No. _____

In the
Supreme Court of the United States

CALEIGH WOOD,
Petitioner,

v.

EVELYN ARNOLD; SHANNON MORRIS,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

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PETITION FOR WRIT OF CERTIORARI

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May 13, 2019

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QUESTIONS PRESENTED

For the past several decades, courts have struggled to determine when public schools may permissively teach about religion and when public schools cross the line and offend the First Amendment. In the decision below, the Fourth Circuit held that a public school may require students to write and declare the existence of a particular god and to recite prayer in written format. The Fourth Circuit reached this conclusion due to the public school's assertion that requiring the religious practices bore a pedagogical basis. The questions presented are:

1. Whether the Establishment Clause permits a public school to make preferential statements about one religion over another under *Lemon v. Kurtzman*, 403 U.S. 602 (1971)?

2. Whether a public school may require a student to assert religious beliefs and recount a prayer that offends the student's religious convictions as part of a homework assignment?

PARTIES TO THE PROCEEDING

Petitioner is Caleigh Wood, who was plaintiff in the courts below. Respondents are Evelyn Arnold and Shannon Morris of the Charles County Public Schools, who were defendants in the courts below.

TABLE OF CONTENTS

APPENDIX

TABLE OF AUTHORITIES

CASES

CONSTITUTION AND STATUTES

OTHER AUTHORITIES

OPINIONS BELOW

The Fourth Circuit panel's decision appears at 915 F.3d 308 and is reproduced at Pet. App. 1a. The District Court's decision appears at 321 F.Supp.3d 565 and is reproduced at Pet. App. 20a.

JURISDICTION

The Fourth Circuit's order granting summary judgment to Respondents Evelyn Arnold and Shannon Morris was entered on February 11, 2019. Pet. App. 1a. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." U.S. Const. amend. 1.

INTRODUCTION

Decades ago, this Court famously stated,

> 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.

W. Va. State Bd. of Educ. v. Barnette, 319 U.S. 624, 642 (1943). However, First Amendment jurisprudence, as

applied by the lower courts, has substantially departed from this eloquent dictate. This celebrated quotation from *Barnette* presupposes that public schools support debate, diverse viewpoints, and accept limitations on what they require students do and say. More and more, this presupposition bears less relation to the actual state of the nation's classrooms. This case exemplifies this reality.

Hollow from the freedoms discussed in *Barnette* and *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969), the Fourth Circuit upheld the ability for Respondents to denigrate Petitioner Caleigh Wood's faith and require her to write out statements and prayers contradictory to her own religious beliefs. The Court should grant this petition for writ of certiorari because the Fourth Circuit's opinion abrades the rights granted to students under the First Amendment and compounds the confusion and misapplication of the Establishment Clause and compelled speech doctrine in the public-school setting.

STATEMENT OF THE CASE

A. Factual History

The facts in this case are not in dispute. Petitioner Caleigh Wood is a Christian. Pet. App. 4a-7a. During the 2014-2015 school year, Ms. Wood was a junior at La Plata High School, a public high school in Charles County, Maryland. Pet. App. 3a. To fulfill a requirement for graduation, Petitioner enrolled in World History. Pet. App. 3-4a. As part of the history class, Respondents required Ms. Wood to complete a section on the Muslim World in which she encountered

the religion of Islam. Pet. App. 4a. To teach the unit, Respondents used a PowerPoint slide to describe the Muslim faith. *Id.* One of the slides taught the students that "Most Muslim's [sic] faith is stronger than the average Christian." *Id.*, *see also* Pet. App. 72a. Upon reviewing the controversial material, the content specialist for Charles County, Jack Tuttle, testified that this statement denigrating Christianity was "inappropriate" and that teachers should not be forwarding this statement. Pet. App. 4a.

In addition, Ms. Wood was required to profess in writing that "There is no god but Allah and Muhammad is the messenger of Allah." Pet. App. 4-5a. This statement is known as the *shahada*. Pet. App. 5a. The *shahada* is the Islamic conversion creed, the declaration a person recites to convert to Islam and then prays and repeats during the Muslim call to prayer. *Id.*, Pet. App. 65a-66a; *see also* The Religion of Islam, The First Pillar of Islam: The Muslim Profession of Faith, https://www.islamreligion.com/articles/193/first-pillar-of-islam/ (last visited May 10, 2019).

Writing this statement that "[t]here is no god but Allah" and that "Muhammad is god's messenger," violated Ms. Wood's Christian convictions. Pet. App. 5a. Ms. Wood sincerely believes that it is a sin to profess, by word or in writing, that there is any other god except the Christian God. Pet. App. 5a-7a, *see also* Pet. App. 4a-7a, 55a-58a.

Respondents also characterized the religion of Islam to students differently than they characterized the religion of Christianity. Pet. App. 63a-64a. Respondents taught Islamic principles as if they were

true facts, while Christian principles were treated as mere beliefs. *Id*. For example, Ms. Wood and her classmates were instructed that the "Qur'an *is* the word of Allah as revealed to Muhammad in the same way that Jews and Christians *believe* the Torah and Gospels were revealed to Moses and the New Testament writers." Pet. App. 5a-7a, 63a-66a (emphasis added). Respondents subjected Ms. Wood to this promotional instruction in Islam, and also refused to grant her an opt out or alternative assignment when Ms. Wood, holding fast to her Christian beliefs, refused to write that the Muslim god is the only god. Pet. App. 5a, 23a, 55a-62a.

B. Relevant Procedural History

Ms. Wood sued Respondents alleging two arguments: first, that Respondents violated the Establishment Clause of the First Amendment by "impermissibly endors[ing] and advance[ing] the Islamic religion." Pet. App. 5a. Second, Ms. Wood alleged that Respondents violated the Free Speech Clause of the First Amendment by requiring her to complete the *shahada* and "depriv[ing] [her] of her right to be free from government compelled speech." Pet. App. 5a-6a. Both the district court and the Fourth Circuit found in favor of the Respondents, granting Respondents' motion for summary judgment. Pet. App. 6a.

The Fourth Circuit held that Respondents' mandatory religious assignments and teachings did not violate the Establishment Clause under the three-prong test set forth in *Lemon v. Kurtzman*, 403 U.S. 602 (1971). Pet. App. 7a. The Fourth Circuit found

that Respondents' actions were 1) driven in part by a secular purpose, 2) had the primary effect that neither advanced nor inhibited religion, and 3) did not excessively entangle Church and State. Pet. App. 7a (quoting *Moss v. Spartanburg Cty. Sch. Dist. 7*, 683 F.3d 599, 608 (4th Cir. 2012) (citing *Lemon*, 403 U.S. at 612-13)). The Fourth Circuit opined that "[s]chool authorities, not the courts, are charged with the responsibility of deciding what speech is appropriate in the classroom." Pet. App. 9a-10a (citing *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 267 (1988); *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 683 (1986)). And the Fourth Circuit stressed the importance of examining statements in context and found that the Respondents' proffered reason for forwarding the religious teachings and assignments, for the "secular purpose of teaching about Muslim empires in the context of world history," was not pretextual. Pet. App. 8a-11a.

The Fourth Circuit opined that a reasonable observer would not view the Respondents' mandatory religious assignments as an endorsement of religion. Pet. App. 13a-14a. The Fourth Circuit held

> This is not a case in which students were being asked to participate in a daily religious exercise, *see Lee v. Weisman*, 505 U.S. 577, 598-99 (1992) (holding that requiring students to stand for graduation prayer constituted compelled participation in religious ritual); *Engel v. Vitale*, 370 U.S. 421, 424-25 (1962) (striking down state-sponsored prayer due to the inherently religious nature of prayer), or a case in which Islamic

> beliefs were posted on a classroom wall without explanation, *see Stone v. Graham*, 449 U.S. 39, 41-42 (1980) (holding that posting the Ten Commandments on a public school classroom wall violated the Establishment Clause). Rather, the challenged materials were "integrated into the school curriculum" and were directly relevant to the secular lessons being taught. *Stone*, 449 U.S. at 41-42.

Pet. App. 14a. The Fourth Circuit found Ms. Wood's belief that the religious assignments offended her Christian convictions and caused her to act outside her sincerely held religious beliefs "unavailing." Pet. App. 14a-15a at n.4. The Fourth Circuit found the statements of the Charles County school officials finding the Respondents' religious teachings "inappropriate" to also be "unavailing." *Id.*

The Fourth Circuit also ruled in Respondents' favor as to Ms. Wood's compelled speech claim. The Fourth Circuit stated that "First Amendment jurisprudence recognizes that the educational process itself may sometimes require a state actor to force a student to speak when the student would rather refrain." Pet. App. 18a (quoting *C.N. v. Ridgewood Bd. of Educ.*, 430 F.3d 159, 187 (3d Cir. 2005)). The Fourth Circuit minimized the impact of writing out prayers and statements that offend one's religious beliefs, and concluded that the *shahada* assignment did not violate Ms. Wood's right to be free from government compelled speech in the public-school setting. Ms. Wood timely petitions this Court to review her important First Amendment claims.

REASONS FOR GRANTING THE PETITION

Petitioner requests that this Court grant the petition to resolve: 1) how the *Lemon* test should be applied to Establishment Clause violations in the public-school setting, and 2) how the compelled speech doctrine should be applied to a statement of faith when the public school is asserting a pedagogical basis for requiring the statement. Both issues are unsettled questions of law requiring clarification from this Court.

I. THE FOURTH CIRCUIT'S DECISION PERTAINING TO THE ESTABLISHMENT CLAUSE CONFLICTS WITH PRECEDENT OF THIS COURT

Petitioner's Establishment Clause claim centers around two issues: 1) Respondents teaching that "Most Muslim's [sic] faith is stronger than the average Christian," Pet. App. 4a, 72a, and 2) Respondents requiring Ms. Wood, a Christian, to profess in writing that "There is no god but Allah and Muhammad is the messenger of Allah," a prayer known as the *shahada*, Pet. App. 4-5a. The Fourth Circuit held that Respondents did not violate the Establishment Clause by requiring Petitioner be subjected to these teachings and assignments. However, the Fourth Circuit's opinion runs afoul to this Court's holdings in *McCreary Cty., Ky. v. Am. Civil Liberties Union of Ky.*, 545 U.S. 844 (2005); *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000); *Sch. Dist. of Abington Twp., Pa. v. Schempp*, 374 U.S. 203 (1963); and *Lee v. Weisman*, 505 U.S. 577 (1992).

This Court has held that the pinnacle characteristics of an Establishment Clause violation are the absence of neutrality and coerced engagement in religious exercise. This is not to say that government institutions must be void of religion entirely, but institutions, such as the public schools, must not disparage a student's faith or require students to engage in prayer or religious exercises contrary to a student's deeply held religious convictions. On the subject of religion, the public schools are supposed to be "neutral, and, while protecting all, it prefers none, and it disparages none." *Schempp*, 374 U.S. at 215; *see also McCreary*, 545 U.S. at 860 ("the touchstone for Establishment Clause challenges remains 'the principle that the First Amendment mandates government neutrality between religion and religion, and between religion and nonreligion.'").

This Court has set forth a three-prong test to analyze Establishment Clause claims. *Lemon*, 403 U.S. 602. Under the *Lemon* test, "a government practice violates the Establishment Clause if it (1) lacks a legitimate secular purpose; (2) has the primary effect of advancing or inhibiting religion; or (3) fosters an excessive entanglement with religion." *Lemon*, 403 U.S. at 612–13.

This Court has advanced two other approaches by which an Establishment Clause violation is analyzed. First, in what may simply be an alternate way of framing the second *Lemon* prong, a governmental practice violates the Establishment Clause if it has "'the effect of communicating a message of government

endorsement or disapproval of religion.'" *Lynch v. Donnelly*, 465 U.S. 668, 692 (1984) (O'Connor, J., concurring)); *see also Cty. of Allegheny v. ACLU, Greater Pittsburgh Chapter*, 492 U.S. 573, 592–93 (1989). Under that test, the Court analyzes the totality of the circumstances to determine whether a reasonable person would believe that the alleged violation amounts to an endorsement of religion. *See, e.g.*, *Stone v. Graham,* 449 U.S. 39 (1980).

Second, a governmental practice violates the Establishment Clause if it "applie[s] coercive pressure on an individual to support or participate in religion." *Santa Fe Indep. Sch. Dist.,* 530 U.S. 290; *Lee*, 505 U.S. 577. Though it is not clear whether or where this test belongs in the *Lemon* test, it is evident that if the state "coerce[s] anyone to support or participate in religion or its exercise," an Establishment Clause violation has occurred." *Lee*, 505 U.S. at 587.

