



February 17, 2026

KIPP Nashville Public Schools

Attn: Principal/School Board, KIPP Antioch College Prep Elementary

[REDACTED]

**Re: Denial of Religious Accommodation for First Grade Teacher**

Dear Ms. Brittnee Kennedy:

First Liberty Institute is the nation's largest law firm dedicated exclusively to defending and restoring religious liberty for all Americans. Eric Rivera contacted us about KIPP's infringement on his religious exercise via its denial of his requested accommodation with respect to the curriculum and its retaliation against him for his religious beliefs. Our firm represents Mr. Rivera in this matter.

**I. BACKGROUND**

Mr. Rivera was a first-grade teacher at KIPP Antioch College Prep Elementary ("KACPE") until he was recently removed from his classroom. Mr. Rivera is a Christian, and his faith informs all aspects of his life. As a faithful Christian, he believes in biblical sexuality and holds a traditional view of marriage.

In January of this year, while preparing to teach his first-grade class the selected Language Arts curriculum, Mr. Rivera noticed that the curriculum included a book featuring a same-sex married couple and child. He concluded that he could not, in good conscience, read and lead discussion on this book because teaching such

[REDACTED]

material to impressionable first graders would conflict with his sincerely held religious beliefs. On the day this book was scheduled to be read, January 6, 2026, Mr. Rivera asked a colleague to read the book to his class of first-graders, while he remained in the classroom to observe – a substitution that Mr. Rivera believed would be workable and accepted.

The very next day, January 7, 2026, Mr. Rivera was summoned to the principal's office and threatened with termination. Based on his refusal to read this book to his first-graders, he was issued a “Final Warning” letter. (See attached.) He received no prior warnings from the school, nor had he been subject to any discipline at any time. The letter accused Mr. Rivera of failing to meet the “expectation” of teaching the curriculum “with fidelity,” and stated that as a result of his conduct, students will “miss content aligned with the scope of the unit.” Not only was the curriculum still taught to his first-grade class via substitute, but KIPP’s position sends the message that anyone who holds the same religious beliefs and values as Mr. Rivera is incapable of teaching at their school while maintaining “fidelity” to their chosen curriculum. Mr. Rivera was further directed to “maintain fidelity to the curriculum, teaching all lessons in the KIPP Nashville Scope and Sequence.” The letter concluded with a further threat of disciplinary action including termination and stated, “A copy of this unsatisfactory notice is being placed in your personnel file.”

Mr. Rivera has since been removed from his first-grade classroom and was switched to a lab/tech position and then to a kindergarten position. Mr. Rivera reviewed the entire first grade language arts curriculum and found only two books which he believed conflicted with his religious beliefs. Mr. Rivera stated he believed he should be able to teach first grade consistent with his convictions by having another teacher read the two books in the curriculum that he objected to. However, the principal indicated that the belief in same-sex marriage is so fundamental to the language arts unit that Mr. Rivera could not possibly be permitted to teach any portion of the unit, and therefore had to be removed from the first grade classroom. In so doing, KIPP tacitly conceded that it will never permit someone with traditional marriage views to teach first grade. By this anti-religious personnel practice, KIPP has violated Mr. Rivera’s right to honor his own conscience and live according to his legally protected religious beliefs.



## II. LEGAL ANALYSIS

### A. *KIPP's failure to reasonably accommodate Mr. Rivera violates Title VII of the Civil Rights Act.*

Title VII of the Civil Rights Act of 1964 established that it is unlawful for an employer to discriminate against any individual with respect to religion and also requires employers to accommodate employees' religious practices unless doing so would impose an "undue hardship" on the conduct of the employer's business. 42 U.S.C § 2000e(j) and § 2000e-2(a)(1). The word "religion" is defined to include "all aspects of religious observance and practice, as well as belief." *E.E.O.C. v. Abercrombie & Fitch Stores, Inc.*, 575 U.S. 768, 771-772 (2015) (citing 42 U.S.C § 2000e(j)). The Supreme Court recently clarified that to show undue hardship, employers must demonstrate that accommodating the employee would cause a "burden [that] is substantial in the overall context of an employer's business" or, in other words, "substantial increased costs" on the business. *Groff v. DeJoy*, 600 U.S. 447, 468 and 470 (2023). In addition, as part of the reasonable accommodation process, the employer must engage in an interactive process with the employee, in good faith, to arrive at a reasonable accommodation.

