



FOUNDATION
AGAINST
INTOLERANCE
& RACISM

May 17, 2022

Dr. Devon Horton
Superintendent
Evanston/Skokie School District 65
hortond@district65.net

Sent via email

Dear Dr. Horton:

I am an attorney at the Foundation Against Intolerance & Racism (FAIR), a nonpartisan, nonprofit organization dedicated to advancing civil rights and liberties and promoting a common culture based on fairness, understanding, and humanity. We have more than 100 chapters and tens of thousands of members nationwide, including in Illinois. Our website, fairforall.org, can give you a fuller sense of our identity and activities.

We write in response to a report regarding Evanston/Skokie School District 65 that was submitted to us on April 22 through our transparency website, fairtransparency.org. That report states, “Evanston PreK-3rd instruction plans include teaching young students about gender affirmation, gender pronouns, and states that white colonizers created the gender binary.” The report links to a 277-page [document](#) with lesson plans on those subjects. One lesson teaches these young students that people are in “danger” because of “whiteness,” suggests that racism is exclusively associated with “whiteness,” claims without qualification that “white” people have more opportunities than “non-white” people, and refers to individuals as having “labels”:

Chunk:

Did you know that in our society today, it can still be dangerous for some people to “break the binary?” Because of racism and colonization, whiteness has been seen as a dominant label. White, cisgender, straight people have been given more opportunities than those who are not. This is something humans made up and is a system we work to break down by seeing, acknowledging, and understanding the history and experiences of others.

If someone has intersecting labels, meaning more than one label. that has historically been oppressed (kept down by systems for the benefit of others), then it can be dangerous for them to be themselves.

Another lesson plan indicates that these young children will be taught about gender transition and preferred pronouns, including neo-pronouns such as “ze” and “tree”:

Before You Begin

Why Pronouns Matter

A note to teachers before the lesson: While reading, if students start to identify that sometimes the pronoun doesn't match with what they had assumed based on somebody's presentation, introduce the term **bias**. You may also point out your own bias as you read, modeling for students what it looks like to "check yourself" and your assumptions. If this does not come up organically, the teacher will model this concept in a think aloud later in the text.

Students may be confused about pronouns that are new to them (Ze, Tree). For today, let students wrestle with this.

Content/Goal/Objectives

Students will participate in an [interactive read aloud](#) using the text *They, She, He Easy as ABC* by Maya and Matthew (book will be provided) to learn about pronouns and bias.

As an advocate for pro-human antiracism, FAIR respects educators who undertake efforts to create positive change and greater fairness. There can be no question of past and present injustices committed in this nation. However, instruction that attempts to remedy prejudice should not itself further prejudice or disregard the civil rights and individuality of others. Title VI of the Civil Rights Act prohibits federally-funded entities (including public schools) from stereotyping students or creating a hostile environment based on their skin color. *Shelley v. Kraemer*, 334 U.S. 1, 22 (1948); *Shaw v. Hunt*, 517 U.S. 899, 908 (1996); 42 U.S.C. § 2000d, d-4a(2); *Tolbert v. Queens College*, 242 F.3d 58, 69-70 (2d Cir. 2001). Teaching young children that "whiteness" is dangerous not only creates fear in these young minds but assigns negative traits to individuals based on nothing more than the color of their skin. This is unconstructive and dehumanizing.

Additionally, the lesson plans on pronouns suggest that District 65 may be instructing students to use the preferred pronouns of others and/or to announce their own pronouns. If so, this implicates their First Amendment rights. Public schools may not require students to adhere to or adopt any particular ideological beliefs. See *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943) (public school students cannot be required to recite the Pledge of Allegiance); *Oliver v. Arnold*, 3 F.4th 152, 162 (5th Cir. 2021) (public school teachers may not give assignments for the purpose of compelling students to assert specific ideological beliefs). Instructing students to use preferred pronouns and to identify their own pronouns necessarily compels them to affirm a specific set of ideological beliefs: that gender is independent of sex, that pronouns refer to gender and not sex, that there are any number of genders, and that gender is a matter of personal choice rather than a biological condition. It is not comparable to asking students to supply anodyne facts such as name, age, and address. Certainly, any student who wishes to declare their pronouns voluntarily should be permitted to do so. Additionally, it may be polite to use the preferred alternative pronouns of others. However, compelling students to do either is likely inconsistent with the First Amendment.

Teaching students that they must use alternative pronouns and announce their own may also violate their religious rights. The First Amendment protects against state intrusion into their sincerely-held religious beliefs. *Hurley v. Irish-American Gay, Lesbian, & Bisexual Grp.*, 515 U.S. 557, 573 (1995); *Wooley v. Maynard*, 430 U.S. 705, 714 (1977) (“A system which secures the right to proselytize religious, political, and ideological causes must also guarantee the concomitant right to decline to foster such concepts.”). Many world religions reject the concepts of numerous genders and individual selection of gender. Instructing students to adopt those views would violate the rights of students whose religious beliefs reject them. In the words of Justice Jackson, “If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.” *Barnette*, 319 U.S. at 642. While District 65 may permit students to declare their pronouns and use the preferred pronouns of others if they so choose, we hope it will not instruct or pressure them to do so.

Moreover, to the extent District 65 is not providing its students with diverse views on the topics of gender and sex, the district is disregarding its own policy to provide balanced instruction. Policy 6:80 states:

The Superintendent shall ensure that all school-sponsored presentations and discussions of controversial or sensitive topics in the instructional program, including those made by guest speakers, are: ... [i]nformative and present a balanced view.

The use of preferred pronouns, the number of genders that exist, and the relationship between sex and gender are all matters of ongoing public debate. Reasonable individuals can and do disagree about them, often very passionately. In fact, District 65’s own Policy 6:40 is premised on the existence of only two genders:

[B]oth genders must be treated with substantial equality.... The Superintendent must periodically evaluate any single-gender class or activity to ensure that: (1) it does not rely on overly broad generalizations about the different talents, capabilities, or preferences of *either gender* [emphasis added].

One of the central purposes of education is to enable students to explore and weigh competing ideas in an age-appropriate way in order to reach their own conclusions. If District 65 will be teaching young children concepts rooted in contemporary gender theory, we urge it to comply with its own policy and include a range of voices on those sensitive and contested issues.

Policy 6:80 also requires instruction to be “age-appropriate.” We understand that the lessons on alternative pronouns and “whiteness” are taught to children in pre-kindergarten through third grade. Typically those students are aged four through nine. We believe there are significant concerns as to whether these subjects are appropriate for such young children who are not yet developed or informed enough to fully understand, analyze, or critique those concepts. Educators can play an important role in modeling acceptance of different expressions of sex without introducing ideas that may confuse very young children.

Dr. Devon Horton

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We would like to give District 65 an opportunity to respond. Please let us know within the next five business days if you intend to do so.

Very truly yours,

A handwritten signature in black ink, appearing to read 'L. Kim', written in a cursive style.

Letitia Kim
Managing Director of the Legal Network
Foundation Against Intolerance & Racism

cc: schoolboard@district65.net