Where impressionable youths are involved, this Court has forwarded a stricter application of the Establishment Clause. *See, e.g., Lee*, 505 U.S. 577 ("[T]here are heightened concerns with protecting freedom of conscience from subtle coercive pressure in schools."); *Edwards v. Aguillard,* 482 U.S. 578 (1987) ("The Court has been particularly vigilant in monitoring compliance with the Establishment Clause in elementary and secondary schools."); *Schempp*, 374 U.S. 203 (Goldberg, J., concurring) ("The pervasive religiosity and direct governmental involvement inhering in the prescription of prayer and Bible reading in the public schools, during and as part of the curricular day, involving young impressionable

children whose school attendance is statutorily compelled, and utilizing the prestige, power, and influence of school administration, staff, and authority, cannot realistically be termed simply accommodation, and must fall within the interdiction of the First Amendment."); *Board of Ed. of Westside Community Schools v. Mergens*, 496 U.S. 226, 261–62 (1990) (Kennedy, J., concurring) ("The inquiry with respect to coercion must be whether the government imposes pressure upon a student to participate in a religious activity. This inquiry, of course, must be undertaken with sensitivity to the special circumstances that exist in a secondary school where the line between voluntary and coerced participation may be difficult to draw."). Thus, while the Supreme Court has upheld the opening of legislative sessions with prayer, *Town of Greece, N.Y. v. Galloway*, 572 U.S. 565 (2014), it has declared unconstitutional the opening of school sessions with prayer. *Engel v. Vitale*, 370 U.S. 421(1962). Likewise, whereas the Supreme Court upheld the constitutionality of the creche and menorah displays in *Lynch* and *Allegheny*, the Court also noted that it would have a different case if the displays arose in the school setting. *See, e.g., Allegheny,* 492 U.S. at 620 n.69 ("This is not to say that the combined display of a Christmas tree and a menorah is constitutional wherever it may be located on government property. For example, when located in a public school, such a display might raise additional constitutional considerations. *See Aguillard*, 482 U.S. at 583–584 ("Establishment Clause must be applied with special sensitivity in the public-school context."); *see also Stone,* 449 U.S. at 42 (citing *Schempp*, 374 U.S. 203, and *Engel,* 370 U.S. 421). It appears from this Court's

analysis that context is critical, and the courts heed attention to the receptivity of schoolchildren to school-endorsed messages. As such, this Court seems to envisage that the lower courts apply a heightened standard for coercion in the public-school context. This did not occur below.

The Fourth Circuit determined that teaching "Most Muslim's [sic] faith is stronger than the average Christian" and requiring students to recount and write out prayer did not violate the Establishment Clause because both generally targeted pedagogical goals. The lower court, however, failed to articulate what those specific goals might be and how appropriate such religious activities are for schoolchildren in a public-school setting. Surely, a statement denigrating the strength of Christians in their faith serves no secular goals. And the Fourth Circuit even noted in its opinion that a representative of the Charles County School District admitted such. Pet. App. 4a ("use of the comparative faith statement was inappropriate").

The Fourth Circuit also gave short shrift to Ms. Wood's concerns that recounting prayer of a different faith than her own and writing, even in fill in the blank form, violated her religious conscience. This conflicts with this Court's history of treating such engagements with such religious texts and prayer, especially in the public-school context, with great scrutiny. The nature of the *shahada* is patently religious. Engagement in this prayer is, by its nature, non-secular as it is the conversion creed of the Muslim faith. Requiring a student to engage and recount this prayer, contrary to the student's deeply held religious beliefs, conflicts

with this Court's precedent. *See Stone,* 449 U.S. at 42 (holding that the posting of the Ten Commandments on the school wall violated the Establishment Clause and stating that if "the posted copies of the Ten Commandments [were] to have any effect at all, it [would] be to induce the schoolchildren to read, meditate upon, perhaps to venerate and obey, the Commandments."); *Abington,* 374 U.S., at 223–224 (holding that required Bible study in public schools was patently religious and therefore violated the Establishment Clause). The religious nature of the school's teachings and required assignment yield an even higher level of government coercion due to the fact the Respondents required the completion of these religious activities without an option of an alternative assignment or an accommodation. This Court should grant Ms. Wood's petition to clarify the proper application of the *Lemon* test, and whether the factors ignored by the Fourth Circuit are required under this Court's precedent.[1]

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[1] Arguably, the nation's Establish Clause jurisprudence is one of the most ununiformed, unpredictable, and misapplied constitutional analysis. As Justice Thomas has noted, the Court's Establishment Clause jurisprudence "has confounded the lower courts and rendered the constitutionality of displays of religious imagery on government property anyone's guess." *Utah Highway Patrol Ass'n v. Am. Atheists, Inc.*, 132 S. Ct. 12, 13 (2011) (Thomas, J., dissenting). Justice Scalia once noted that "[a]s bad as the *Lemon* test is, it is worse for the fact that, since its inception, its seemingly simple mandates have been manipulated to fit whatever the Court aimed to achieve." *McCreary*, 545 U.S. at 900 (Scalia, J., dissenting). There is a great need for this Court to clarify how lower courts should properly apply the *Lemon* test in the public-school setting.

II. THE FOURTH CIRCUIT'S DECISION PERTAINING TO THE COMPELLED SPEECH DOCTRINE CONFLICTS WITH PRECEDENT OF THIS COURT

The Fourth Circuit's holding requires a student to write out statements of faith contrary to the student's sincerely held religious beliefs. The Fourth Circuit ruled that such compelled speech was allowed under the First Amendment because Respondents espoused a pedagogical basis for their requirement and that written completion of the faith statements was *de minimis* because the student need only complete a fill in the blank worksheet. Such a holding, generally, is a departure from this previous Court's holdings. *Barnette*, 319 U.S. at 642; *see also Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Comm'n*, 138 S. Ct. 1719, 1745 (2018) (Thomas, J., concurring in part and concurring in the judgment) ("States cannot put individuals to the choice of being compelled to affirm someone else's belief or being forced to speak when they would prefer to remain silent.") (citation and internal quotation marks omitted). Thus, "[i]n general, '[l]aws that compel speakers to utter or distribute speech bearing a particular message are subject to . . . rigorous scrutiny.'" *Greater Balt. Ctr. for Pregnancy Concerns, Inc. v. Mayor of Balt.*, 879 F.3d 101, 107-08 (4th Cir. 2018) (quoting *Turner Broad. Sys. v. FCC*, 512 U.S. 622, 642 (1994)).

Inherent in the importance of the compelled speech doctrine is that the First Amendment can prevent a government actor from compelling an individual to express a certain view. *See Barnette*, 319 U.S. at 624

(holding that First Amendment rights are violated when a public school official infringes upon a student's "freedom of mind" or conscience). In *Tinker*, this Court stated that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." *Tinker*, 393 U.S. at 506. However, *Tinker* is considered "the 'high water mark' of student speech rights" and "with every subsequent student-speech decision, the Supreme Court has 'expanded the kinds of speech schools can regulate.' Indeed, the rights announced in *Tinker* do not extend to several broad categories of student speech: 'lewd, indecent, or offensive' speech; school-sponsored speech; and speech 'that a reasonable observer would interpret as advocating illegal drug use.'" *Morgan v. Swanson*, 659 F.3d 359, 374–75 (5th Cir. 2011) (*en banc*) (internal citations omitted). Public-school students do not necessarily enjoy free speech rights that are coextensive with those of adults in other settings. *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 266 (1988). Schools enjoy far greater latitude to regulate student speech that fairly occurs as part of the school curriculum so long as the school's actions are reasonably related to legitimate pedagogical concerns. However, there is a conflict in the law when a school compels speech as part of its curriculum that would otherwise be impermissible under *Barnette*, such as compelled religious statements, compelled prayer, and national pledges. One Court described *Hazelwood* as "grossly insufficient regarding a school's compulsion of affirmative expression." *Brinsdon v. McAllen Indep. Sch. Dist.*, No. 7:13-CV-93, 2014 WL 12677688, at *9 (S.D. Tex. Aug. 11, 2014), *aff'd*, 863 F.3d 338 (5th Cir. 2017). The Fifth, Sixth, Ninth, and Tenth Circuits

have all struggled to apply *Hazelwood* to compelled speech in the public-school context. *Id.*, *Settle v. Dickson County Sch. Bd.,* 53 F.3d 152 (6th Cir.1995), *Brown v. Li*, 308 F.3d 939, 953 (9th Cir. 2002); *Axson–Flynn v. Johnson*, 356 F.3d 1277, 1291–92 (10th Cir. 2004).

In *Axson-Flynn*, the Tenth Circuit reversed the District Court's dismissal of a student's compelled speech claim. *Axson–Flynn,* 356 F.3d 1277. The Plaintiff, a theater student, objected to reciting lines that offended her religious convictions. *Id*. at 1283. The school would not alter its requirement that the Plaintiff recite the original script that contained offensive language. *Id*. at 1282. Plaintiff brought a First Amendment claim arguing that the school violated her First Amendment right to be free from compelled speech. *Id*. at 1283. The Tenth Circuit remanded Plaintiff's claim, finding that limits exist to the appellate court's blanket acceptance of a school's asserted pedagogical wisdom. *Id*. at 1293. The Tenth Circuit held that when the school departs from accepted academic norms or fails to demonstrate professional judgment, the court "may override the educator's judgment." *Id*. In contrast, the Fifth Circuit upheld a school's compulsion of a pledge of allegiance to a foreign country, finding that compelling the pledge of allegiance as a graded assignment bore pedagogical legitimacy, despite the Plaintiff's objections based upon *Barnette*. *Brinsdon*, 863 F.3d 338. The implementation

of *Hazelwood* has caused division in the lowers courts and clarity is needed.[2]

CONCLUSION

For the foregoing reasons, the Court should grant a writ of certiorari to the Fourth Circuit.

Respectfully submitted,

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[2] There is also substantial confusion in the lower court as to whether *Hazelwood* permits educators to engage in viewpoint discrimination. *See*, e.g., 2 RODNEY A. SMOLLA, SMOLLA & NIMMER ON FREEDOM OF SPEECH, § 7:14.50 (Westlaw current through March 2011) ("There is a division among courts as to whether the . . . deferential First Amendment standard articulated in *Hazelwood* is nonetheless trumped and displaced by the First Amendment norm heavily disfavoring viewpoint discrimination."); *Chiras v. Miller*, 432 F.3d 606, 615 (5th Cir.2005); *Fleming v. Jefferson Cty. Sch. Dist. R-1*, 298 F.3d 918, 928 (10th Cir. 2002) ("*Hazelwood* does not require educators' restrictions on school-sponsored speech to be viewpoint neutral."); *Ward v. Hickey*, 996 F.2d 448, 454 (1st Cir.1993) ("[T]he Court in [*Hazelwood*] did not require that school regulation of school-sponsored speech to be viewpoint neutral."); *Searcey v. Harris*, 888 F.2d 1314, 1319 n. 7 (11th Cir. 1989) ("[T]here is no indication that the [*Hazelwood*] Court intended to drastically rewrite First Amendment law to allow a school official to discriminate based on a speaker's views.").

APPENDIX

APPENDIX

TABLE OF CONTENTS

APPENDIX A

PUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-1430

[Filed February 11, 2019]

CALEIGH WOOD,	)
	)
Plaintiff - Appellant,	)
	)
and	)
	)
JOHN WOOD; MELISSA WOOD, on behalf of her minor child, C.W.,	)
	)
Plaintiffs,	)
	)
v.	)
	)
EVELYN ARNOLD; SHANNON MORRIS,	)
	)
Defendants - Appellees,	)
	)
and	)
	)
BOARD OF EDUCATION OF CHARLES COUNTY; CHARLES	)

COUNTY PUBLIC SCHOOLS,)
)
Defendants,)
)
CHRISTIAN ACTION NETWORK,)
)
Amicus Supporting Appellant.)
)

Appeal from the United States District Court for the District of Maryland, at Greenbelt.

George Jarrod Hazel, District Judge. (8:16-cv-00239-GJH)

Argued: December 11, 2018 Decided: February 11, 2019

Before KEENAN, WYNN, and HARRIS, Circuit Judges.

Affirmed by published opinion. Judge Keenan wrote the opinion, in which Judge Wynn and Judge Harris joined.

ARGUED: Kate Oliveri, THOMAS MORE LAW CENTER, Ann Arbor, Michigan, for Appellant. Andrew G. Scott, PESSIN KATZ LAW, P.A., Towson, Maryland, for Appellees. **ON BRIEF:** B. Tyler Brooks, Richard Thompson, THOMAS MORE LAW CENTER, Ann Arbor, Michigan, for Appellant. Edmund J. O'Meally, Lisa Y. Settles, PESSIN KATZ LAW, P.A., Towson, Maryland, for Appellees. David W.T. Carroll,

CARROLL, UCKER & HEMMER LLC, Columbus, Ohio, for Amicus Curiae.

BARBARA MILANO KEENAN, Circuit Judge:

In this case, we consider whether two statements concerning Islamic beliefs, presented as part of a high school world history class, violated a student's First Amendment rights under either the Establishment Clause or the Free Speech Clause. The student, Caleigh Wood, contends that school officials Evelyn Arnold and Shannon Morris (the defendants) used the statements about Islam to endorse that religion over Christianity, and compelled Wood against her will to profess a belief in Islam.

Upon our review, we conclude that the challenged coursework materials, viewed in the context in which they were presented, did not violate Wood's First Amendment rights, because they did not impermissibly endorse any religion and did not compel Wood to profess any belief. We therefore affirm the district court's judgment awarding summary judgment in favor of the defendants.

I.

During the 2014-2015 school year, Wood was an eleventh-grade student at La Plata High School, a public high school in Charles County, Maryland. Arnold was La Plata's principal, and Morris was employed as one of the school's vice-principals.

As an eleventh-grade student, Wood was required to take a world history course, which was part of the

school's social studies curriculum. The year-long course covered time periods from the year "1500 to the [p]resent." Among the topics covered in the course were the Renaissance and Reformation, the Enlightenment period, the Industrial Revolution, and World Wars I and II. The topics were divided into separate units, with each unit generally being taught over a period of between ten and twenty days.

The smallest unit of the world history course, encompassing five days, was entitled "The Muslim World." The unit was "designed to explore, among other things, formation of Middle Eastern empires including the basic concepts of the Islamic faith and how it along with politics, culture, economics, and geography contributed to the development of those empires."

As part of the "Muslim World" unit, Wood's teacher presented the students with a PowerPoint slide entitled "Islam Today," which contrasted "peaceful Islam" with "radical fundamental Islam." The slide contained the statement that "Most Muslim's [sic] faith is stronger than the average Christian" (the comparative faith statement) (underlining in original). The school's content specialist, Jack Tuttle, testified that use of the comparative faith statement was inappropriate, and that he would have advised a teacher who was considering teaching this statement "[n]ot to do that."