Mr. Rivera's sincerely held religious beliefs are protected under the First Amendment. Thus, he was within his rights to request a reasonable accommodation. As employees, teachers have the right to opt out of curricula that they find religiously objectionable just as students do unless the opt out would cause an undue hardship. Though KIPP attempted to backtrack on its initial reprimand by asking Mr. Rivera what he objected to, it ultimately determined that his views disqualified him from teaching first grade at KIPP based on two books out of 22 assigned readings in unit four of the English language arts curriculum. KIPP cannot show that use of a substitute teacher for two books within a single unit (out of 5 units comprised of 19 days or more each) would constitute substantial increased costs for the school. When Mr. Rivera secured a substitute for the day and excused himself from the reading of one book, the students still received instruction on the lessons in question. Neither Mr. Rivera nor KIPP had to arrange to bring in a substitute from outside the school. KIPP cannot demonstrate any undue hardship here. Therefore, KIPP failed to reasonably accommodate Mr. Rivera in violation of Title VII of the Civil Rights Act.



*B. KIPP’s treatment of Mr. Rivera violates the United States Constitution.*

The Free Exercise Clause of the First Amendment provides that “Congress shall make no law . . . prohibiting the free exercise of religion.” U.S. Const. Amend. I.; *See also* Tenn. Code Ann. § 49-13-111(b). When the government “prohibits religious conduct while permitting secular conduct that undermines the government’s asserted interests in a similar way,” it interferes with the right to free exercise. *Fulton v. City of Philadelphia, Pennsylvania*, 593 U.S. 522, 534 (2021). Thus, if a government entity (such as KIPP) adopts a general policy, but empowers itself to make exceptions to that policy in any circumstances, it will be deemed to interfere with the right to free exercise should it refuse to make an exception sought on religious grounds. *Id.* at 533-37. Such interference is unconstitutional unless it “advances interests of the highest order and is narrowly tailored to achieve those interests.” *Id.* at 534.

KIPP is unable to show that its rejection of Mr. Rivera’s requested accommodation and retaliatory punishment for his use of an assistant teacher advances any compelling state interest or that it was narrowly tailored to achieve such interest. Even if KIPP can successfully claim that including LGBTQ-inclusive material in its first-grade curriculum serves a compelling state interest, its refusal to make an exception for Mr. Rivera is not narrowly tailored to that interest. Mr. Rivera did not abandon his class such that they received no instruction; he arranged for a colleague to step in, allowing the curriculum to be taught on schedule and in a way that did not violate Mr. Rivera’s conscience. KIPP’s assertion that Mr. Rivera’s conduct created “curriculum gaps” is completely false. Further, KIPP’s retaliation against Mr. Rivera after the fact—rather than devising a workable solution to keep Mr. Rivera in his position—demonstrates its true anti-religious motive.

An individual’s right to free exercise of religion, like other First Amendment rights, is not “shed . . . at the schoolhouse gate.” *Mahmoud v. Taylor*, 606 U.S. 522, 545 (2025) (citing *Tinker v. Des Moines Independent Community School Dist.*, 393 U.S. 503, 506-507 (1969)). In *Mahmoud*, the Supreme Court reasoned that the LGBTQ-inclusive school books at issue presented “acceptance of same-sex marriage as a perspective that should be celebrated.” *Id.* at 552. The Court emphasized that while some Americans may desire their children to receive such instruction, others wish to present different moral messaging to their children, and that ability is “undermined when the exact opposite message is positively reinforced in the public school classroom at a very young age.” *Id.* Even in *Obergefell*, the case that legalized



same-sex marriage, the Supreme Court recognized that many Americans “advocate with utmost, sincere conviction that, by divine precepts, same-sex marriage should not be condoned.” *Obergefell v. Hodges*, 576 U.S. 644, 679 (2015). The *Obergefell* Court could not have been more clear: “The First Amendment ensures that religious organizations and persons are given proper protection as they seek to teach the principles that are so fulfilling and so central to their lives and faiths.” *Id.* at 679-80. Mr. Rivera’s views are protected by the First Amendment, yet KIPP punished him for these views. *See Meriwether v. Hartop*, 992 F.3d 492, 516-17 (2021) (coercive punishment of professor with traditional views violated free exercise clause).

