

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

September 5, 2019

SENT VIA EMAIL AND U.S. MAIL:

bthomsen@ogr6.org

Dr. Bryan Thomsen
Superintendent
Oak Grove R-VI
601 SE 12th St
Oak Grove, MO 64075

Re: Multiple constitutional violations

Dear Superintendent Thomsen:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to several constitutional violations occurring in the Oak Grove R-VI School District (District). FFRF is a national nonprofit organization with more than 30,000 members across the country, including 400 members in Missouri. Our purposes are to protect the constitutional separation between state and church, and to educate the public on matters relating to nontheism.

A concerned Oak Grove parent contacted FFRF to report that each instance of religious promotion described below has occurred within the District. Each type of violation is addressed in turn. We request that the District investigate each of these concerns and take appropriate action to ensure that these widespread violations do not continue.

1. Prayers at faculty meetings are unconstitutional.

We understand that the District regularly opens mandatory faculty meetings with Christian prayer, often led by a local preacher or District employee. For example, this past March, a teacher potluck on school grounds, following a half-day of school, included a prayer delivered by a teacher to all other faculty during the meal. Oak Grove High School (OGHS) also hosts a mandatory luncheon during the first week of the school year for all district faculty at New Life Church. The luncheon for the 2018–2019 school year featured prayers from Todd Blansit, a member of the District school board and pastor at New Life Church. The District also held a staff appreciation luncheon at the end of the school year, on May 31, 2019. The luncheon, held in the Middle School Commons, featured a blessing from John Lindmark. Please see the enclosed image of the luncheon program (page 7).

The Supreme Court has consistently struck down school-sponsored prayers offered at public school events. *See, e.g., Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (striking down school-sponsored prayers at football games, even when delivered by students); *Lee v. Weisman*, 505 U.S. 577 (1992) (finding prayers at public high school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturning

law requiring daily “period of silence not to exceed one minute . . . for meditation or daily prayer”); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963) (declaring school-sponsored devotional bible reading and recitation of the Lord’s Prayer unconstitutional); *Engel v. Vitale*, 370 U.S. 421 (1962) (holding formal recitation of prayers in public schools unconstitutional). In each of these cases, the Supreme Court struck down school-sponsored prayer because it constitutes a government advancement and endorsement of religion, which violates the Establishment Clause of the First Amendment.

Federal courts have held that mandatory meetings for government employees cannot promote religion, including events for public school teachers. *See Warnock v. Archer*, 380 F.3d 1076, 1080–81 (8th Cir. 2004) (prohibiting public school district from orchestrating or supervising prayers at mandatory teacher meetings and in-service training); *Milwaukee Deputy Sheriff’s Ass’n v. Clarke*, 588 F.3d 523, 525–26 (7th Cir. 2009) (holding religious speech by a sheriff, bible readings, and distribution of Christian literature during mandatory employee meetings unconstitutional under the Establishment Clause). By hosting staff events in a church and scheduling prayer at those events, the school district violates its obligation not to promote religion. Attendees may reasonably presume that the messages delivered by speakers at District-sponsored events carry the District’s seal of approval.

Even in instances where staff events are not mandatory, scheduled prayer raises the same constitutional concerns. The Supreme Court has summarily rejected arguments that voluntariness excuses a constitutional violation. *See Lee*, 505 U.S. at 596 (“It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice.”); *Schempp*, 374 U.S. at 288 (Brennan, J., concurring) (“Thus, the short, and to me sufficient, answer is that the availability of excusal or exemption simply has no relevance to the establishment question”); *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003) (“VMI cannot avoid Establishment Clause problems by simply asserting that a cadet’s attendance at supper or his or her participation in the supper prayer are ‘voluntary.’”).

2. Religious promotion by District administrators is inappropriate.

It is our understanding that OGHS principal Adam Salmon regularly sends group texts to faculty that include religious language. On August 12th, Principal Salmon sent a text to teachers saying, “TGIM!... You’ll be the answer to so many prayers this year.” We also understand that Principal Salmon regularly tells students that their faith is of the utmost importance in their lives. Similarly, we are informed that during the luncheon for the 2018–2019 school year, while addressing District staff in your capacity as Superintendent, you emphasized your religious beliefs and expressed your thanks to God for bringing you into the district as an answer to prayers.

