

FREEDOM FROM RELIGION *foundation*

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November 16, 2017

**SENT VIA EMAIL AND U.S. MAIL:
BasemanJudith@asd.k12.wi.us**

Dr. Judy Baseman
Appleton Area School District
P.O. Box 2019
Appleton, WI 54912-2019

**Re: Religious promotion at graduation ceremony and open records
request**

Dear Superintendent Baseman:

I am writing on behalf of the Freedom From Religion Foundation regarding a constitutional violation at Appleton North High School. FFRF is a Wisconsin-based national nonprofit organization with about 30,000 members across the country, including more than 1,300 members in Wisconsin. FFRF's purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

A concerned local resident contacted us to report that local media published an article stating that school board member Alvin Dupree spoke at this year's Appleton North High School graduation as part of the program.¹ We understand that Dupree's speech promoted religion in general, and Christianity in particular, referring to "Jesus Christ." We also understand that Dupree gave a presentation to a local political party entitled "Placing God in the Classroom."

It is unconstitutional for school district representatives to promote religion during school-sponsored events. As a member of the school board, Dupree obviously speaks on the school district's behalf when he speaks at a high school graduation. His presentation on "Placing God in the Classroom" further suggests that Dupree intends to use his position on the school board to promote his personal religion to District students.

¹ Brian Farmer, *Column: School board member provokes questions of religion's place in public school*, POST-CRESCENT (Nov. 11, 2017), available at postcrescent.com/story/opinion/columnists/2017/11/11/column-appleton-school-board-member-flushes-out-anti-religion-crowd/848954001/.

We are aware that at least some of Dupree’s religious comments were made in reference to the family of a recently deceased student. Students who have just lost a classmate are uniquely vulnerable to religious coercion, highlighting the importance of the school district remaining religiously neutral when discussing such a sensitive topic. We request written assurances that Dupree will not promote religion if he speaks at District events in the future, including graduation ceremonies.

The Supreme Court has continually struck down religious promotion at school-sponsored events, including public school graduations. *See Lee v. Weisman*, 505 U.S. 577 (1992) (declaring unconstitutional clergy-delivered prayers at a public school graduation). School officials may not invite a student, teacher, faculty member, or clergy to lead religious exercises or otherwise promote religion at school-sponsored events. *See Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (holding that a school’s policy allowing student-delivered prayers at high school football games violates the Establishment Clause). The Supreme Court has settled this matter—high school graduations must be secular to protect the freedom of conscience of all students.

The article describing Dupree’s conduct argued that he “was speaking for himself” at the graduation. However, when a school board member speaks at a District-sponsored event, anyone present will understand them to be speaking in their official capacity. Even if this were not so, in *Lee v. Weisman* the Supreme Court struck down a practice of inviting outside clergy to deliver a religious message because the District endorses any message given by invited speakers. *See Lee*, 505 U.S. 577. In other words, Dupree’s religious statements would subject the District to liability even if he were not affiliated with the District, and his position as a school board member only makes the District’s endorsement of his statements more clear.

Students are a vulnerable and captive audience. The “[s]chool sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are nonadherents ‘that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.’” *Id.* at 309–10 (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)). This excludes the 35% of millennials who are nonreligious.²

Please inform us in writing of the steps the District takes to ensure that Dupree will not promote religion while acting in his capacity as a District

² *America’s Changing Religious Landscape*, PEW RESEARCH CENTER (May 12, 2015), available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/.

representative in the future. Also please ensure that the FOIA request below is forwarded to the appropriate records custodian. Thank you for your time and attention to this matter.

Request for Public Records

Pursuant to Wis. Stat. §§19.31-19.39, I request a copy of the following:

- 1) Any audio or video recording of Alvin Dupree's remarks at the 2017 Appleton North High School graduation ceremony; and
- 2) Any correspondence, including email, to or from Alvin Dupree involving either his remarks at the 2017 Appleton North High School graduation ceremony or his presentation on July 13, 2017 to the Outagamie County Republican Party.

The law requires the District to respond to this request "as soon as practicable and without delay."

Please be aware that under Wisconsin law, there is a "presumption of complete public access consistent with the conduct of government business. The denial of access generally is contrary to the public interest and only in exceptional cases can access be denied." See Wis. Stat. §19.31. If the District chooses to deny this request, please respond with a written explanation of the denial including any references to statutory exemptions or other case law upon which you rely.

If I can provide any clarification that will help expedite your attention to my request, please contact me at 608-256-8900.

Sincerely,



Ryan D. Jayne
Staff Attorney

cc: Kay S. Eggert, President, Board of Education
via email to kayseggert@asd.k12.wi.us