Many Americans, including Christians, Jews, Muslims, and others, do not appreciate that books included in primary school curricula are “designed to present the opposite viewpoint to young, impressionable children who are likely to accept without question any moral messages conveyed by their teachers’ instruction.” *Mahmoud*, 606 U.S. at 551. Indeed, we are informed that Mr. Rivera’s fellow teachers advised him that when parents learn that their students are exposed to this material, they become upset. It is not a secret that these books are controversial, especially for religious people. Nevertheless, KIPP requires that its first grade teachers “*maintain fidelity*” to the curriculum, which signifies that to teach first grade, they must adopt the faith of the school rather than remain true to their own even where an accommodation can be easily achieved. However, the United States Constitution is “a charter of government which envisaged the widest possible toleration of conflicting views. Man’s relation to his God was made no concern of the state.” *United States v. Ballard*, 322 U.S. 78, 87 (1944).

As noted in *Mahmoud* and *Obergefell*, the First Amendment clearly protects the view that marriage is between one man and one woman. Mr. Rivera holds this view and attempted to exercise his First Amendment right to opt-out of instructing the material that violated his faith, but KIPP retaliated against him for holding this view and wrongfully demanded that he “*maintain fidelity*” to the views of the school against his conscience. This conduct is unconstitutional as a matter of law and demonstrates that teachers whose faith prohibits same-sex marriage are not welcome to teach first grade in KIPP schools.



*C. KIPP May Be in Violation of Parental Rights Under the Constitution and Tennessee Law.*

As far as we are aware, it appears KIPP has not made clear to parents what the KACPE curriculum contains and how to opt out of pro-LGBTQ instruction in the first-grade curriculum. We reviewed KIPP’s online materials, including the Student & Family Handbook ([https://kippnashville.org/wp-content/uploads/2025/11/SY25-26-KIPP-Nashville\\_StudentFamilyHandbook\\_revised-11.18.25.pdf](https://kippnashville.org/wp-content/uploads/2025/11/SY25-26-KIPP-Nashville_StudentFamilyHandbook_revised-11.18.25.pdf)), and while there is a cumbersome process by which parents must submit a request to review instructional materials, then submit a grievance or complaint (with multiple layers of bureaucracy for review), there is no simple, readily-available opt-out form. On its face, the absence of a vehicle for parents to easily request accommodations or opt their children out of instruction due to their religious beliefs violates the First Amendment. *Mahmoud*, 606 U.S. at 567. It may also violate Tennessee law. Tennessee school districts must establish a process for students, parents/legal guardians, and school staff to provide feedback on materials in the school’s library. Tenn. Code Ann. § 49-6-3803. Furthermore, schools must inform parents or legal guardians before teaching sexual orientation or gender identity curriculum (defined as “materials … or instruction of any kind related to sexual orientation or gender identity”) and must provide parents or legal guardians with information about the program that will be taught as well as a parent or legal guardian’s right to inspect the materials being used. *Id.* § 49-6-1308.

There is no doubt that the two books to which Mr. Rivera objected fit squarely within the broad definition of “sexual orientation or gender identity curriculum” set forth in Tennessee law. *Id.* § 49-6-1308(e). First, both are listed in the “LGBTQ+ Books” section on Amazon.com, and second, both have appeared in or received awards from the American Library Association’s Rainbow Book List. The Rainbow Book List “presents an annual bibliography of quality books with significant and authentic LGBTQIA+ content, which are recommended for people from birth through eighteen years of age.” (<https://www.ala.org/awards/books-media/rainbow-project-book-list>) Both of the books to which Mr. Rivera objected require parental notification under Tennessee law, and to our knowledge, none was given. Accordingly, based on our understanding of KIPP’s practices, KIPP should review whether it is in compliance with its obligations to parents under Tennessee and federal law.