Wood also was required to complete a worksheet summarizing the lesson on Islam. The worksheet addressed topics such as the growth and expansion of Islam, the "beliefs and practices" of Islam, and the links between Islam, Judaism, and Christianity. Part of the worksheet required the students to "fill in the

blanks" to complete certain information comprising the "Five Pillars" of Islam. Included in that assignment was the statement: "There is no god but Allah and Muhammad is the messenger of Allah[,]" a portion of a declaration known as the *shahada* (the *shahada* assignment).[1] For ease of reference, we collectively refer to the comparative faith statement and the *shahada* assignment as the "challenged materials."

Wood's father objected to the use of the challenged materials. He asserted to the defendants that Islam should not be taught in the public school and demanded that his daughter be given alternative assignments. He directed his daughter to refuse to complete any assignment associated with Islam on the ground that she was not required to "do anything that violated [her] Christian beliefs." Wood's failure to complete the assignments that, in her view, "promot[ed] Islam," resulted in Wood receiving a lower percentage grade for the course but did not affect her final letter grade.

Wood later sued the defendants,[2] alleging that they violated the Establishment Clause by "impermissibly endors[ing] and advanc[ing] the Islamic religion." Wood further alleged that the defendants violated the Free Speech Clause of the First Amendment by requiring

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[1] The underlined words reflect the parts of the statement that the students were required to complete.

[2] At the time the complaint was filed, Wood was a minor. Therefore, the suit was initially brought on Wood's behalf by her parents. The complaint later was amended to name Wood as a plaintiff once she reached the age of majority.

her to complete the *shahada* assignment, thereby "depriv[ing] [her] of her right to be free from government compelled speech."[3] The district court granted the defendants' motion for summary judgment. Wood now appeals.

II.

We review the district court's award of summary judgment de novo. *See Buxton v. Kurtinitis*, 862 F.3d 423, 427 (4th Cir. 2017). Wood contends that the district court erred in awarding summary judgment to the defendants on both her Establishment Clause claim and her Free Speech Clause claim. We address each claim in turn.

A.

We begin with Wood's Establishment Clause claim. Wood contends that through the comparative faith statement, "Most Muslim's [sic] faith is stronger than the average Christian," the defendants endorsed a view of Islam over Christianity in violation of the Establishment Clause. Wood also argues that the assignment requiring students to write a portion of the *shahada* impermissibly advanced the Islamic religion and compelled Wood to "den[y] the very existence of her God." According to Wood, the challenged materials lacked any secular purpose and had the "effect of

[3] Wood's father also asserted separate claims for retaliation under the First Amendment and due process violations related to Arnold's decision to ban him from the La Plata High School premises. Those claims were dismissed by the district court, and have not been pursued on appeal.

promoting and endorsing Islam." We disagree with Wood's argument.

The Establishment Clause provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." U.S. Const. amend. I, cl. 1. In evaluating an Establishment Clause claim, we apply the three-prong test set forth in *Lemon v. Kurtzman*, 403 U.S. 602 (1971). *See Mellen v. Bunting*, 327 F.3d 355, 370 (4th Cir. 2003) ("[W]e have emphasized that the *Lemon* test guides our analysis of Establishment Clause challenges."); *Koenick v. Felton*, 190 F.3d 259, 264 (4th Cir. 1999) ("[T]his Court must rely on *Lemon* in evaluating the constitutionality of [government action] under the Establishment Clause." (internal quotation marks and citation omitted)). Under this test, to withstand First Amendment scrutiny, "government conduct (1) must be driven in part by a *secular purpose*; (2) must have a *primary effect* that neither advances nor inhibits religion; and (3) must not *excessively entangle* church and State." *Moss v. Spartanburg Cty. Sch. Dist. 7*, 683 F.3d 599, 608 (4th Cir. 2012) (citing *Lemon*, 403 U.S. at 612-13). The government violates the Establishment Clause if the challenged action fails any one of the *Lemon* factors. *Buxton*, 862 F.3d at 432 (quoting *Edwards v. Aguillard*, 482 U.S. 578, 583 (1987)).

1.

Before applying the *Lemon* test, we must determine the proper scope of our inquiry, namely, whether we should examine the challenged materials in isolation or in the broader context of the world history curriculum. Wood asserts that we must analyze each statement on

its own, apart from the subject matter of the class. We disagree with Wood's contention.

The Supreme Court has emphasized that for purposes of an Establishment Clause analysis, context is crucial. *See County of Allegheny v. ACLU Greater Pittsburgh Chapter*, 492 U.S. 573, 597 (1989) ("[T]he effect of the government's use of religious symbolism depends on its context."), *abrogated on other grounds by Town of Greece v. Galloway*, 572 U.S. 565 (2014). To "[f]ocus exclusively on the religious component of any activity would inevitably lead to [the activity's] invalidation under the Establishment Clause." *Lynch v. Donnelly*, 465 U.S. 668, 679-80 (1984). Thus, when determining the purpose or primary effect of challenged religious content, courts, including this Circuit, consistently have examined the entire context surrounding the challenged practice, rather than only reviewing the contested portion. *See Lambeth v. Bd. of Comm'rs of Davidson Cty.*, 407 F.3d 266, 271 (4th Cir. 2005); *see also Freedom from Religion Found., Inc. v. City of Warren*, 707 F.3d 686, 692-93 (6th Cir. 2013); *Croft v. Perry*, 624 F.3d 157, 168 (5th Cir. 2010); *Fleischfresser v. Dirs. of Sch. Dist. 200*, 15 F.3d 680, 688-89 (7th Cir. 1994); *Cammack v. Waihee*, 932 F.2d 765, 787 (9th Cir. 1991); *Smith v. Bd. of Sch. Comm'rs of Mobile Cty.*, 827 F.2d 684, 692 (11th Cir. 1987).

Indeed, common sense dictates a context-driven approach. Viewing the challenged statements in isolation would violate the analysis mandated by the Supreme Court in *Lemon*. As we have stated, *Lemon* first requires us to consider whether teaching the challenged materials had some secular purpose. *Moss*,

683 F.3d at 608. Such a determination can only be made by considering the academic framework in which those materials were presented. *See McCreary County v. ACLU*, 545 U.S. 844, 862 (2005); *Adland v. Russ*, 307 F.3d 471, 481 (6th Cir. 2002) ("[C]ontext is critically important in evaluating a state's proffered secular purpose."). And in requiring us to determine whether the primary effect of the challenged materials was to advance or inhibit religion, *Moss*, 683 F.3d at 608, *Lemon* necessarily requires consideration of the contextual setting in which those materials were used, *see Lambeth*, 407 F.3d at 271 (explaining that the "proper analysis" of *Lemon*'s second prong requires examining the effect of a religious display "in its particular setting"). Thus, any attempt on our part to strip statements from their context invariably would lead to confusion and misinterpretation when applying the *Lemon* test.

Manifestly, if courts were to find an Establishment Clause violation every time that a student or parent thought that a single statement by a teacher either advanced or disapproved of a religion, instruction in our public schools "would be reduced to the lowest common denominator." *Brown v. Woodland Joint Unified Sch. Dist.*, 27 F.3d 1373, 1379 (9th Cir. 1994). Such a focus on isolated statements effectively would transform each student, parent, and by extension, the courts, into *de facto* "curriculum review committee[s]," monitoring every sentence for a constitutional violation. *Id.*

School authorities, not the courts, are charged with the responsibility of deciding what speech is

appropriate in the classroom. *See Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 267 (1988) (citing *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 683 (1986)). Although schools are not "immune from the sweep of the First Amendment," academic freedom is itself a concern of that amendment. *Healy v. James*, 408 U.S. 169, 180-81 (1972); *see also Regents of the Univ. of Mich. v. Ewing*, 474 U.S. 214, 226 (1985); *Keyishian v. Bd. of Regents of Univ. of the State of N.Y.*, 385 U.S. 589, 603 (1967). Such academic freedom would not long survive in an environment in which courts micromanage school curricula and parse singular statements made by teachers. Because the challenged materials were presented as part of Wood's world history curriculum, it is in that context that we examine them.

2.

The first prong of the *Lemon* test asks whether the government's conduct has an "adequate secular object." *McCreary County*, 545 U.S. at 865. This directive requires an "inquiry into the *subjective intentions* of the government." *Mellen*, 327 F.3d at 372 (emphasis added). This part of the *Lemon* test imposes a "fairly low hurdle," requiring the government to show that it had a "plausible secular purpose" for its action. *Glassman v. Arlington County*, 628 F.3d 140, 146 (4th Cir. 2010). Notably, the government's purpose need not be "exclusively secular." *Brown v. Gilmore*, 258 F.3d 265, 276 (4th Cir. 2001) (citations omitted). Rather, it is only "[w]hen the government acts with the ostensible and *predominant purpose* of advancing religion" that it violates the Establishment Clause's "touchstone"

principle of religious neutrality. *McCreary County*, 545 U.S. at 860 (emphasis added). So long as the proffered secular purpose is "genuine, not a sham, and not merely secondary to a religious objective," that purpose will satisfy *Lemon*'s first prong. *Id.* at 864; *see Lambeth*, 407 F.3d at 270 ("A legitimate secular purpose is . . . sufficient to pass muster under the first prong of the *Lemon* test, unless the alleged secular purpose is in fact pretextual.").

The Supreme Court has recognized the secular value of studying religion on a comparative basis. *See, e.g.*, *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 255 (1963) ("[I]t might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization."). In this case, the comparative faith statement was part of an academic unit in which students studied Middle Eastern empires and the role of Islam. The unit did not focus exclusively on Islam's core principles, but explored "among other things, formation of Middle Eastern empires including the basic concepts of the Islamic faith and how it along with politics, culture, economics, and geography contributed to the development of those empires." Nothing in the record indicates that the comparative faith statement was made with a subjective purpose of advancing Islam over Christianity, or for any other predominately religious purpose. Nor does the record show that the proffered secular purpose of teaching about Muslim empires in the context of world history was pretextual. *See Lambeth*, 407 F.3d at 270. Thus, on its face, the

comparative faith statement was introduced for a genuine secular purpose.

Similarly, the *shahada* assignment was a tool designed to assess the students' understanding of the lesson on Islam. In total, the worksheet included 17 questions with 27 blank entries to be completed by the students on the history of Islam, "beliefs and practices" of Muslims, and links between Islam, Judaism, and Christianity. The students were not required to memorize the *shahada*, to recite it, or even to write the complete statement of faith. Instead, the worksheet included a variety of factual information related to Islam and merely asked the students to demonstrate their understanding of the material by completing the partial sentences. This is precisely the sort of academic exercise that the Supreme Court has indicated would not run afoul of the Establishment Clause. *See Schempp*, 374 U.S. at 225 ("Nothing we have said here indicates that such study . . . of religion, when presented objectively *as part of a secular program of education*, may not be effected consistently with the First Amendment." (emphasis added)). Because the school had a predominately secular purpose in teaching world history, we conclude that both the comparative faith statement and the *shahada* assignment satisfy the first prong of *Lemon*.

3.

To meet the second prong of *Lemon*, the challenged government action "must have a primary effect that neither advances nor inhibits religion." *Moss*, 683 F.3d at 608. This requirement sets an objective standard, which "measure[s] whether the principal effect of

government action is to suggest government preference for a particular religious view or for religion in general." *Mellen*, 327 F.3d at 374 (citation omitted). We have "refine[d]" this analysis by incorporating the Supreme Court's "endorsement test," which asks whether a reasonable, informed observer would conclude that government, by its action, has endorsed a particular religion or religion generally. *See id.*; *see also County of Allegheny*, 492 U.S. at 592-94 (adopting the endorsement test in the Establishment Clause context). Thus, in this Circuit, the primary effect prong asks whether, "irrespective of government's actual purpose," a reasonable, informed observer would understand that "the practice under review in fact conveys a message of endorsement or disapproval" of a religion. *Mellen*, 327 F.3d at 374 (citation omitted). We presume that a "reasonable observer in the endorsement inquiry" is "aware of the history and context of the . . . forum in which the religious speech takes place." *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 119 (2001) (quoting *Capitol Square Review & Advisory Bd. v. Pinette*, 515 U.S. 753, 779-80 (1995) (O'Connor, J., concurring in part and concurring in the judgment)).

The use of both the comparative faith statement and the *shahada* assignment in Wood's world history class involved no more than having the class read, discuss, and think about Islam. The comparative faith statement appeared on a slide under the heading "Peaceful Islam v. Radical Fundamental Islam." The slide itself did not advocate any belief system but instead focused on the development of Islamic fundamentalism as a political force. And the *shahada*

assignment appeared on the student worksheet under the heading "Beliefs and Practices: The Five Pillars." Thus, the assignment asked the students to identify the tenets of Islam, but did not suggest that a student should adopt those beliefs as her own.

This is not a case in which students were being asked to participate in a daily religious exercise, *see Lee v. Weisman*, 505 U.S. 577, 598-99 (1992) (holding that requiring students to stand for graduation prayer constituted compelled participation in religious ritual); *Engel v. Vitale*, 370 U.S. 421, 424-25 (1962) (striking down state-sponsored prayer due to the inherently religious nature of prayer), or a case in which Islamic beliefs were posted on a classroom wall without explanation, *see Stone v. Graham*, 449 U.S. 39, 41-42 (1980) (holding that posting the Ten Commandments on a public school classroom wall violated the Establishment Clause). Rather, the challenged materials were "integrated into the school curriculum" and were directly relevant to the secular lessons being taught. *Stone*, 449 U.S. at 41-42. These types of educational materials, which identify the views of a particular religion,[4] do not amount to an endorsement

[4] Although scholars could debate endlessly the content of the comparative faith statement and its suitability for use in an educational context, the "primary effect" prong of the *Lemon* test "must be assessed objectively." *Mellen*, 327 F.3d at 374. Thus, Wood's argument that the comparative faith statement is a "subjective, biased statement" about Islam is outside the bounds of our consideration whether use of the statement was constitutional. For the same reason, Wood's contention that she viewed the comparative faith statement as offensive, and that some school officials thought the statement was inappropriate, is

of religion. *See id.*; *see also Parker v. Hurley*, 514 F.3d 87, 106 (1st Cir. 2008) ("Public schools are not obliged to shield individual students from ideas which potentially are religiously offensive, particularly when the school imposes no requirement that the student agree with or affirm those ideas."). A reasonable observer, aware of the world history curriculum being taught, would not view the challenged materials as communicating a message of endorsement.

