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October 10, 2022

Superintendent Eddie Campbell, Jr.  
Monongalia County Schools  
1751 Earl L. Core Road  
Morgantown, WV 26505  
via email at [moncoschools@boe.mono.k12.wv.us](mailto:moncoschools@boe.mono.k12.wv.us)

Re: Removing LGBTQ+ Pride and Black Lives Matter Displays

Superintendent Campbell,

The ACLU of West Virginia understands that you have issued a county-wide directive ordering school administrators to remove LGBTQ+ Pride and Black Lives Matter displays. This action is demonstrably unlawful, and we urge you and the Monongalia County Board of Education to reverse this ill-considered directive.

Ordering faculty to remove LGBTQ+ Pride and Black Lives Matter displays violates the right of free expression that all citizens enjoy under the U.S. Constitution. The Supreme Court has repeatedly held that First Amendment protections extend to “teachers and students,” neither of whom “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” *Tinker v. Des Moines Independent Community School Dist.*, 393 U.S. 503, 506 (1969); see also *Lane v. Franks*, 573 U.S. 228, 231 (2014); *Kennedy v. Bremerton School District*, 142 S.Ct. 2407, 2423 (2022). This bedrock principle of the Supreme Court’s First Amendment jurisprudence ensures schools do not become grounds for authoritarian control over the future of our democracy.

Although the free speech rights of public-school employees are not absolute, the protections found in the First Amendment extend to teachers speaking on “matters of public concern.” *Pickering v. Bd. Of Educ. Of Twp. High Sch. Dist. 205, Will Cnty., Ill.*, 391 U.S. 562, 568 (1968); *Connick v. Myers*, 461 U.S. 138 (1983). There can be little doubt that speech that supports LGBTQ+ and Black students who have been historically and systematically excluded, abused, and neglected by those in power in schools and other public institutions is speech that is of “social, or other concern to the community.” *Connick*, 461 U.S. at 146. In fact, support for LGBTQ+ and Black students is of such concern, it is enshrined in Monongalia County School Policy 2260.<sup>1</sup>

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<sup>1</sup> “The Board does not discriminate on the basis of race, color, religion, national origin, ancestry, creed, pregnancy, marital status, parental status, sexual orientation, sex (including gender status, change of sex or gender identity), or physical, mental, emotional, or learning disability (“Protected Classes”) in any of its student program and activities.” Monongalia County School Policy 2260.

Further, the policy used to justify this unlawful action likely violates the Due Process Clause of the Fourteenth Amendment. The terms “political” and “issues” in Policy 3231.01 are so vague, they provide unbridled discretion to administrators to pick and choose which messages to ban and which to permit. You should be aware that the Supreme Court recently struck down a Minnesota ban on “political” dress at polling places because the term “political” was found to be too vague. *Minnesota Voters All. v. Mansky*, 138 S. Ct. 1876 (2018). In its decision, the Court determined restraints on speech must include “some sensible basis for distinguishing what may come in from what must stay out.” *Id.* at 1880; *see also In re Murphy-Brown, LLC*, 907 F.3d 788 (4th Cir. 2018); *White Coat Waste Project v. Greater Richmond Transit Company*, 35 F.4th 179 (4th Cir. 2022). Policy 3231.01 contains no such basis.

Instructing faculty to remove LGBTQ+ Pride and Black Lives Matter displays sends a message to students in those communities that they are not to be cared for, celebrated, or protected. That message is likely to create a hostile environment for students in Monongalia County and throughout West Virginia.

The ACLU of West Virginia strongly encourages you to reverse the removal directive and to respect the constitutional rights of students, faculty, and staff. ACLU-WV will continue to monitor this situation and consider next steps as this issue evolves.

If you have any questions or concerns, I can be reached at [nward@acluwv.org](mailto:nward@acluwv.org).

Regards,



Nicholas Ward  
Staff Attorney, ACLU-WV

cc:

Donna Talerico, Monongalia County Deputy Superintendent  
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