### III. DEMAND FOR DOCUMENT PRESERVATION AND RESPONSE

This letter constitutes Mr. Rivera's demand to KIPP to immediately identify, preserve, and not alter or destroy, all documents, tangible things, information, data (collectively "Documents"), and electronically stored information ("ESI") in its possession or control that relates to this matter, including but not limited to:

- All current curricula
- All documentation regarding the adoption of current curricula
- All documentation regarding the enforcement of current curricula
- All documentation regarding parental objections to current curricula
- All documentation regarding teacher and/or staff objections to current curricula
- All documentation regarding religious accommodations requested by teachers
- All documentation regarding religious accommodations requested by students and/or parents
- All documentation regarding information presented to parents regarding how to opt their children out of objectional material
- All documentation regarding DEI policies/initiatives and sexual orientation and gender identity ("SOGI") policies/initiatives
- All documentation regarding Mr. Rivera, including employment records and communications from, to, or about Mr. Rivera
- All documentation regarding warnings and/or penalties imposed upon Mr. Rivera

Further, as noted above, KIPP's punishment of and refusal to reasonably accommodate Mr. Rivera due to his religious beliefs violates his rights under Title VII. To resolve this concern, Mr. Rivera requires written assurance from KIPP that it will agree to the following:

- Preserve all records relating to this matter, including the documents in the categories specified above, in anticipation of litigation.
- Remove the January 7, 2025 "Final Warning" letter from Mr. Rivera's personnel file.
- Cease discriminating against individuals on the basis of their religious beliefs in both hiring and maintaining employees.



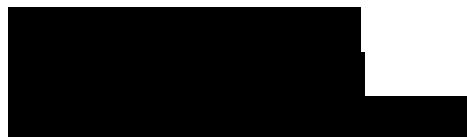
- Commit to accommodating religious employees who desire not to read to first graders any materials objectionable to their faith (in the absence of legitimate undue hardship).

We ask that you respond to this letter in writing no later than end of business day on February 27, 2026. If we do not hear from you by this date, we will assume that KIPP intends to continue with its unconstitutional conduct toward its teachers and staff, parents, and students, and will pursue available remedies accordingly.

Regards,



E. Cliff Martin  
Nathan W. Kellum  
Madison M. Krause



First Liberty Institute

cc: KIPP School Board Members (Jim Flautt, Cynthia Arnholt, Seth Chadwell, Elizabeth Dennis, J. Andrew Goddard, Bridget Haimberger, Beth Harwell, Page Haun, Paul Hetrick, Ed Littlejohn, Rick Martin, Tomika Marks, Jeff McGruder, William Seibels, Rokeish Wilson, Tom Wally)



# KIPP: Nashville

PUBLIC SCHOOLS

To: Eric Rivera  
From: Brittnee Kennedy  
Date: January 7, 2025  
Re: Final Warning

This notice serves as a final warning regarding refusal to execute the KACPE curriculum.

Be advised that the expectation of the Lead Teacher is to teach curriculum with fidelity, ensuring that all lessons are executed in alignment with the scope and sequence established by KIPP Nashville. You have been previously counseled on this matter when discussing the challenge with facilitation with your coach on January 6, 2025.

As a result of this conduct, students will miss content aligned with the scope of the unit, which could potentially impact the alignment of specialist instruction (ML and ExEd teachers). In addition to creating curriculum gaps due to the refusal to provide instruction, this does not align with our KIPP Mission and Vision, nor the KIPP Antioch College Prep Elementary core values.

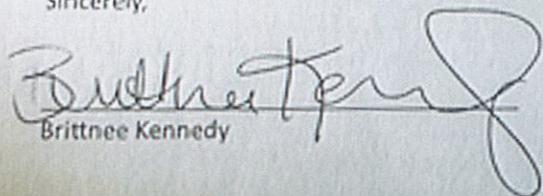
Moving forward, you are directed to do the following:

1. Maintain fidelity to the curriculum, teaching all lessons in the KIPP Nashville Scope and Sequence
2. Use the materials, books, and resources provided by the curriculum

Non-compliance with this/these directives will result in further disciplinary action, including up to termination of employment.

A copy of this unsatisfactory notice is being placed in your personnel file.

Sincerely,



Brittnee Kennedy

1/7/2025  
Date

Acknowledged and Accepted:

Eric Rivera

Date

Did Not Sign Today