taken by speakers on a subject, the violation of the First Amendment is all the more blatant. . . . Viewpoint discrimination is thus an egregious form of content discrimination. The government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.” *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995). “Discrimination against speech because of its message is presumed to be unconstitutional.” *Id.* at 828.

Ms. Countryman engaged in classic viewpoint discrimination by permitting students to identify various categories of role models—athletes, classmates, and others—but prohibiting students from identifying conservative political figures. She further imposed her own viewpoints on the entire classroom by stating that Charlie Kirk was “not a hero.” Students’ speech was further stifled by her instruction that political and religious figures could not be discussed.

By inviting students to identify their role models in an assignment literally titled “Find Your Voice,” the school created a forum for student expression. Having opened that forum, the school was constitutionally prohibited from excluding certain viewpoints—particularly political viewpoints that enjoy robust First Amendment protection.

The school’s defense—that allowing discussion of conservative political figures would create an “unsafe” environment or provoke disagreement—amounts to an unconstitutional heckler’s veto. The Supreme Court has repeatedly rejected the notion that speech may be suppressed because others might disagree with it or respond negatively. *Forsyth Cty. v. Nationalist Movement*, 505 U.S. 123, 134-35

(1992). Indeed, teaching students to engage respectfully with opposing viewpoints is one of the core functions of public education. By silencing conservative viewpoints rather than facilitating respectful dialogue, Ms. Countryman failed in her educational mission and violated the Constitution.

Moreover, by prohibiting students from identifying religious figures (including Jesus Christ) as role models while permitting secular role models, the school engaged in discrimination based on religious viewpoint. The school created a forum for students to express their values and identify role models, then excluded religious expression while permitting secular expression. This is textbook religious discrimination.

### A Parent's Rights

Parents have the right, as the ultimate arbiter of their child's education, to make educational decisions for their children. *Meyer v. Nebraska*, 262 U.S. 390 (1923); *Pierce v. Society of Sisters*, 286 U.S. 510 (1925); and *Wisconsin v. Yoder*, 406 U.S. 205 (1972). These longstanding principles were most recently re-affirmed in the case of *Mahmoud v. Taylor*, wherein the Supreme Court reaffirmed the concrete constitutional rights of parents when schools expose their children to sexually explicit or religiously objectionable content without notice or opt-out opportunities. *Mahmoud v. Taylor*, 145 S. Ct. 2332 (2025).

In *Mahmoud*, the Supreme Court held that public schools substantially burden parents' free exercise of religion when they compel children to participate in instruction that "poses 'a very real threat of undermining' the religious beliefs and practices that parents wish to instill in their children." *Id.* at 2342 (quoting *Wisconsin v. Yoder*, 406 U.S. 205, 218 (1972)). The Court further held that when such a burden exists, schools must provide advance notice and honor opt-out requests. *Id.*

By instructing students not to report concerns to their parents, the school directly interfered with the parent-child relationship. This directive strikes at the heart of parental rights. Parents cannot exercise their fundamental right to direct their children's upbringing if schools instruct children to hide problems from their parents, and such an instruction violates fundamental rights. "Students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate." *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 511 (1969).

Moreover, the school's refusal to provide reasonable accommodation for students whose parents object to Ms. Countryman's guidance class further burdens parental rights. Parents have the right to direct their children's education, including the right to exclude them from particular classes or activities. The school's insistence that parents physically come to school six times per week to exercise this right is not reasonable and was clearly designed to make the exercise of parental rights so burdensome that parents give up.

## Conclusion

The constitutional violations described herein are serious and require immediate corrective action. The rights involved—freedom of speech, religion, and parental rights—are among the most fundamental rights guaranteed by our Constitution. As the Supreme Court has recognized, the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury. *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

This case presents a straightforward violation of clearly established constitutional rights. Complainants request that the federal government conduct a comprehensive investigation of USD 389's policies, practices, and the specific incidents described herein. Following this investigation, complainants request that the federal government issue formal findings establishing that USD 389 engaged in religious discrimination by prohibiting students from identifying religious figures as role models while permitting secular figures; engaged in political viewpoint discrimination by censoring conservative political speech while permitting other political expression; and violated fundamental parental rights protected by the Fourteenth Amendment through multiple means including instructing students not to tell their parents about concerns. Systemic changes are necessary to prevent future violations.

Thank you for your prompt attention to this important matter.

Sincerely,

Nathan Moelker\*  
Senior Associate Counsel  
**American Center for  
Law & Justice**  
201 Maryland Ave NE  
Washington, DC 20002  
724-987-8477  
nmoelker@aclj.org

*\* Admitted to practice law in Virginia*