Additionally, we note that the challenged materials constituted only a very small part of the school's world history curriculum. As we have explained, we must view the effect of the challenged materials within the context in which they were used. *See Lambeth*, 407 F.3d at 271 (examining the primary effect of a religious display "in its particular setting"). Wood does not argue that the world history class itself advanced any religion. Indeed, she readily admits that it is permissible to teach "how the Islamic faith contributed to the development of politics, culture, and geography." As a matter of common sense, an objective observer would not perceive a singular statement such as the comparative faith statement, or a lone question about a religion's core principle on a fill-in-the-blank assignment, as an endorsement or disapproval of religion. Therefore, we conclude that the primary effect

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unavailing. *See Lee*, 505 U.S. at 597 ("We do not hold that every state action implicating religion is invalid if one or a few citizens find it offensive."); *Brown*, 27 F.3d at 1383 ("[A] child's subjective perception that a state action disapproves of or is hostile toward his or her religion is not, by itself, sufficient to establish an Establishment Clause violation.").

of both the comparative faith statement and the *shahada* assignment was to teach comparative religion, not to endorse any religious belief. Accordingly, the use of the challenged materials satisfies *Lemon*'s second prong.

4.

The final prong of the *Lemon* test asks whether the government's action created "an excessive entanglement between government and religion," *Lambeth*, 407 F.3d at 272-73 (internal quotation marks omitted), which "is a question of kind and degree," *Lynch*, 465 U.S. at 684. Excessive entanglement "typically" involves "the government's 'invasive monitoring' of certain activities in order to prevent religious speech," or the funding of religious schools or instruction. *Buxton*, 862 F.3d at 433; *Comm. for Pub. Ed. & Religious Liberty v. Nyquist*, 413 U.S. 756, 770 (1973) ("Primary among those evils [targeted by the Establishment Clause] have been sponsorship, financial support, and active involvement of the sovereign in religious activity." (citation omitted)). Excessive entanglement may also be shown when the government's entanglement has "the effect of advancing or inhibiting religion." *See Agostini v. Felton*, 521 U.S. 203, 232-33 (1997).

We need not dwell long on the entanglement prong. As already discussed, neither the comparative faith statement nor the *shahada* assignment advanced or inhibited any religion. And there is no evidence in the record that these materials were obtained from a religious institution or benefited any such institution. Finally, there is no evidence that use of the challenged

materials resulted in "invasive monitoring" of activities to prevent or advance religious speech. *See, e.g.*, *Bd. of Educ. of Westside Cmty. Sch. v. Mergens*, 496 U.S. 226, 253 (1990). Under the world history curriculum, it appears that lessons on the Muslim world constituted, at most, five days of a year-long course. Thus, we conclude that neither the comparative faith statement nor the *shahada* assignment resulted in an excessive entanglement with religion. Because the challenged materials satisfy all three prongs of the *Lemon* test, we hold that the district court properly granted summary judgment to the defendants on Wood's Establishment Clause claim.[5]

B.

We next consider Wood's Free Speech Clause challenge. Wood argues that the defendants violated her free speech rights by requiring her to complete in writing two missing words of a portion of the *shahada*, namely, that "[t]here is no god but Allah and Muhammad is the messenger of Allah." In her view, "the curriculum implemented and supervised by [d]efendants compelled [Wood] to confess by written

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[5] In Wood's amended complaint, she objects to other portions of the world history curriculum, such as the fact that that Wood was "instructed from the text of the Qur'an," that Wood was "instructed . . . that [r]ighteous women are . . . obedient" to men, and that the course devoted only a single day to the study of Christianity while multiple days were spent studying Islam. Wood waived these arguments by failing to raise them in her opening brief. *Grayson O Co. v. Agadir Int'l LLC*, 856 F.3d 307, 316 (4th Cir. 2017) ("A party waives an argument by failing to present it in its opening brief.").

word and deed her faith in Allah." We disagree with Wood's position.

Generally, when a governmental entity requires a person "to utter or distribute speech bearing a particular message," we subject that requirement to "rigorous scrutiny." *Greater Balt. Ctr. for Pregnancy Concerns, Inc. v. Mayor & City Council of Balt.*, 879 F.3d 101, 107 (4th Cir. 2018) (citation omitted). In the public school setting, students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate," but retain their First Amendment rights "applied in light of the special characteristics of the school environment." *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969). However, the Supreme Court has emphasized that students' First Amendment rights in public schools "are not automatically coextensive with the rights of adults in other settings." *Kuhlmeier*, 484 U.S. at 266.

In considering the right against compelled speech in the public school context, the Third Circuit has explained:

> First Amendment jurisprudence recognizes that the educational process itself may sometimes require a state actor to force a student to speak when the student would rather refrain. A student may also be forced to speak or write on a particular topic even though the student might prefer a different topic. And while a public educational institution may not demand that a student profess beliefs or views with which the student does not agree, a school may in some

> circumstances require a student to state the arguments that could be made in support of such beliefs or views.

C.N. v. Ridgewood Bd. of Educ., 430 F.3d 159, 187 (3d Cir. 2005). We agree with the Third Circuit's reasoning. Although a student's right against compelled speech in a public school may be asserted under various circumstances, that right has limited application in a classroom setting in which a student is asked to study and discuss materials with which she disagrees.

In the present case, the record is clear that the *shahada* assignment did not require Wood to profess or accept the tenets of Islam. The students were not asked to recite the *shahada*, nor were they required to engage in any devotional practice related to Islam. *Cf. W. Va. Bd. of Educ. v. Barnette*, 319 U.S. 624, 631-32 (1943) (distinguishing between compelling students to declare a belief through mandatory recital of the pledge of allegiance, and "merely . . . acquaint[ing students] with the flag salute so that they may be informed as to what it is or even what it means"). Instead, the *shahada* assignment required Wood to write only two words of the *shahada* as an academic exercise to demonstrate her understanding of the world history curriculum. On these facts, we conclude that Wood's First Amendment right against compelled speech was not violated.

III.

For these reasons, we affirm the district court's judgment.

AFFIRMED

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Southern District

Case No.: GJH-16-239

[Filed March 27, 2018]

CALEIGH WOOD, *et al.*,	)
	)
Plaintiffs,[1]	)
	)
v.	)
	)
EVELYN ARNOLD, *et al.*,	)
	)
Defendants.	)
	)

MEMORANDUM OPINION

The Establishment Clause of the First Amendment to the United States Constitution prohibits the "sponsorship, financial support, and active involvement of the sovereign in religious *activity.*" *Lemon v. Kurtzman,* 403 U.S. 602, 612 (1971) (citing *Walz v. Tax Commission,* 397 U.S. 664, 668 (1970)). This principle

[1] Following Plaintiffs' Amended Complaint, ECF No. 39, the docket will be updated to reflect the current Plaintiffs as John Wood and Caleigh Wood.

exists because "religious beliefs and religious expression are too precious to be either proscribed or prescribed by the State." *Lee v. Weisman,* 505 U.S. 577, 589 (1992). Additionally, the First Amendment prevents the government from prohibiting speech or compelling individuals to express certain views. *United States v. United Foods, Inc.,* 533 U.S. 405, 410 (2001). But the First Amendment does not afford the right to build impenetrable silos, completely separating adherents of one religion from ever learning of beliefs contrary to their own. Nor, in this Court's view, does it prohibit a high school teacher from leading a purely academic study of a religion that may differ from the religious beliefs of some of his students.

In this action, Plaintiffs Caleigh Wood and John Kevin Wood allege that Defendants Evelyn Arnold ("Principal Arnold") and Shannon Morris ("Vice Principal Morris") violated Ms. Wood's First Amendment rights by requiring her to study Islam as part or a World History course, and retaliated against Mr. Wood by banning him from school grounds after he exercised his First Amendment rights by complaining about the course. The following motions are presently pending before the Court: Plaintiffs' Second Motion to Alter or Amend the Complaint. ECF No. 47, Defendants Motion for Summary Judgment, ECF No. 54, and Plaintiffs' Cross Motion for Summary Judgment, ECF No. 55. A hearing was held on November 6, 2017, Loc. R. 105.6 (D. Md. 2016). For the reasons stated below, the Court will grant Defendants' Motion for Summary Judgment and deny Plaintiffs' motions.

I. BACKGROUND

A. Factual Background[2]

Caleigh Wood attended La Plata High School during the 2014-2015 school year ("Relevant Period"), during which she was an 11th grade student. ECF No. 54-13 at 2.[3] Principal Arnold was the school principal at La Plata during the Relevant Period. ECF Nos. 54-13 at 2-3; 54-2 at 2-3. 10; 54-4 at 2. One of Principal Arnold's primary responsibilities was to maintain the safe and orderly operation of the school environment. ECF No. 54-4 at 2. During the Relevant Period, Sgt. Mark Kaylor was employed by the Charles County Sheriff's Department and was assigned to La Plata as a School Resource Officer. ECF Nos. 54-8 at 2-3; 54-2 at 2-3.

World History is a required course mandated by the Maryland State Department of Education, is part of the social studies curriculum, and is taught in the 11th grade at La Plata. ECF No. 54-2 at 3. During the "Relevant Period, Ms. Wood was enrolled in a World History class taught by social studies teacher Trevor Bryden and received a passing grade. ECF No. 54-2 at 11; ECF No. 54-13 at 6, 7. The topic "Muslim World (including Islam)" was introduced in the World I history class as part of the course unit on Middle Eastern empires. ECF Nos. 54-5 at 6; 54-2 at 14.

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[2] Unless otherwise noted, the facts relied on are undisputed by the parties.

[3] Pin cites to documents filed on the Court's electronic filing system (CM/ECF) refer to the page numbers generated by that system.

During the class, Ms. Wood was taught, *inter alia,* that "Most Muslim's [sic] faith is stronger than the average Christian [sic]"[4] (emphasis in original) and that "Islam, at heart, is a peaceful religion." ECF Nos. 55-2 at 3; 55-4 at 3. Additionally, one of Ms. Wood's assignments was to complete a worksheet where she had to provide missing words within the statements that comprise the "Five Pillars of Islam." ECF No. 56-3. This included a sentence stating that "There is no god but Allah and Muhammad is the messenger of Allah," which is also known as the *Shahada. Id.* When Ms. Wood refused to complete assignments, she received no credit for those assignments; but the parties dispute the impact, if any, that any uncompleted assignments had on her final grade. ECF No. 55-2 at 3; 56-1. Principal Arnold had the authority to grant Ms. Wood an opt-out or alternate assignments. ECF No. 55-7 at 2-3. Jack Tuttle, the curriculum specialist for the Defendants, agreed that it is not appropriate for a public school teacher to tell his class that "Most Muslim's [sic] faith is stronger than the average Christian [sic]." ECF No. 55-9 at 1-2.

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[4] This statement appears on a PowerPoint slide attached to the original complaint, ECF No. 1-1, and Ms. Wood declares that this statement was included in an assignment she received. ECF No. 55-2 ¶ 8. However, Mr. Bryden states that while he provided all the material he had related to his World History course, including the slide, he does not recall if the statement was actually presented to the class. ECF No. 56-5; ECF No. 56 at 7 n.4. As this is a disputed fact, the Court will construe this in favor of Plaintiff, for the purpose of resolving Defendants' motion, and assume the statement was in fact taught co Ms. Wood.

Neither Principal Arnold nor Vice Principal Morris ever spoke with Ms. Wood about their religious beliefs during the Relevant Period or at any other time, nor did they suggest Ms. Wood practice the Islamic faith. ECF No. 54-13 at 8-9. Additionally, neither Principal Arnold nor Vice Principal Morris ever directed Ms. Wood to recite the five pillars of the Islamic faith, pledge allegiance to Allah, profess the *Shahada* or direct Ms. Wood to profess or write out faith statements concerning Islam. ECF Nos. 54-2 at 5-6; 54-3 at 2.

On Wednesday, October 22, 2014, Mr. Wood telephoned La Plata and left a voicemail in which he expressed his concern about the homework assignment that Ms. Wood had been given in Mr. Bryden's World History class. ECF No. 54-12 at 2, 3. On Thursday, October 23, 2014, Ms. Shanif Pearl, the administrative assistant, returned Mr. Wood's phone call in an attempt to resolve Mr. Wood's concerns. ECF Nos. 54-10 at 5-6; 54-2 at 4, 17. On the same day, Vice Principal Morris also telephoned Mr. Wood. At some point during that conversation, Mr. Wood stated that he was "going to create a shit storm like you have never seen."[5] ECF No. 54-9 at 3-4. Additionally, Mr. Wood stated that "you can take that fucking Islam and shove it up your white fucking ass!" ECF Nos. 54-9 at 4; 54-2 at 16. According to Principal Arnold, Vice Principal Morris

[5] Mr. Wood states this was a reference to contacting lawyers and the media regarding the incident. Indeed, in her real-time memo regarding the call, Morris records that he said "I just want you to know that lawyers have been contacted and I'm going to create a shit storm like you have never seen." ECF No. 54-2 at 16.

was visibly shaken when later describing the conversation with Mr. Wood. ECF No. 54-2 at 3-4.

