

FREEDOM FROM RELIGION *foundation*

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June 4, 2012

SENT VIA U.S. MAIL & EMAIL TO robin.hines@hcbe.net

Dr. James R. Hines, Jr.
Superintendent, Houston County Schools
P.O. Box 1850,
Perry, GA 31069

Re: Illegal Prayer and Gospel Performance at Graduation

Dear Dr. Hines:

I am writing on behalf the Freedom From Religion Foundation (FFRF) to call your attention to serious state/church violations occurring in Houston County Schools. FFRF is a national nonprofit organization that works to protect the constitutional principle of separation between state and church. We represent over 18,500 members across the country, including over 350 members in Georgia.

It is our information and understanding that Veterans High School (VHS) held its graduation on May 26, 2012. Our complainant informs us that an invocation was scheduled and given as part of this ceremony. We understand that the audience was asked to stand during these prayers. We have been informed that the ceremony included an overtly sectarian musical performance and a speech that resembled a religious sermon, which you in your official capacity as Superintendent delivered.

It is unlawful for any school-sponsored event, including graduation, to include prayer. FFRF asks that you immediately take action to ensure that the graduation ceremonies of all Houston County Schools do not include prayer or religious musical performances in the future.

The Supreme Court has continually struck down formal and teacher or school-led prayer in public high schools. *See, e.g., Engel v. Vitale*, 370 U.S. 421 (1962) (declared prayers in public schools unconstitutional); *Abington Township Sch. Dist. v. Schempp*, 374 U.S. 203 (1963) (declared unconstitutional devotional Bible reading and recitation of the Lord's Prayer in public schools); *See also Lee v. Weisman*, 505 U.S. 577 (1992) (ruled prayers at public school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturned law requiring daily "period of silence not to exceed one minute ... for meditation or daily prayer.").

Even when student-delivered, the Supreme Court have found these prayers unconstitutional. *See Sante Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 308 (2000) (struck down a school policy that authorized students to vote on whether to hold a prayer at high school football games). Prayer occurring on public school property as part of a regularly scheduled annual event sponsored by

the school certainly leads “an objective observer, acquainted with the [prayer to] perceive it as a state endorsement...” *Sante Fe Indep. Sch. Dist. v. Doe*, 530 U.S. at 308. In all of the aforementioned cases, the federal courts have struck down prayer in public schools because it constitutes a government-endorsement of religion, which violates the Establishment Clause of the First Amendment.

Graduation ceremonies are school-sponsored events and are not voluntary in any true sense of the word. The Supreme Court has held that forcing a student to compromise their religious beliefs in order to attend the culmination of their academic career is coercive and unconstitutional:

Everyone knows that in our society and in our culture high school graduation is one of life's most significant occasions. A school rule which excuses attendance is beside the point. Attendance may not be required by official decree, yet it is apparent that a student is not free to absent herself from the graduation exercise in any real sense of the term “voluntary,” for absence would require forfeiture of those intangible benefits which have motivated the student through youth and all her high school years. *Lee v. Weisman*, 505 U.S. 577, 595 (1992).

The courts have continually reaffirmed that the rights of minorities are protected by the Constitution. The non-religious are the fastest-growing segment of the U.S. population by religious identification — at 15% by national average, according to the American Religious Identification Survey 2008, Trinity College. For Americans under 29 years of age, the proportion of nonbelievers is even greater: 25%.

It makes no difference how many students want prayer or wouldn't be offended by prayer at their graduation ceremony. As the Supreme Court has said, “fundamental rights may not be submitted to vote; they depend on the outcome of no elections.” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 304-305 (2000) (quoting *West Virginia Bd. of Ed. v. Barnette*, 319 U.S. 624, 638 (1943)). “The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts.” *Barnette*, 319 U.S. at 638. The School District has a duty to remain neutral toward religion. By scheduling such graduation prayers, the District abridges its duty to remain neutral.

