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September 8, 2021

Angélica Infante-Green, Commissioner
R.I. Department of Education
255 Westminster Street
Providence, RI 02903

VIA EMAIL AND MAIL

Dear Commissioner Infante-Green:

Over the past week, our office has received numerous complaints from teachers in the Providence School District about the “Social Media for Employees” policy that they have been told they must sign within the next few days. Because we believe their complaints have merit, I am writing to request that RIDE revise the policy and refrain from taking adverse action against any teacher who fails to sign and return the current version.

We understand that this policy has been around for a few years, but for at least some teachers, the sign-off requirement is new and, based on actions taken against other teachers, has become more fraught. There are two provisions that have been of particular concern to them, and we agree that their reach is problematic. I refer specifically to Sections 2(e) and (f) in “Guidelines and Implementation Strategies,” which deal with employees’ personal social media accounts.

Section 2(e) provides that the school district “may at any time, and for any reason, request that employees refrain from using their personal social media sites to conduct official District business or generate original District-related content.” Our concern about this section is with the undefined and confusing latter phrase “original District-related content.” Obviously, just about any comment or post that involves the topic of education could be considered as generating “District-related content.” We urge the deletion of this phrase in order to avoid a chilling effect on the private free speech rights of District employees.

Similarly, Section 2(f) broadly provides that the school district “may take appropriate responsive action when it becomes aware of, or reasonably suspects, conduct or communication on a personal social media account that adversely impacts the PPSD learning or workplace environment, or violates city, state, or federal laws.” Any information or personal comments posted by a teacher that are critical in any way of the school district or school practices or policies could be deemed by some officials to “adversely impact” the “workplace environment.” But government workers retain basic First Amendment rights to speak out in their non-official capacity on employment-related issues that involve matters of public concern. See, e.g., *Brady v. Tamburini*, --- F.Supp.3d ---, 2021 WL 462650 (D.R.I. 2021). As I’m sure you are aware, this protection has long included public school employees. *Pickering v. Board of Education*, 391 U.S. 563 (1968). Indeed, as professionals with knowledge about the topic, it is clearly in the public interest that they be able to express their views about educational and school matters without having to fear possible discipline or retaliation.

However, according to the complaints we have received, some teachers have been reprimanded under the PPSD policy for posting comments or photos on their social media accounts that call attention to unsafe or substandard school facilities. But this is precisely the sort of information of public concern that they have a right to inform the community about. See *Cirelli v. Town of Johnston*, 897 F.Supp. 663 (D.R.I. 1995) (school officials violated the First Amendment by banning a teacher from videotaping safety violations at her school or releasing the videotapes to third parties without permission).

We therefore request that you promptly revise these two provisions in the policy and extend the date for District employees to sign an updated policy that addresses the issues raised herein and more appropriately accommodates teachers' free speech rights.

Thank you in advance for considering this, and I look forward to hearing back from you about it.

Sincerely,

A handwritten signature in cursive script that reads "Steven Brown".

Steven Brown
Executive Director