Around the time she became aware of the conversation with Vice Principal Morris, Principal Arnold became aware of online posts by Mr. Wood on Facebook® that caused her to be increasingly concerned about the safe and orderly operation of La Plata. ECF Nos. 54-2 at 19; 54-4 at 3. In one post, Mr. Wood, while talking about his daughter studying Islam, states: "I just about fucking lost it . . . My white ass is going into school on Monday and letting my feelings be known. Caleigh said her teacher was a Navy Seal. Can you guess what I said to that! I'm fucking livid!!!!!!!. ECF No. 54-2 at 19. In response to a comment from a friend cautioning him not to get arrested, Mr. Wood responded that he would "try." *Id.* In response to a suggestion that he study Islam because he could not defeat what he could not understand. Mr. Wood stated that a "556 doesn't study Islam and it kills them fuckers every day."[6] *Id.* In a subsequent post, Mr. Wood states that he would use his daughter's study sheet as "confetti on Monday!" ECF No. 54-2 at 22. These interactions took place during the school's Homecoming week. ECF No. 54-2 at 4.

Principal Arnold sought the assistance of Central Office administrators regarding Mr. Wood's demeanor, his interactions with Vice Principal Morris, and

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[6] A "556" is a reference to 5.56 millimeter caliber ammunition used in the U.S. Armed Forces' standard-issue rifle. *See* https://en.wikipedia.org/wiki/M16_rifle (last visited March 26, 2018).

Principal Arnold's growing concern for the sate and orderly operation of La Plata. ECF No. 54-2 at 4. In her email to Central Office, Principal Arnold states "At this point I am happy to call Mr. Wood myself but he doesn't appear to want to listen and instead wants to curse and scream. His demeanor on the phone was so extreme that I do have concerns about him coming up to the school. Since he works at Ft. Belvoir and states that he is a Marine, I am assuming that he has access to weapons." ECF No. 54-2 at 18. Principal Arnold also discussed her concerns with Sgt. Kaylor, who prepared a No Trespass Order for Principal Arnold's signature after reviewing the Facebook® posts. ECF No. 54-8 at 4-5, 8-9. Sgt. Kaylor informed Mr. Wood that a No Trespass Order was being issued against him. ECF Nos. 54-8 at 5; 54-4 at 8. Mr. Wood never contacted Principal Arnold to meet about rescinding the No Trespass Order. ECF No. 54-2 at 5.

B. Procedural Background

Plaintiffs filed the instant Complaint on January 27, 2016, seeking declaratory and injunctive relief, damages, and attorneys' fees under 42 U.S.C. § 1983 based on claims under the First and Fourteenth Amendments, Title IX of the Education Amendments of 1972, Title VI of the Civil Rights Act of 1964, and Article 36 of the Declaration of Rights of the Maryland Constitution. ECF No. 1. On September 30, 2016, the Court denied Plaintiffs' Motion for a Preliminary Injunction and granted, in part, Defendants' Motion to Dismiss. ECF No. 36. The Court dismissed all claims against the Board of Education or Charles County, as well as Principal Arnold and Vice Principal Morris in

their official capacities. In addition, the Court dismissed Plaintiffs' retaliation claim asserted on behalf of Ms. Wood, Plaintiffs' procedural due process claim asserted on behalf of Mr. Wood, and Plaintiffs' Title IX and Title VI claims. Following this Order, Plaintiffs' filed an Amended Complaint. ECF No. 39, removing Charles County as a named defendant and substituting Ms. Wood as a named plaintiff, in place of her mother Melissa Wood, as Ms. Wood is no longer a minor child. Plaintiffs also removed their claims under Title IX and Title VI. As a result of the Court's Order and Amended Complaint, the following claims remain: First Amendment Establishment Clause violation on behalf of Ms. Wood (Claim I): First Amended Freedom of Speech violation on behalf of Ms. Wood (Claim II); First Amendment Retaliation on behalf of Mr. Wood (Claim III); and Violation of Article 36 of the Maryland Declaration of Rights on behalf of Ms. Wood (Claim V).

II. STANDARD OF REVIEW

A party may move for summary judgment under Fed. R. Civ. P. 56(a). "The court shall grant summary judgment if there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law . . . Fed. R. Civ. P. 56(a). The movant has the "initial responsibility of informing the district court of the basis for its motion, and identifying those portions of the pleadings . . . together with the affidavits, if any, which it believes demonstrate the absence of a genuine issue of material fact." *Celotex Corp. v. Catrett,* 466 U.S. 317, 323 (1986) (internal citation omitted). In considering the motion, "the judge's function is not . . . to weigh the evidence and

determine the truth of the matter, but to determine whether there is a genuine issue for trial.'" *Anderson v. Liberty Lobby,* 477 U.S. 242, 249 (1986). To withstand a motion for summary judgment, the nonmoving party must do more than present a mere scintilla of evidence. *Phillips v. CSX Transport, Inc.,* 190 F.3d 285, 287 (4th Cir. 1999). Rather, "the adverse party must set forth specific facts showing that there is a genuine issue for trial." *Anderson,* 477 U.S. at 250. Although the Court should draw all justifiable inferences in the nonmoving party's favor, the nonmoving party cannot create a genuine issue of material fact "through mere speculation or the building of one inference upon another." *Beale v. Hardy,* 769 F.2d 213, 214 (4th Cir. 1985).

Cross-motions for summary judgment require that the Court consider "each motion separately on its own merits to determine whether either of the parties deserves judgment as a matter of law." *Rossignol v. Voorhaar,* 316 F.3d 516, 523 (4th Cir. 2003) "The Court must deny both motions if it finds there is a genuine issue of material fact, but if there is no genuine issue and one or the other party is entitled to prevail as a matter of law, the court will render judgment." *Wallace v. Poulos,* No. DKC 2008-0251, 2009 U.S. Dist. LEXIS 89700, at *13 (D. Md. Sept. 29, 2009) (internal citation omitted).

III. DISCUSSION

Plaintiffs' assert constitutional violations pursuant to 42 U.S.C. § 1983. Section 1983 provides that:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding . . .

42 U.S.C. § 1983. Here, Plaintiffs' remaining claims assert that their rights under the first Amendment were violated.[7] Specifically, Plaintiffs claim that Ms. Wood's rights under the Establishment Clause were violated through the teaching of Islam in her public school. Ms. Wood's right to free Speech was violated when she was required to "confess" the *Shahada* and that Mr. Wood was subjected to First Amendment Retaliation when he was banned from school grounds after he expressed his opposition to the school's teaching. Each claim will be addressed in turn.

A. Ms. Wood's First Amendment Establishment Clause Claim

Plaintiffs' claim that Defendants violated the Establishment Clause focuses primarily on a statement made by a teacher during Ms. Wood's World History

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[7] "[T]he First Amendment's mandate that 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof' has been made wholly applicable to the States by the Fourteenth Amendment." *School District of Abington Township, Pennsylvania v. Schempp,* 374 U.S. 203, 215 (1963).

class that . . . Most Muslims [sic] forth is stronger than the average Christian [sic] (the "comparative faith statement"). ECF No. 55-1 at 10.[8] And, indeed, as the Court has mentioned during the motion hearings in this matter, it is this statement that presents the most significant difficulty for the Defendants' case. The Establishment Clause provides that "Congress shall make no law respecting an establishment of religion," U.S. Const. amend. I. Generally, the constitutionality of government action under the Establishment Clause is determined by applying the three prong test outlined in *Lemon*. Pursuant to *Lemon*, for the action to be constitutional, (1) the government activity must have a secular purpose, (2) the primary effect of the government activity must neither advance nor inhibit religion; and (3) the activity must not cause the government to be excessively entangled in religion. 402

[8] In the Amended Complaint, Plaintiffs list a litany of objections to the study of Islam in the World History course, including the length of the unit, *id.* ¶ 9, focus on Islam over Christianity or Judaism, *id.* ¶ 55, omission of Islamic-related topics from the syllabus and textbook sent home with students as compared to that actually used in class, *id*. ¶ 5, reference to cultural practices placing women as subservient to men, *id*. ¶ 56, and discussions pertaining to "jihad," *id.* ¶ 53. But the motions for summary judgment focus almost entirely on the allegations that Ms. Wood was instructed that "Most Muslim's faith is stronger than the average Christian," *id.* ¶ 51 (citing ECF No. 1-1), and that Ms. Wood "had to profess the *Shahada*, by claiming, 'There is no god but Allah and Muhammad is the messenger of Allah.'" ECF No. 39 ¶ 52 (citing ECF No. 1-2).

U.S. at 612-13.[9] The three factors are addressed in turn.

First, Plaintiffs argue that the comparative faith statement has no secular purpose because it does not teach any verifiable and objective facts about Islam. ECF No. 55-1 at 12. "In applying the purpose test, it is appropriate to ask 'whether the government's actual purpose is to endorse or disapprove of religion." *Mellen v. Bunting,* 327 F.3d 355, 372 (4th Cir. 2003) (quoting *Wallace v. Jaffree,* 105 S.Ct. 24 79 (1985)). "The secular purpose requirement presents a fairly low hurdle for the state" and "a state-sponsored practice violates this prong or *Lemon* only 'if it is *entirely* motivated by a purpose to advance religion.'" *Id.* (emphasis in *Mellen).*

In considering the secular purpose of the comparative faith statement, as well as in the analysis of the second and third *Lemon* factors, it is important to consider whether the Court should view the statement in isolation or in the context of the curriculum as a whole. Plaintiffs contend that the Court should analyze this statement in isolation, divorced from the context of the class as a whole. During the hearing on the pending motions, Plaintiffs directed the Court to *C.F. v. Capistrano,* 615 F. Supp. 2d 1137 (C.D. Ca. 2009) to support their position. In *Capistrano,* an out-of-circuit case that was vacated on appeal, a teacher stated that creationism is

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[9] As the Court recognized in its prior Memorandum Opinion, *Lemon's* three-part test provides a useful framework for evaluating Establishment Clause claims but need not be rigidly applied. ECF No. 35 at 14 n.7 (referencing other Establishment Clause tests, such as the coercion test and endorsement test).

"superstitious nonsense," and the district court held that it could not "discern a legitimate secular purpose in this statement, *even when considered in context." Id.* at 1146 (emphasis added). Thus, this case does not suggest that the Court must review the comparative faith statement in complete isolation and ignore the context in which it was presented. Here, the Court finds it necessary to place the statement in the context of the class in which it was made to discern both purpose and effect.

Generally, the study of religious texts and concepts can be secular in purpose. *School District of Abington Township, Pennsylvania v. Schempp,* 374 U.S. 203, 225 (1963). According to Defendants, the Muslim World curriculum was "designed to explore, among other things, formation of Middle Eastern empires including the basic concepts of the Islamic faith and how it along with politics, culture, economics, and geography contributed to the development of those empires." ECF No. 54-1 at 24. The record provides no suggestion that anyone from the school board down through the individual teacher held any bias for or against any religion, or that Defendants' explanation of the curriculum served as cover for a religiously-motivated purpose. *Cf. Edwards v. Aguillard,* 482 U.S. 578, 587 (1987) (finding that legislation requiring the teaching of creationism along with evolution did not have a secular purpose because the legislative history suggested that the purpose "was to narrow the science curriculum").

The Supreme Court's decision in *Abington* is instructive here. There, in two companion cases, state

laws required the Holy Bible to be read at the opening of each public school day. *Abington,* 374 U.S. at 205. The readings were broadcast to each classroom and were followed by the Lord's Prayer, during which students were asked to stand and join in repeating the prayer in unison. *Id. at* 207. Participation in these exercises was voluntary. *Id.* Given the religious character of the exercises, the Supreme Court rejected the notion that the purpose of the use of the Bible was for "nonreligious moral inspiration or as reference for the teaching of secular subjects." *Id.* at 224. Concluding that the laws in both cases required "religious exercises," the Supreme Court found that they violated the Establishment Clause. *Id.* But, of significance here, the Court also stated that "[n]othing we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistently with the First Amendment." *Id.* at 225.

Relying on *Abington,* the crux of Plaintiffs' argument is that because the comparative faith statement is not "objective," it cannot have a secular purpose. ECF No. 55-1 at 12. But notwithstanding the single comparative faith statement in the PowerPoint slide, the material was presented as part of an academic exercise and not a religious one. This is also true of the assignment that required the students to fill-in-the-blanks for the *Shahada.* The students were not being required to recite the *Shahada* daily, which would make it analogous to *Abington,* or to recite it at all. Nor were they required to memorize only that specific statement of faith, which could serve to highlight it. Rather, they were required to fill in

statements to complete the *Shahada* along with a variety of factual statements related to Islam, including, but not limited to, the relevant continents, biographical information about the Prophet Muhammad, and the fact that Muslims, Christians and Jews all trace their ancestry to Abraham. ECF No. 1-2. Thus, it is clear that this was the sort of academic exercise *Abington* said would not run afoul of the Establishment Clause. The subjectivity of the single comparative statement does not strip away any and all secular purpose of the curriculum, and the curriculum as a whole did not violate the first *Lemon* prong.[10]

Certainly the comparative faith statement, if taken literally in isolation, is not purely objective. As Defendants acknowledge, the statement "may have been wanting in accuracy or tact." ECF No. 25. However, even if the comparative faith statement was inartful or, to some, offensive, even in isolation, it is not entirely motivated by a purpose to advance religion. First, the statement does not serve as a direct attack on any particular religion or belief. The statement

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[10] Plaintiffs provide deposition testimony from Amy Hollstein, former assistant superintendent of instruction, and Jack Tuttle, curriculum specialist, to suggest that the comparative faith statement was not factual and should not have been used in the classroom. *See* ECF No. 55-7 at 28:21-29:2 (Hollstein Answer: "I think faith is spiritual, and I think I have my own relationship with God, and I don't think you can calculate my own spirituality"); ECF No. 55-9 at 3 (Question: "If the teacher came up to you and said, I want to teach [the comparative faith statement], what would you advise the teacher?" Tuttle Answer: "Not to do that"). But whether or not school officials, in their own judgment, consider the subject material appropriate is immaterial to the Court's constitutional inquiry.

merely opines on the degree to which Muslims adhere to their own faith as compared to Christians. Second, the comparative faith statement was delivered by Mr. Bryden, who is a Christian.[11] As Plaintiffs acknowledged in the hearing, the fact that the statement was made by a Christian would seem to negate the possibility that the statement was made for the purpose of advancing the Islamic faith. Again, however, even using just the immediate context of the statement demonstrates it was not entirely devoid of secular purpose. According to the PowerPoint slide, the statement was provided within a discussion on the rise of radical Islamic fundamentalists, contrasting fundamentalists with other Muslims. ECF No. 1-1 at 2-3. In the relevant PowerPoint slide, the comparative faith statement is listed under the heading. "Peaceful Islam v. Radical Fundamental Islam"[12] and the focus appears to be on teaching that fundamentalists represent a "small percentage of the population of Islam," and not on advocating that students should adhere to the faith. *Id.*

Second, the Court must consider whether the primary *effect* of the comparative faith statement, in the context of the class, was to advance or endorse religion. *See Mellen,* 327 F.3d at 347 ("the effect prong asks whether, irrespective of government's actual

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[11] During the hearing, Defendants stated, and Plaintiffs did not dispute, that Mr. Bryden identities as Christian.