The neutrality duty was also breached when the worship song, Mark Harris' *Find Your Wings*, was performed. This is a blatantly religious and specifically Christian worship song that properly belongs in a church, not a public school event. The lyrics to the song include discussion of the “plans that Heaven has for you,” the “different prayers I'll pray for you,” the speakers desire to “know that you're walking in the Truth,” and “I pray that God would fill your heart with dreams and that faith gives you courage.”¹

Mark Harris is a Christian gospel singer and “worship pastor,” who writes “songs that serve as a reflection of God's work.”² *Find Your Wings* won the Gospel Music Association's 2007 Dove Award for best Inspirational Song of the Year. The Gospel Music Association mission is to “[t]o expose, promote and celebrate the Gospel through music.”³ To be considered eligible for the Dove Awards, gospel music must have lyrics that are “substantially based upon historically

orthodox Christian truth contained in or derived from the Holy Bible; an expression of worship of God or praise for His works; and /or testimony of relationship with God through Christ; and/or obviously prompted and informed by a Christian world view.”⁴

It is wholly inappropriate for Christian worship songs to be performed in a public school setting or at public school events. There are a multitude of secular songs that would be appropriate. Though there may be some instances where singing some religious music, i.e., classical choral music, in a public school setting might be permissible, graduation is certainly not such an occasion. This song does not qualify as classical but as “praise or worship,” and strictly Evangelical praise or worship. This excludes not only non-evangelical Christians, but Jewish, Muslim, and non-religious students and their families.

Public schools should not be seeking out songs that exclude students and create a divisive environment. Bullying is rampant in schools and on social media and Houston County Schools should be striving find inclusive, secular songs that all can enjoy without compromising their own personal beliefs.

Performing pervasively Christian music at a public school graduation violates the First Amendment. It is well settled that public schools may not advance or endorse religion. *See generally, Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Epperson v. Arkansas*, 393 U.S. 97 (1967); *Sch. Dist. of Abington Twshp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962). In addition, courts have reviewed religious music in public schools and held that its use must comport with the Establishment Clause. *See Nurre v. Whitehead* 580 F.3d 1087, 1097 (9th Cir. 2009) (school district's disallowing the playing of “Ave Maria” at graduation was impermissible because an observer could have viewed it as the district's preference for one religion over another); *Sease v. School Dist. of Philadelphia*, 811 F.Supp. 183, 192 (E.D. Pa. 1993) (“Clearly, a school employees participation in, or sponsorship of, a public school gospel choir during school hours would be a violation of the Establishment Clause.”).

Therefore, we request written assurances that Houston County Schools will take the appropriate steps to ensure that religious rituals are not part of graduation ceremonies or any other school-sponsored events. Finally, you as superintendent set the tone for the entire county. That you would not know or honor the Constitution of the United States is shocking. Thank you in advance for your time and attention to this matter. We look forward to your reply.

Sincerely,



Andrew L. Seidel
Attorney

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¹ The complete lyrics are as follows:

It's only for a moment you are mine to hold

The *plans that heaven has for you*

Will all too soon unfold

So many *different prayers I'll pray*

For all that you might do

But most of *all I'll want to know*

You're walking in the Truth

And If I never told you

I want you to know

As I watch you grow

CHORUS: *I pray that God would fill your heart with dreams*

And that faith gives you the courage

To dare to do great things

I'm here for you whatever this life brings

So let my love give you roots

And help you find your wings

² <http://markharrisonline.com/about/>

³ <http://www.gospelmusic.org/gmainfo/aboutus.aspx>.

⁴ Christopher H. Sterling, *Encyclopedia of Radio*, 619 (2004).

May passion be the wind

That leads you through your days

And may conviction keep you strong

Guide you on your way

May there be many moments

That make your life so sweet

Oh, but more than memories

REPEAT CHORUS

It's not living if you don't reach for the sky

I'll have tears as you take off

But I'll cheer as you fly

REPEAT CHORUS