

FREEDOM FROM RELIGION *foundation*

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April 7, 2017

Colonel James P. Ryan,
Commanding Officer, 157th Air Refueling Wing
Bldg 100, 302 Newmarket Street
Pease ANGB, NH 03803

Re: Forced participation in prayer at Air National Guard ceremonies

Dear Col. Ryan:

As you are aware, the Freedom From Religion Foundation (FFRF) sent a letter to Lt. Col. Day on February 6 to alert the New Hampshire Air National Guard (NHANG) that its practice of including chaplain-led prayers at official Pease International Tradeport events violates the religious freedoms of the base's minority religious and nonreligious guardsmen. A concerned nonreligious guardsman contacted FFRF to report that attendance at many base-sponsored events is mandatory for guardsmen, who are ordered by superior officers to stand and observe religious prayers that directly conflict with their personal minority religious or nonreligious beliefs.

This report is alarming. Given that the Department of Defense places "a high value on the rights of members of the Military Services to observe the tenets of their respective religions *or to observe no religion at all*,"¹ we would expect the NHANG to take swift action to modify its practice, which currently excludes and ostracizes the more than 23% of today's military members who express no religious preference or are atheists and the additional 8% who are non-Christian.²

The NHANG could easily make a change to accommodate the beliefs of its non-Christian and nonreligious guardsmen. The NHANG is solely responsible for the format of its official events and could do away with chaplain-led invocations at those events without violating *anyone's* free exercise rights. While base chaplains have the right to freely exercise their religion, **they do not have a constitutional right to a government-sponsored microphone or to impose their religion on guardsmen attending a mandatory event.** The authors of the two letters you've received³ claim that chaplains' free exercise rights hang in the balance; they are either confused or are intentionally obfuscating the core issue.

¹ Department of Defense Instruction No. 1300.17 (4) (a), *Accommodation of Religious Practices Within the Military Services* (Incorporating Change 1, Effective Jan. 22, 2014) (emphasis added).

² See MAAF Department of Defense Religious Preference and Chaplain Support Study (July 2012), <http://militaryatheists.org/demographics/>.

³ I refer to the March 14 letter from Michael Berry of the Christian rights advocacy organization First Liberty Institute and the April 3 letter signed by a mere 17 of Congress's 485 Christian members, not one of whom represents New Hampshire or even a state in New England. For the religious composition of the 115th Congress, see Aleksandra Sandstrom, *Faith on the Hill*, Pew Research Center (Jan. 3, 2017), www.pewforum.org/2017/01/03/faith-on-the-hill-115/.

While doing away with the practice of chaplain-led prayers during mandatory base events would protect the religious free exercise of minority religious and nonreligious guardsmen, maintaining the practice does not protect anyone's religious free exercise rights. In our February 6 letter, FFRF noted that holding prayers during official ceremonies cannot be justified as a religious accommodation for Christian guardsmen. Military chaplains may facilitate the free exercise of religion by making themselves available for those guardsmen who seek them out, either in private or for group worship. But no one's religion requires the NHANG to turn an official event into a mandatory worship service. Protecting prayers delivered by Christian chaplains before military-sponsored events is not a defense of religious freedom, it's a defense of Christian privilege.

The NHANG has set up a system where the religious majority is imposing recitations of their religious beliefs onto all guardsmen, regardless of the minority's religious or nonreligious preferences. This scenario runs directly counter to the Establishment Clause of the First Amendment, as noted by James Madison—father of our Constitution and author of the Bill of Rights—who declared a government-run chaplaincy program “a palpable violation of equal rights, as well as of Constitutional principles: The tenets of the chaplains elected [by the majority] shut the door of worship [against] the members whose creeds & consciences forbid a participation in that of the majority.”⁴

Madison wisely feared that government-run chaplaincies would shut out minority religious sects (which, at the time, included Catholics): “Could a Catholic clergyman ever hope to be appointed a Chaplain? To say that his religious principles are obnoxious or that his sect is small, is to lift the evil at once and exhibit in its naked deformity the doctrine that religious truth is to be tested by numbers, or that the major sects have a right to govern the minor.”⁵ Madison's fear is borne out in the military chaplaincy, which is composed of 97% Christian chaplains, though less than 70% of military members are Christian.⁶

Halting chaplain-led prayer at base events should offend no one. Guardsmen and military chaplains will remain free to practice their religion on their own time, in their own way. To defend this prayer practice is to defend the imposition of the majority's religious preference onto the minority. This practice undermines unit cohesion by creating division and resentment between guardsmen where none need exist. We ask that you protect the right of conscience of your minority religious and nonreligious guardsmen by ending the practice of chaplain-led prayer at official base events.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sam Grover', written over a horizontal line.

Sam Grover
Staff Attorney

⁴ Elizabeth Fleet, *Madison's "Detached Memoranda"*, 3 WILLIAM & MARY Q. 534, 558 (1946).

⁵ *Id.*

⁶ See MAAF Department of Defense Religious Preference and Chaplain Support Study (July 2012), <http://militaryatheists.org/demographics/>.