[12] While not explicitly stated, it would appear the slide seems designed to address Islamophobia, which the Court would view as a secular purpose.

purpose, the practice under review in fact conveys a message of endorsement or disapproval of religion") (citation and internal quotations omitted); *see also County of Allegheny v. American Civil Liberties Union Greater Pittsburgh Chapter,* 492 U.S. 573, 597 (1989) ("[w]hen evaluating, the effect of government conduct under the Establishment Clause, we must ascertain whether the challenged governmental action is sufficiently likely to be perceived by adherents of the controlling denominations as an endorsement, and by the nonadherents as a disapproval, of their individual religious choices.") (citation and internal quotations omitted). According to Plaintiffs, subjectively opining that Muslims are stronger in their faith than Christians has the effect of promoting Islam because "it is sufficiently likely to be perceived by adherents of the controlling denomination [,] [Islam,] as an endorsement, and by nonadherents [Christians] as a disapproval, of their individual religious choices." ECF No. 55-1 at 13 (citing *Allegheny,* 492 U.S. at 597).

Here, it is not "sufficiently likely" that a singular reference to a Muslim's strength of faith, or the class as a whole, suggests that Defendants have endorsed Islam. As stated above, the statement is made in the context of an academic study and placed in a PowerPoint slide addressing the issue of "Radical Fundamental Islam," making the point that fundamentalists represent a small portion of Islam. ECF No. 1-1 at 2-3. The record does not show that Defendants, or anyone else, drew any conclusions from this statement or interred that because Muslims' purportedly haven stronger faith, Islam was seen by the school os a superior religion. Plaintiffs argue that

because they are devout Christians, and the statement offended their beliefs as Christians, Defendants have endorsed Islam. But even if such a statement is deeply offensive to Plaintiffs, its offensive nature alone does not cause it to run afoul of the Establishment Clause. *See Lee*, 505 U.S. at 597 ("We do not hold that every slate action implicating religion is invalid if one or a few citizens find it offensive."); *see also Mellen,* 327 F.3d at 374 (citing *Barghout v. Bureau of Kosher Meat and Food Control,* 66 F.3d 1337, 1345) (4th Cir. 1995) ("This 'primary effect' prong must be assessed objectively, in order to measure whether the principal effect of government action 'is to suggest government preference for a particular religious view or for religion in general.'")).

Third, the Court must consider whether the comparative faith statement, or the curriculum itself, created an excessive entanglement between government and religion. *See Lemon,* 403 U.S. at 615 (entanglement is determined by "the character and purposes of the institutions that are benefited, the nature of the aid that the State provides, and the resulting relationship between the government and the religious authority"). While Defendants did not rely on any Muslim clergy to deliver the subject material, *see Contra People of State of Ill. ex rel. McCollum v. Bd. of Ed. of Sch Dist. No. 71, Champaign Cty., Ill.,* 333 U.S. 203 (1948) (holding that religious studies classes taught on school grounds by religious clergy violated the Establishment Clause), Plaintiffs argue that the comparative faith statement fosters an excessive entanglement in religion because the Defendants utilized "evangelist's mission statements." *See* ECF No.

55-1 at 13 (quoting *Rosenberger v. Rector & Visitors of the Univ. of Va.,* 515 U.S. 819, 867 (1995)). However, in support of their position, Plaintiffs quote a passage from Justice Souter's dissent in *Rosenberger,* which merely suggests that topics cross the line from scholarly study to entanglement when "facially secular topics become platforms from which to call readers to fulfill the tenets of Christianity in their lives." *Id.* at 866-68 (Souter, J., dissenting). Far from encouraging students to fulfill the tenants of Islam, Defendants did not provide any direct benefit to Muslims, did not aide Muslims, and did not infer or suggest any relationship between the school and any Islamic organization. Therefore, the Court has no basis to find an excessive entanglement between government and religion. Thus, the curriculum survives all three prongs of the Lemon test.[13]

Defendants' motion for summary judgment is granted as to Plaintiffs' Establishment Clause claim.

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[13] In *Mellen v. Bunting*, 327 F.3d 355, 370 (4th Cir. 2003), the Fourth Circuit noted that the Supreme Court, in addition to the *Lemon* test, has also applied the "endorsement test" and the "coercion test" in various Establishment Clause challenges. "Under the endorsement test, the government may not engage in a practice that suggests to the reasonable, informed observer that it is endorsing religion." *Id.* (citing *Lynch v. Donnelly,* 465 U.S. 668, 690 (1984)). Pursuant to the coercion test, "government may not coerce anyone to support or participate in religion or its exercise." *Id.* (citing *Lee v. Weisman,* 505 U.S. 577, 587 (1992)). For the same reason the curriculum survives the *Lemon* test, it would survive these as well. The material was taught as part of an academic endeavor and neither the school administrators or the teacher endorsed a religion or coerced Ms. Wood to participate in religious exercises.

B. Ms. Wood's First Amendment Free Speech Claim

The requirement that Ms. Wood complete the fill-in-the blank assignment containing the Five Pillars of Islam, including the *Shahada,* implicates First Amendment protections against compelled speech. The Supreme Court has long held that the government may not compel the speech of private actors. *See United States v. United Foods, Inc.,* 533 U.S. 405, 413-15 (2001); *Wooley v. Maynard,* 430 U.S. 705, 714-15 (1977); *W. Va. State Bd. of Educ. v. Barnette,* 319 U.S. 624, 642 (1943). Moreover, it is well-settled that public school students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." *Tinker v. Des Moines Indep. Cmty. Sch. Dist.,* 393 U.S. 503, 506 (1969). But "the First Amendment rights of students in the public schools are not automatically coextensive with the rights of adults in other settings, and must be applied in light of the special characteristics of the school environment." *Hazelwood Sch. Dist. v. Kuhlmeier,* 484 U.S. 260, 266 (1988) (citation and internal quotations omitted). As the Third Circuit has recognized, a student may be forced to speak or write on a particular topic but may not be forced to "profess beliefs or views with which the student does not agree." *C.N. v. Ridgewood Bd. of Educ.,* 430 F.3d 159, 186-87 (3d Cir. 2005).

As alleged in the Complaint. "Defendants require that students write out and *confess* the Shahada, the Islamic Profession of Faith." ECF No. 35 at 15 (citing ECF No. 1 ¶ 7) (emphasis in original). Thus, at the Motion to Dismiss stage, the Court found that "while

discovery and trial may or may not prove otherwise," as alleged, the activity crossed the line from learning about Islam to compelling Ms. Wood's belief in Islam. ECF No. 35 at 15-16 (comparing *Barnette*, 319 U.S. at 642 ("[i]f 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 matter of opinion or force citizens to confess by word or act their faith therein) *with Brinsdon v. McAllen*, No. 15-40160, 2016 WL 4204797 at *6-7 (5th Cir. Aug. 9, 2016) (requiring student to recite Mexican pledge of allegiance in Spanish class did not violate First Amendment because there was no evidence that the required speech involved an attempt to compel the speaker's affirmative belief) and *Mozert v. Hawkins Cty. Bd. of Educ.,* 827 F.2d 1058, 1069 (6th Cir. 1987) (no constitutional violation for required reading of texts offensive to some parents because the school did not require students to believe or say they believe the contents)).

Following discovery, the record is clear that Ms. Wood was not compelled to *confess* the *Shahada*; rather, she was simply asked to understand the significance of the statement to Muslims. ECF No. 1-2 (under "Beliefs and Practices: The Five Pillars," Ms. Wood was asked to fill in the following blanks: "There is no god but __ and Muhammad is the __ of Allah"). In the hearing, Plaintiffs conceded that there is no evidence that Ms. Wood was required to recite the *Shahada* aloud or listen to other students recite the *Shahada* in the classroom—the only exercise was the fill-in-the-blank assignment. which did not present the *Shahada* in a way that suggested the students should

believe in the words of the *Shahada* itself. *Cf. Lee,* 505 U.S. at 593 (asking adolescent students to stand in silence as an alternative to reciting prayers during graduation ceremonies creates "subtle and indirect" peer pressure that "can be as real as any overt compulsion"). The fill-in-the-blank question was provided alongside other questions that served to test students' knowledge of the geographic and cultural origins of Islam. As a result, the "confession" alleged in the Amended Complaint was in actuality nothing beyond an academic exercise. *See Hazelwood,* 484 U.S. at 273 ("educators do not offend the First Amendment . . . so long as their actions are reasonably related to legitimate pedagogical concerns"). Therefore, Defendants' did not violate Ms. Wood's First Amendment protections when teaching about the *Shahada* within the contexts of its World History course.

C. Mr. Wood's First Amendment Claim

1. Retaliation

Plaintiffs allege that Defendants banned Mr. Wood from school grounds because "they disagreed with his viewpoint that his daughter should receive alternative assignments to Defendants' unconstitutional promotion of Islam . . ." and their disagreement was "the sole reason for the no-trespass order." ECF No. 55-1 at 18. A plaintiff claiming First Amendment retaliation must demonstrate that "(1) [he] engaged in protected First Amendment activity, (2) the defendants took some action that adversely affected [his] First Amendment rights, and (3) there was a causal relationship between [his] protected activity and the defendants' conduct."

See Constantine v. Rectors and Visitors of George Mason University, 411 F.3d 474, 499 (4th Cir. 2005); *see also Corales v. Bennett,* 567 F.3d 554 (9th Cir. 2009) (clarifying that the third prong requires that the protected activity was a substantial or motivating factor in the defendant's conduct.").

Defendants argue that they are entitled to summary judgment on Mr. Wood's retaliation claim because Mr. Wood did not engage in protected speech under the First Amendment. ECF No. 54-1 at 36. Not all speech is protected speech, and the narrowly limited classes of speech that remain unprotected include true threats. *United States v. Cassidy,* 814 F. Supp. 2d 574, 583 (citing *Watts v. United States,* 394 U.S. 705 (1969)); *see also United States v. White*, 610 F.3d 498, 507 (4th Cir. 2012) (true threats are words that by their very utterance inflict injury, and the prevention of such speech has never been thought to raise any Constitutional problem) (internal citations omitted). In support of their motion, Defendants cite *Lovern v. Edwards,* 190 F.3d 648, 655-56 (4th Cir. 1999) for the proposition that school officials have the authority and responsibility to control parents in order to prevent disruptions to the school environment. ECF No. 54-1 at 36. But *Lovern* is factually and procedurally distinguishable from this case. In *Lovern,* the Fourth Circuit recognized that the plaintiff was banned from school grounds following a "continuing pattern of verbal abuse and threatening behavior towards school officials" that took place *after* he was permitted to air his concerns numerous times while on school property. 190 F.3d at 656 n. 13. Ultimately, the Fourth Circuit determined that the plaintiff's desire to have

"boundless access to school property" was clearly frivolous. *Id.* at 656.

Here, Mr. Wood never made it to school grounds. Further, the record shows that Mr. Wood was attempting to speak out against his daughter's participation in the subject curriculum, and parents criticizing school officials are clearly protected by the First Amendment. *Jenkins v. Rock Hill Local School Dist.*, 513 F.3d 580, 588 (6th Cir. 2008); *see also Chiu v. Plano Independent School Dist.,* 260 F.3d 330, 343-44 (5th Cir. 2001) (speaking against a change in public school curriculum is an issue of public concern for parents of students enrolled in the school district and is protected under the First Amendment). Defendants fail to point to any cases suggesting that Mr. Wood's legitimate objection, even if presented in a threating and hostile manner, falls within the limited category of threatening speech not protected by the First Amendment. *Cf. R.A.V. v. City of St. Paul, Minn.,* 505 U.S. 377, 384-85 (1992) ("It is not true that fighting words have a de minimis expressive content or that their content is in all respects worthless and undeserving of constitutional protection; sometimes they are quite expressive indeed.") (internal citation and quotations omitted).

However, even if Mr. Wood engaged in protected speech, and the No Trespass Order inhibited his continued ability to do so, Plaintiffs cannot show a causal relationship between his protected speech and Defendants' decision to issue the No Trespass Order. The record indicates that Defendants issued the No Trespass Order based on its perception of the threats

of disruption following notification of Mr. Wood's Facebook® posts, not in objection to Mr. Wood's protected speech.[14] While Mr. Wood voiced his opposition to Defendants' curriculum in these posts, he also suggested that he would come to school and cause a disruption. The following passages from Mr. Wood himself are particularly telling:

- "My white ass is going into school on Monday and letting my feelings be known."
- "[a] 556 [type of ammunition] doesn't study Islam and it kills them fuckers every day."
- "I plan on using the paper [Ms. Wood's shredded homework assignment] as confetti on Monday!"

