



April 06, 2005

Dr. Linda Fenner, Superintendent
Dublin City Schools
7030 Coffman Road
Dublin, Ohio 43017

SENT VIA FAX TO: 614/761-5899 AND VIA U.S. REGISTERED MAIL

Dear Superintendent Fenner:

The purpose of this correspondence is to inform you that my office, the American Civil Liberties Union (ACLU) of Ohio Foundation, Inc., has been in contact with parents and students who attend Dublin High School. These students and their parents share one concern – the recent controversy at Dublin High School regarding student t-shirts.

As you are undoubtedly aware, there has been a small series of incidents at Dublin High School involving students wearing t-shirts containing political messages. The first instance occurred on March 22, 2005, when one student wore a shirt containing text reading “I support gay marriage”. That student, as you know, was made to remove his shirt by Principal Steve Best.

The next day, March 23, 2005, a group of additional students wore shirts with the same or similar messages. Those students were also made to remove their shirts by Mr. Best. When one student refused, she was reportedly dismissed from school for the day.

On the following day, March 24, 2005, several dozen students wore t-shirts emblazoned with pro-First Amendment messages. Those students, to the school’s credit, were apparently permitted to remain in school free of any demands to remove or change their clothing.

Nonetheless, the ACLU of Ohio is deeply troubled by the previous actions by school officials resulting in students removing t-shirts because of the viewpoints expressed. While it is my understanding that no students have been formally disciplined for the wearing of their shirts, it is our opinion that even the administration’s demands to remove the shirts constitutes an unconstitutional infringement of those students’ free speech rights.

Indeed, the U.S. Supreme Court ruled on this very issue in 1969. In *Tinker v. Des Moines School District*, 393 U.S. 503 (1969), the U.S. Supreme Court made it very clear that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate”. In *Tinker*, students wore black armbands to protest U.S. military involvement in Vietnam and were suspended from their school.

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The Court found those students engaged in "silent, passive expression of opinion, unaccompanied by any disorder or disturbance" fully protected by the First Amendment. Furthermore, the Court ruled that the students in *Tinker* "may not be regarded as closed-circuit recipients of only that which the State wishes to communicate".

All reports regarding the t-shirt controversy at Dublin High School suggest that the students in question were engaged in exactly the type of silent, unobtrusive political expression at issue in *Tinker*. To be sure, since the *Tinker* decision, numerous federal courts including the U.S. Supreme Court, have consistently upheld the right of public school students to engage in this type of speech activity.

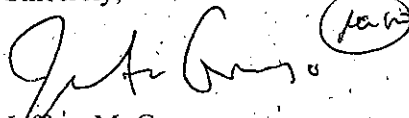
While we are sincerely hopeful that the refusal by the administration at Dublin High School to in any way discipline the students who wore t-shirts on March 24, 2005, demonstrates a new found recognition of students' free speech rights, we still feel it necessary to express our concerns should this be an ongoing problem.

For that reason, we will continue to monitor the actions of Dublin High School administration officials as it relates to this t-shirt controversy in order to ensure compliance with the First Amendment. Should we receive reports that school officials continue to violate student expression, I will have no choice but to refer the matter for possible litigation to the ACLU of Ohio Foundation's Board of Directors.

Again, with your cooperation, I anticipate this won't be necessary and remain optimistic that no further correspondence from our office on this matter will be necessary.

Should you have any further questions or concerns please do not hesitate to contact me.

Sincerely,

Handwritten signature of Jeffrey M. Gamso in cursive, with a circled "JMG" monogram to the right.

Jeffrey M. Gamso
Legal Director

cc: Lloyd Snyder, General Counsel, ACLU of Ohio Foundation
Christine Link, Executive Director, ACLU of Ohio Foundation