



April 4, 2019

Jill Trudeau
Manager, Kalkaska Memorial Health Center
Child Development Center and Preschool
419 S. Coral Street
Kalkaska, MI 49646
[REDACTED]

Sent via email and U.S. Mail CMRRR#7017 1450 0000 9915 9310

**Re: Unconstitutional Discrimination Against Senior Citizens by
Kalkaska Memorial Health Center Employees**

Ms. Trudeau:

First Liberty Institute is the nation's largest legal organization dedicated to defending religious freedom for all Americans. We represent Joan Wilson and Wilma Wells, residents of Kalkaska Senior Living Center. Please direct all correspondence on this matter to me at the contact information provided below.

We write to alert you that the staff of the Kalkaska Memorial Health Center Child Development Center and Preschool's (CDCP) Great Start Readiness Program (GSRP) engaged in unconstitutional viewpoint and religious discrimination.

Background

On December 6, 2018, a number of GSRP students visited residents of the Kalkaska Memorial Assisted Living Center, which is also operated by KMHC. As part of this visit, the elderly residents of the Assisted Living Center were given opportunities to read Christmas stories to the students. One resident read Tim Burton's "The Nightmare Before Christmas" without incident. Wilma Wells, another resident of the Assisted Living Center, read a book about Christmas traditions, and after reading the book, asked the children if they knew why we celebrate Christmas. At that point, an unidentified teacher accompanying the students interjected, stating "We won't go there, Wilma."

Later, Joan Wilson, began reading "A Charlie Brown Christmas" to the students. At one point in the well-known and much-beloved story, Linus gives a historical account of the Christmas story. When Joan tried to summarize that part of the story, the teacher abruptly interrupted Joan, cancelled the visitation, and escorted the children out before Joan could finish.

We were then alerted by members of the community of the teacher's discrimination against senior citizens at the Assisted Living Center. We request that you immediately inform us of what steps you will take to remedy this constitutional violation.

Legal Analysis

As a government-owned facility, the Kalkaska Memorial Health Center is subject to the constraints of the U.S. Constitution through the Fourteenth Amendment. Here, the CDCP teacher's actions constitute unlawful discrimination and violate the Free Exercise and Free Speech Clauses of the First Amendment to the Constitution. Joan and Wilma are private citizens whose speech, including religious speech, is fully protected by the Free Exercise and Free Speech Clauses. The Supreme Court has reinforced this concept repeatedly. *See, e.g., Capital Square Rev. & Adv. Bd. v. Pinette*, 515 U.S. 753 (1995) (“[P]rivate religious speech, far from being a First Amendment orphan, is as fully protected under the Free Speech Clause as secular private expression.”).

Moreover, when a government employee, such as the CDCP teacher, censors or bans certain speakers or speech purely because of its religious motivation, it constitutes a form of unlawful discrimination called “viewpoint discrimination.” The Supreme Court has repeatedly forbidden viewpoint discrimination. *See Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819 (1995); *Lamb’s Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384 (1993). Here, the teacher allowed those who spoke about Christmas in secular terms to speak unimpeded, but abridged the speech of those who would spoke to the historical significance of Christmas’s origins.

Finally, it should be noted that although Christmas may be a religious holiday for many, it is also the commemoration of a recorded historical event, celebrated even by non-Christians. And our federal government also observes Christmas as a federal holiday. Even express acknowledgements of the birth of Jesus as a part of a general acknowledgement of Christmas are permitted. For example, the United States Postal Service issues stamps depicting the nativity.



Thus, there is simply no reasonable basis for a CDCP teacher, or any government employee, to censor and ban the mere discussion of a recorded historical event that is observed by our government.

Conclusion

To remedy these constitutional violations, we request that you provide the following:

- 1) Written assurance that all Kalkaska Memorial Health Center employees will abide by the Constitution and federal law, to include permitting private religious speech such as that described herein; and
- 2) A written apology to Joan and Wilma for violating their constitutional rights.

Should you refuse or fail to provide these remedies, we are prepared to take any and all necessary legal action and provide *pro bono* representation of the affected residents.

I am available to answer any questions you may have. Please do not hesitate to contact me directly at [REDACTED] at your convenience.

Sincerely,



Michael Berry
Chief of Staff
First Liberty Institute