ECF No. 54-2 at 19, 20, 22.

Plaintiffs attempt to mitigate the confrontational nature of some of these posts. *See* ECF No. 55-1 at 16 ("Although oddly and amusingly, Defendants attempt to manufacture a threat out of confetti."). However, beyond voicing his opposition to the curriculum through, as Plaintiffs acknowledge, use of "coarse language," Mr. Wood suggested that he was going to cause a disturbance at La Plata High School.

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[14] While Plaintiffs allege that Defendants issued the No Trespass Order based on Mr. Wood's belief that the school was engaging in the unconstitutional promotion of Islam. ECF No. 55-1 (citing ECF No. 55-4 (declaration of J. Wood)). Mr. Wood's unsupported speculation to this point cannot create a genuine issue of material fact necessary to survive a motion for summary judgment. *See Beale v. Hardy,* 769 F.2d 213, 214 (4th Cir. 1985).

Further, Principal Arnold's deposition testimony indicates that she perceived Mr. Wood's Facebook® posts as threatening and issued the No Trespass Order within an hour of discussing her specific concerns with her Central Office superiors. ECF No. 54-4 at 6-8; *see also* ECF No. 54-2 ¶ 15 ("I [Principal Arnold] regarded Mr. Wood's Facebook® posts as threatening, and I grew increasingly concerned about his potential disturbance at La Plata, particularly in light of the [flurry] of Homecoming activities and increased number of visitors during that time."). Her email to Central Office further demonstrates her safety concern as she expressed concerns about Mr. Wood's demeanor and the possibility he might have access to weapons. ECF No. 54-2 at 18.[15] In addition, Sgt. Kaylor's deposition testimony indicates that he wrote the No Trespass Order as a result of Mr. Wood making what he perceived to be verbal threats against the school through his Facebook® posts. ECF No. 54-8 at 9. Accordingly, even if Plaintiffs might believe it was an overreaction, the record is clear that Defendants issued the No Trespass Order in response to perceived threats of a disruption on school grounds, not in retaliation against Mr. Wood's protected speech.[16] *See, e.g.,*

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[15] While Plaintiffs contend there is a dispute regarding the tone and demeanor of Mr. Wood's communications, there is no dispute that the nature of the communication caused Principal Arnold serious concern as it is reflected in the email she sent at that time.

[16] In the hearing, Plaintiffs suggested that Defendants' assertion of a perceived threat was a pretext for retaliation because if Defendants truly perceived that Mr. Wood was a threat, they would have taken more drastic action such as requesting additional police presence or social services intervention. However,

Francis v. Booz, Allen & Hamilton, Inc., 452 F.3d 299, 309 (4th Cir. 2006) (noting that temporal proximity between protected activity and adverse action is not dispositive of a retaliation claim when the adverse action is otherwise justified).

2. Free Speech

In their Cross Motion for Summary Judgment, Plaintiffs introduce arguments that Defendants' issuance of the No Trespass Order was also an unconstitutional restriction on Mr. Wood's freedom of speech. *See* ECF No. 55-1 at 20 ("not only did Defendants ban Mr. Wood *for* exercising his First Amendment right to free speech, but the no-trespass order was also a prior restraint on his ability to exercise his First Amendment rights on school grounds in the future.") (emphasis in original). This additional First Amendment claim goes beyond the scope of the claims currently before the Court. Specifically, Claim III only alleges that the No Trespass Order was issued in retaliation for Mr. Wood's protected activity; it does not suggest that the No Trespass Order subsequently abridged Mr. Wood's free speech rights. While Mr. Wood's Procedural Due Process Claim, Claim IV, could be construed to include a claim under his First Amendment right to free speech, *see* ECF No. 39 ¶ 121, the Court previously dismissed this claim. Specifically,

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the more reasonable inference to draw is that Defendants feared a disruption if Mr. Wood came to school grounds, not that Mr. Wood was coming to cause a disturbance or act of violence irrespective of the No Trespass Order. As such, the No Trespass Order was tailored to the perceived threat, as contemporaneously documented by Defendants, and was not a pretext for retaliation.

the Court found that Mr. Wood was provided with sufficient process and simply chose not to avail himself of procedures available to him. ECF No. 35 at 19-22. Thus, whether the arguments in Plaintiffs' Cross Motion reflect an attempt to state a claim never included in a Complaint or one that has already been dismissed, they are not relevant to any claim currently pending before the Court.

However, even if Mr. Wood's First Amendment free speech claim is properly before the Court at this time, Plaintiffs are still not entitled to relief. In assessing a First Amendment free speech claim, a court must determine whether the plaintiff was engaged in protected speech, identity the nature of the forum in which the protected speech was raised, and assess whether the justifications for exclusion from the relevant forum satisfy the requisite standard. *Goulart v. Meadows,* 345 F.3d 239, 246 (4th Cir. 2003) (citing *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.,* 473 U.S. 788, 797 (1985)). The three recognized fora are the traditional public forum, the nonpublic forum, and the designated or limited public forum. *Id.* at 248 (citing *Ark. Educ. Television Comm'n v. Forbes,* 523 U.S. 666, 677 (1998)).[17]

For the designated and limited public fora, a court must apply either an "internal standard" to situations where "the government excludes a speaker who falls within the class to which a designated [limited] public forum is made generally available," or an "external

[17] For the purpose of the analysis herein, the Court presumes that Mr. Wood's conduct was protected speech.

standard" for all others. *Goulart,* 345 F.3d at 250 (citing *Warren v. Fairfax County,* 196 F.3d 186 (4th Cir. 1999) (en banc)). Under the internal standard, a limited public forum is treated as a traditional public forum, such that government exclusion of speech is subject to strict scrutiny. *Id.* Under the external standard, a limited public forum is treated as a nonpublic forum, such that government control of speech must be viewpoint neutral and reasonable in light of the objective purposes served by the forum. *Id.* "Once a limited forum has been created, entities of a 'similar character' to those allowed access may not be excluded." *Id.* Public school facilities are limited public fora during a after-school hours. *Id.* Although Defendants argue correctly that La Plata is a nonpublic forum during school hours, the No Trespass Order went beyond limiting Mr. Wood from coming to school during school hours and instead limited all access to school grounds. Therefore, Mr. Wood was banned from La Plata at times when it was a limited public forum.

Plaintiffs argue that as a parent of a student at La Plata, Mr. Wood is "undoubtedly within the class to whom parent/teacher conferences, Parent Teacher School Organization meetings and events, and celebratory events honoring his daughter at the school are made generally available," and Defendants' decision to issue the No Trespass Order is therefore subject to strict scrutiny. ECF No. 55-1 at 22 (emphasis in original); *see also Bostic v. Schaefer,* 760 F.3d 352, 377 (4th Cir. 2014) (under strict scrutiny, Defendants' actions may be justified only if narrowly tailored to a compelling state interest). However, Plaintiffs' characterization of Mr. Wood as a parent of "similar

character" to other parents ignores the simple fact that in addition to voicing his objections to the curriculum, Mr. Wood, unlike all other parents for which the forum is open, caused school officials to be concerned about safety at the school. As such, Defendants' decision to issue the No Trespass Order is not subject to strict scrutiny under the limited public forum internal standard. Rather, under the external standard, the No Trespass Order must be viewpoint neutral and reasonable in light of the objective purpose of the limited public forum (*i.e.,* allowing parents to participate in school-related functions). As previously discussed, the No Trespass Order was not based on Mr. Wood's objections to the curriculum, was limited in duration,[18] and was reasonable in order to ensure that Mr. Wood did not disrupt school-related functions reserved for other parents. *See American Civil Liberties Union v. Mote,* 423 F .3d 438, 445 (4th Cir. 2005) (citing *Cornelius,* 473 U.S. at 808) (a school's decision to restrict speech in a limited public forum under the external standard "need only be reasonable; it need not be the most reasonable or the only reasonable limitation") (emphasis in original). As such, even if Mr. Wood had a free speech claim pending before the Court, it would fail.

---

[18] While Plaintiffs argue that Mr. Wood was categorically banned from all school-related activities for over a year, the record indicates that the "No Trespass Order could be rescinded if Mr. Wood calmly met with me [Principal Arnold] to discuss it." ECF No. 54-2 ¶ 17; *see also* ECF No. 54-8 at 7.

D. Ms. Wood's Article 36 Claim

Plaintiffs do not allege that Article 36 provides Ms. Wood with more expansive protections than she is entitled to under its federal corollary. Because the Court finds that Defendants did not violate Ms. Wood's First Amendment protections, the Court must also grant Defendants' Motion for Summary Judgment on Ms. Wood's Article 36 Claim and need not address whether Article 36 gives rise to a private cause of action for damages. *See Booth v. Maryland Dept. of Public Safety & Correctional Services,* No. RDB 05-1972, 2008 WL 2484937, at *8 (D. Md. June 18, 2008) (citing *Supermarkets General Corp. v. State,* 286 Md. 611 (1979) ("Maryland courts have repeatedly decided cases on the assumption that the free exercise provision of Article 36 is *in pari materia* with the First Amendment.")).

IV. Motion to Amend

Separately, Plaintiffs move to file a Second Amended Complaint, ECF No. 47, in an attempt to add Bryden, Tuttle, Superintendent Kimberly Hill, and Assistant Superintendent Hollstein as named defendants. Plaintiffs allege that they only learned of these individuals' involvement following depositions taken on March 23 and 24, 2017, constituting good cause to amend their complaint pursuant to Federal Rule of Civil Procedure 16(b). ECF No. 47-1 at 2. However, the Court need not consider Plaintiffs' arguments, as the Court evaluated the alleged constitutional violations in their entirety, without regard to which actions were taken by the named

defendants as compared to the proposed defendants. As such, Plaintiffs' motion is denied as moot.

V. CONCLUSION

For the foregoing reasons, the Court will grant Defendants' Motion for Summary Judgment, ECF No. 54, deny Plaintiffs' Cross Motion for Summary Judgment, ECF No. 55, and deny Plaintiffs' Second Motion to Amend/Correct the Amended Complaint, ECF No. 47. A separate Order follows.

Dated: March 26, 2018

/s/George J. Hazel
GEORGE J. HAZEL
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Southern District

Case No.: GJH-16-239

[Filed March 27, 2018]

CALEIGH WOOD, *et al.*,	)
	)
Plaintiffs,	)
	)
v.	)
	)
EVELYN ARNOLD, *et al.*,	)
	)
Defendants.	)
	)

ORDER

In accordance with the foregoing Memorandum Opinion, it is hereby **ORDERED**, by the United States District Court for the District of Maryland, that:

1. Defendants' Motion for Summary Judgment, ECF No. 54, is **GRANTED**;

2. Plaintiff' Cross Motion for Summary Judgment, ECF No. 55, is **DENIED**;

3. Plaintiffs' Motion to Amend/Correct the Amended Complaint, ECF No. 47, is **DENIED** as moot;

4. The Clerk **SHALL UPDATE** the docket to reflect named plaintiffs as John Wood and Caleigh Wood; and

5. The Clerk **SHALL CLOSE** the case.

Dated: March 26, 2018

/s/George J. Hazel
GEORGE J. HAZEL
United States District Judge

APPENDIX C

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

Civil Case No. 8: 16-cv-239

Judge George J. Hazel

[Dated February 17, 2016]

MELISSA WOOD, on behalf of her minor child, C.W., and JOHN KEVIN WOOD, individually and on behalf of his minor child, C.W.,	)
Plaintiffs,	)
-v.-	)
CHARLES COUNTY PUBLIC SCHOOLS, BOARD OF EDUCATION OF CHARLES COUNTY, EVELYN ARNOLD, individually and as the Principal of La Plata High School, and SHANNON MORRIS, individually and as a Vice Principal of La Plata High School,	)
Defendants.	)

DECLARATION OF JOHN KEVIN WOOD

I, John Kevin Wood, make this declaration pursuant to 28 U.S.C. § 1746 based upon my personal knowledge and, where stated, upon information and belief:

1. My name is John Kevin Wood.

2. I am an adult citizen of the State of Maryland, residing in Charles County.

3. I am the father and legal guardian of C.W., my minor daughter.

4. During the fall of 2014 my daughter, C.W., was sixteen years old and enrolled in the 11th grade World History class at La Plata High School in the Charles County Public Schools system.

5. On October 22, 2014, I picked my daughter, C.W., up from school. Later that day, we began discussing the homework assigned to her in World History class.

6. That day, I learned from C.W. that Charles County Public Schools and its employees were promoting the Islamic faith in my daughter's 11th grade World History class.

7. I also learned that the Charles County Public Schools and its employees were criticizing, degrading, and denigrating Christianity.

8. Christianity is an identifying part of who both C.W. and I are. We identify ourselves culturally and religiously as Christian.

9. Our Christian faith and heritage calls us to serve others because by serving others I am serving Christ.

10. I served my country in the United States Marine Corps for eight years.

11. During my service, I was deployed to fight on behalf of the United States in Operation Desert Shield/Desert Storm where two of my comrades were killed in action.

12. After being honorably discharged from the Marine Corps, I began serving as a firefighter and first responder.

13. On September 11, 2001, I responded to the Islamic terrorist attack on the Pentagon and witnessed the destruction and carnage motivated by Islam.

14. Through these tragedies and through all difficult moments in my life, my family and I rely on our Christian faith and heritage and on the strength we receive from our Savior Jesus Christ.

