

March 23, 2018

VIA ELECTRONIC MAIL AND U.S. MAIL

Superintendent

Julie R. Kukenberger  
Superintendent of Schools  
Scarborough Public Schools  
259 U.S. Route 1  
P.O. Box 370  
Scarborough, Maine 04074-0370  
[jkukenberger@scarboroughschools.org](mailto:jkukenberger@scarboroughschools.org)

Re: Suspension of Voter Registration Drive

Dear Superintendent Kukenberger,

We write regarding your decision yesterday to suspend the voter registration event at the Scarborough High School. As an organization that protects First Amendment free speech, we are concerned that your decision impermissibly targeted protected student speech.

Students do not lose their constitutional right to free speech at the schoolhouse gate.<sup>1</sup> Indeed, “the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.”<sup>2</sup> Although schools may restrict speech that “materially disrupts classwork or involves substantial disorder,” they may not single out speech for different treatment

---

<sup>1</sup> *Tinker v. Des Moines Indep. Community Sch. Dist.*, 393 U.S. 503, 506 (1969).

<sup>2</sup> *Id.* (quoting *Shelton v. Tucker*, 364 U.S. 479, 487 (1960)).

<sup>3</sup> *Id.*

<sup>4</sup> *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 106 (2001).

<sup>5</sup> *Id.* (quoting *Shelton v. Tucker*, 364 U.S. 479, 487 (1960)).  
<sup>5</sup> Kelley Boucard, Scarborough superintendent tries to halt voter registration

based upon the content or message of the speech.<sup>3</sup> Nor may they target actual or perceived viewpoint.<sup>4</sup> There is no exception to the First Amendment for speech that is controversial. In short, students have a lot to say, as illustrated by recent student protests across the country, and their speech is protected.

Based on media reports and your email to the Scarborough School Community, it appears that you suspended the voter registration drive based on the content of student speech. Specifically, you stated that voter registration drives in general could be a “valuable activity at the High School.” Yet you suspended the drive in part because of “concerns that politics are being brought into the classroom”—presumably referring to recent student petitions to remove school board members.<sup>5</sup> In other words, you restricted voter registration drives because you disagree with the content of protected student speech. Such content-based restrictions violate the First Amendment.

Given your acknowledgment that voter registration drives would be valuable at Scarborough High School, we hope that you will promptly rescind the current restrictions on such drives.

Thank you in advance for your consideration. Please feel free to contact us with any questions.

---

<sup>3</sup> *Id.*

<sup>4</sup> *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 106 (2001).

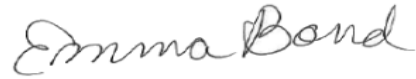
<sup>5</sup> Kelley Bouchard, *Scarborough superintendent tries to halt voter registration drive*, Portland Press Herald (March 23, 2018), <https://www.pressherald.com/2018/03/23/scarborough-superintendent-tries-to-halt-high-school-voter-registration-drive/>.

Notably, the School Board appoints and evaluates the superintendent. Scarborough Public Schools Policies, CB, CBI, CBI-P, *available at* <http://www.scarboroughschools.org/board-of-education/policies#TOC-J---Students>.

Very truly yours,

A handwritten signature in black ink, appearing to read "Zachary L. Heiden". The signature is written in a cursive style with a prominent initial "Z" and a long horizontal stroke at the end.

Zachary L. Heiden  
Legal Director

A handwritten signature in black ink, appearing to read "Emma E. Bond". The signature is written in a cursive style with a prominent initial "E" and a long horizontal stroke at the end.

Emma E. Bond  
Staff Attorney