15. However, Charles County Public Schools and its employees called upon my daughter, C.W., to criticize, degrade, and denigrate our Christian faith and heritage in their 11th grade World History class.

16. Charles County Public Schools and its employees required that C.W. assert in writing that "Most Muslim's faith is stronger than the average Christian."

17. C.W. was required to write out the Five Pillars of Islam and to profess the *Shahada,* accepting

Muhammad as a profit of Allah in direct contradiction to her Christian faith and heritage.

18. C.W. was required to write that "There is no god but Allah and Muhammad is the messenger of Allah." This statement is in direct contradiction to both my and C.W.'s Christian belief that it is sinful to express that there is any other god but the Christian God.

19. C.W. and her classmates in the 11th grade World History class were instructed that the Islamic religion is a fact while Christianity and Judaism are just beliefs. For example, C.W. and her classmates were instructed that the "Qur'an is the word of Allah as revealed to Muhammad in the same way that Jews and Christians believe the Torah and the Gospels were revealed to Moses and the New Testament writers," and that Muhammad was visited by the Angel Gabriel who proclaimed to him that there is only one true god.

20. Charles County Public Schools and its employees used pro-Islam instructional materials and required that C.W. learn that "Islam, at heart, is a peaceful religion."

21. On October 22, 2014 after my discussion with C.W., I left a voicemail for the administration at La Plata High School to express my disapproval of the promotion of Islam over Christianity and to request that C.W. be given an alternative assignment that would not force her to violate her Christian beliefs.

22. The following day on October 23, 2014 around 4pm, Vice Principal Morris called me on my cell phone.

23. When Vice Principal Morris called me, I was at work at the Fire Station in the bunk room.

24. Vice Principal Morris advised that she was calling me due to my concerns about my daughter's World History course. The phone conversation started out politely. I voiced my objections to the promotion of Islam and requested that C.W. be given an alternative assignment.

25. During the phone call, Vice Principal Morris became argumentative towards me. Vice Principal Morris refused my request for an alternative assignment and insisted that C.W. would be given a zero for any assignments that C.W. could not complete, even if the assignment forced my daughter to violate her faith by professing her allegiance to a false god.

26. I told Vice Principal Morris that C.W. would not complete the assignments that promoted Islam and would, therefore, accept zeros on the assignments if the school insisted that C.W. violate her religious beliefs.

27. I then told Vice Principal Morris that, if she and the school insisted on retaliating against C.W. and punishing C.W. for her adherence to her Christian faith and heritage, I would inform the media and discuss my options with lawyers.

28. Vice Principal Morris hung the phone up on me in an unprofessional manner and without saying good-bye.

29. On October 24, 2014 around 9am, I called La Plata High School and my call was transferred to Vice Principal Morris. I advised Vice Principal Morris of our

phone call the previous day. Vice Principal Morris stated that she remembered me. I explained that C.W.'s First Amendment rights were being violated by making her write out statements of the Islamic faith that we do not practice or believe in. I also explained that, because of the separation of church and state, the school could not instruct my daughter in Islam or disparage and denigrate our Christian faith.

30. I reiterated that the school cannot force my daughter, C.W., to write out Islamic faith statements and that if Vice Principal Morris and the school insisted that she do so then I would contact lawyers and the media. Vice Principal Morris responded by saying, "That's fine." I then said "You have a beautiful American day," and the phone call came to an end.

31. I was very angry, as I have seen so much death and destruction caused in the name of Islam and I was simply asking for an alternative assignment for my daughter.

32. My comments to Vice Principal Morris were only voiced over the phone. Despite being upset, I never made any threats to the health or safety of anyone at the school. I never made any threat to cause or actually caused a disturbance at the school. In fact, I was at the Fire House during the entirety of the two phone conversations I had with Vice Principal Morris and made no statements that I would be heading to the school to meet with Vice Principal Morris.

33. At approximately noon on October 24, 2016, I received a telephone call from the school's resource

officer, Officer Mark Kaylor of the Charles County Sheriff's Office.

34. Officer Kaylor informed me that Vice Principal Morris filed a complaint against me based on our telephone conversation and, as a result, Principal Arnold issued a no-trespass order forbidding me from entering the La Plata High School grounds.

35. I informed Officer Kaylor that I never made any physical threats against Vice Principal Morris or the school but rather informed her, over the phone, that I would contact the media and lawyers if she forced my daughter to violate her faith by promoting Islam.

36. On October 27, 2014, I received a written order in the mail prohibiting me from stepping foot on the La Plata High School grounds signed by Principal Arnold. (Exhibit A).

37. I never was informed of or received any opportunity to defend myself against Vice Principal Morris' false accusations prior to or subsequent to receiving the no-trespass order.

38. I was never afforded a hearing to dispute the order prohibiting me from the La Plata High School grounds.

39. Because of the no-trespass order, I have been forbidden to pick my daughter, C.W., up from school for over a year. My wife and I have had to ask friends and family members to pick up C.W. when no one was available to do so, I had to drive to a location away

from school grounds and my daughter, C.W., then had to walk a distance to meet me.

40. Because of the no-trespass order, I lost the opportunity to participate in my daughter's education.

41. Because of the no-trespass order, I lost the opportunity to attend and to speak at Parent Teacher School Organization meetings, various other meetings that affected C.W.'s curricular and extracurricular activities, parent/teacher conferences, and events honoring C.W. Attached as Exhibit B to this declaration is a list of meetings and events that I have been forced to miss or will miss due to Defendants' no-trespass order.

42. I would have spoken at these meetings and events to discuss school policy, the curriculum at La Plata High School, and my daughter, C.W.'s, well being, scholastic career, and future.

43. Principal Arnold and Vice Principal Morris took away my ability to speak about, contribute to, and affect C.W.'s education.

44. C.W. received zeros on several assignments because the assignments promoted Islam and violated C.W.'s Christian faith and heritage. C.W. was also removed from the World History classroom due to our objections to the promotion of the Islamic faith over all other faiths, including Christianity.

I declare under penalty of perjury under the laws of the United States and the State of Maine that the foregoing is true and correct.

Executed this 17th day of February, 2016, in Newburg, Maryland.

/s/ John Kevin Wood
John Kevin Wood

APPENDIX D

EXHIBIT 2

2. Islam Grows and Expands

a. Muhammad didn't name a successor or instructed his followers on how to chose one
b. Tribal customs led to the election of Abu-Bakr, a loyal friend of Muhumad to be the successor
c. Abu-Bakr became the first caliph or "successor" or "deputy"
d. Later, disagreements over who should succeed caused a split in Islam
    i. Shi'a, or Shi'ites, believe that the caliph needed to be a descendant of Muhammad
    ii. Sunni Muslims acknowledge the first four caliphs as rightful successors of Muhammad even though they weren't of same blood

3. Beliefs and Practices: The Five Pillars

a. **Faith:** There is no god but Allah and Muhammad is the messenger of Allah
b. **Prayer:** Pray 5 times a day towards Mecca
c. **Alms:** Give alms (money for the poor)
d. **Fasting:** During holy month of Ramadan Muslims fast between dawn and sunset
e. **Pilgrimage:** Must visit Mecca at one point in lifetime if capable. Known as the hajj.

4. The Qur'an

a. Islamic holy text
b. Allah is the source of authority

c. Written in Arabic, only true version

5. Links to Judaism and Christianity

a. Muslims, Christians, and Jews trace ancestry back to Abraham
b. To Muslims, Allah is the same god that is worshipped in Christianity and Judaism
c. Qur'an is the word of Allah as revealed to Muhammad in the same way that Jews and Christians believe the Torah and the Gospels were revealed to Moses and the New Testament writers.
d. All three are "people of the book" due to their use of a holy book

Summary: Shehada- testimony/declaration of faith
Salah - prayer 5 times a day
Zakat - 2 ½ % charity to poor
Saum - fasting, month of Ramadan
Hajj - pilgrimage

APPENDIX E

MUHAMMAD SPEAKS OF ALLAH:

'THERE IS NO GOD BUT HE . . . '

('Qur'an,' II, 256-9; VI, 102-3)

God
there is no god but He, the Living, the Everlasting.
Slumber seizes Him not, neither sleep;
to Him belongs
all that is in the heavens and the earth
Who is there that shall intercede with Him save by
His leave?
He knows what lies before them
and what is after them,
and they comprehend not anything of His knowledge
save such as He wills.
His Throne comprises the heavens and earth;
the preserving of them oppresses Him not;
He is the All-high, the All-glorious.

No compulsion is there in religion.
Rectitude has become clear from error.
So whosoever disbelieves in idols
and believes in God, has laid hold of
the most firm handle, unbreaking; God is
All-hearing, All-knowing.
God is the protector of the believers;
He brings them forth from the shadows
into the light.
And the unbelievers-their protectors are

idols, that bring them forth from the light
into the shadows;
those are the inhabitants of the Fire,
therein dwelling forever. (II, 256-9)

That then is God your Lord;
there is no god but He,
the Creator of everything.
So serve Him,
for He is Guardian over everything.
The eyes attain Him not, but He attains the eyes;
He is the All-subtle, the All-aware. (VI, 102-3)

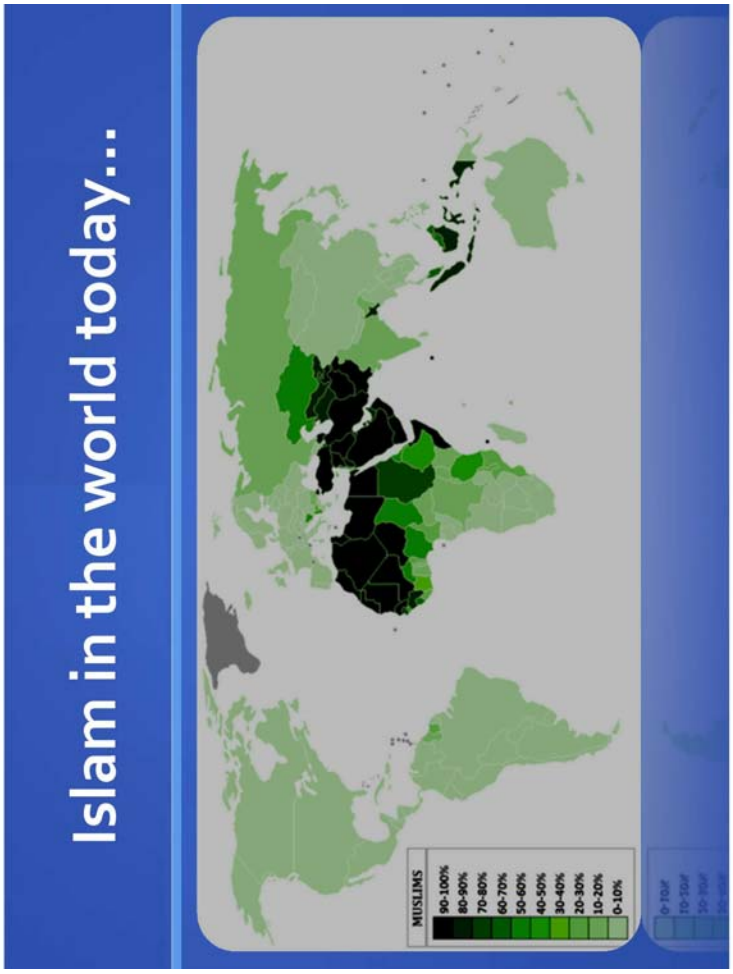
APPENDIX F

PowerPoint Slides

Islam
Outcome: Islam Today

[*see next 11 images*]


Islam
Outcome: Islam Today
003706


Islam in the world today...
MUSLIMS
90-100%
80-90%
70-80%
60-70%
50-60%
40-50%
30-40%
20-30%
10-20%
0-10%
003707

Islam Today

1. A Statistical Look
   a. Today there are over 1.2 Billion Muslims in the world
   b. Islam is the fastest growing religion in the world
   c. Experts predict that it will be the largest religion in the world someday
   d. Most populous Muslim countries include: Indonesia, Bangladesh, Pakistan, and India.
   e. Indonesia alone has over 175 Muslims which exceeds combined total of Egypt, Syria, Saudi Arabia, Iran, and Iraq, the traditional heartlands of Islam
   f. Populations are rising in Europe and North America

003708

Peaceful Islam vs. Radical Islam
003709

Islam Today

2. Peaceful Islam vs. Radical Fundamental Islam
   a. Islam, at heart, is a peaceful religion
   b. Most Muslim's faith is stronger than the average Christian
   c. Beginning in the 1970s and 1980s Islam remerged as a potent political force, associated with both reform and revolution
   d. Radical Islamic Fundamentalists are opposed to Western civilization's way of life and imperialistic pursuits

003710

Islam Today

e. These fundamentalists represent a small percentage of the population of Islam, so we must be careful not to label or assume
f. Jihad: a holy war waged on behalf of Islam as a religious duty; a personal struggle in devotion to Islam especially involving spiritual discipline
g. No where in the Qu'ran does it say you will go to paradise if you martyr yourself with a suicide bomb
h. Important: The majority of Muslims do not live this way

003711


9-11
©NYC Police Authority
003712

Islam Today

3. What does Islam Mean for the West?
   a. Terrorism is a real battle we will continue to face
   b. 9-11 was not the first attack against the US and experts say it will not be the last

003713

1993 World Trade Center Bombing
The 1993 World Trade Center Bombing
POLICE LINE DO NOT CROSS
003714


Vince Flynn
NEW YORK TIMES BESTSELLING AUTHOR OF
ACT OF TREASON
VINCE
FLYNN
PROTECT
AND
DEFEND
DEFEND
003715

Islam Today

c. Can we win the war on terror?
   i. Invisible enemies
   ii. To win we need to raise the standard of living in areas of squalor and educate so as to avoid political brainwashing
d. "Start seeing Muslims" and avoid racial profiling

003716