It is inappropriate for any school employee to promote their personal religious beliefs to their coworkers. But it is especially inappropriate for an administrator to proselytize their subordinates, given the inherent coercive authority in the relationship. By infusing your remarks with religious language, you undermined the very purpose of hosting a staff luncheon, which is meant to unify the District’s employees and build a sense of shared community. Religion is an intensely personal matter and a divisive force. As the Supreme

Court has noted, “School sponsorship of a religious message is impermissible because it sends the ancillary message to . . . 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.’” *Santa Fe Indep. Sch. Dist.*, 530 U.S. at 309–10 (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)).

As Superintendent of the District, you are charged with a great responsibility to address the needs of *all* District employees, not just those in the Christian majority. We urge you, Principal Salmon, and other District administrators to respect the religious diversity of your staff, which includes many who, like 30% of adult Americans, practice a minority religion or no religion at all.¹ Principal Salmon’s promotion of his faith to *students* is even more troubling, given that over 46% of millennials and younger Americans—*i.e.*, all the District’s current students and many of their parents—are non-Christian.²

3. Religious displays in classrooms and offices must be removed.

We are informed that many District employees display religious symbols on school property, including biblical verses posted on teachers’ bulletin boards, Christian crosses displayed in the district office, and other religious messages in classrooms and offices.

The same legal principles that prevent direct proselytization of students by school employees also prohibit indirect proselytization through religious displays. Federal courts have continually held that school districts may not display religious messages or iconography in public schools. *See, e.g., Stone v. Graham*, 449 U.S. 39 (1980) (ruling that the Ten Commandments may not be displayed on classroom walls); *Lee v. York Cty.*, 484 F.3d 689 (4th Cir. 2007) (ruling that a teacher may be barred from displaying religious messages on classroom bulletin boards); *Washegesic v. Bloomington Pub. Schs.*, 33 F. 3d 679 (6th Cir. 1994) (ruling that a picture of Jesus may not be displayed in a public school).

Please note, it is not a violation of an employee’s free speech or free exercise rights to require them to remove religious displays from school property. District employees have access to students solely because of their positions as teachers or administrators: “Because the speech at issue owes its existence to [their] position as a teacher, [a school district] acted well within constitutional limits in ordering [a teacher] not to speak in a manner it did not desire.” *Johnson v. Poway Unified Sch. Dist.*, 658 F.3d 954, 970 (9th Cir. 2011) *cert. denied*, 132 S. Ct. 1807 (2012) (upholding decision of school board to require a math teacher to remove two banners with historical quotes referencing “God”). *See also Garcetti v. Ceballos*, 547 U.S. 410, 421 (2006) (“We hold that when public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline.”).

¹ *America’s Changing Religious Landscape*, Pew Research Center (2015), available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/.

² Robert P. Jones & Daniel Cox, *America’s Changing Religious Identity*, Public Religion Research Institute (2017), available at www.prrri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.

4. School-sponsored baccalaureate services are illegal.

We understand that OGHS co-sponsors a baccalaureate service, at which school officials present awards and certificates to students. OGHS's most recent baccalaureate service—held on May 9, 2019 at the New Life Church—featured an invocation and benediction delivered by students, as well as a speech given by Methodist pastor Tracy Carpenter. This event, organized in part by the Ministerial Alliance of Oak Grove, is overtly sectarian. Please see enclosed images of the pamphlet (pages 8 and 9).

Baccalaureate programs are religious services that include prayer and worship. Public schools may not plan, promote, or supervise baccalaureate programs. *See, e.g., Warnock v. Archer*, 443 F.3d 954 (8th Cir. 2006) (upholding injunction prohibiting school district from orchestrating or supervising prayers at school graduation or baccalaureate ceremonies).

When courts have permitted privately sponsored baccalaureate services in public schools, the schools took significant steps to ensure that there was no school endorsement. *See, e.g., Randall v. Pagan*, 765 F. Supp. 793 (W.D.N.Y. 1991) (noting that “the school board has already formally and publicly dissociated itself from the baccalaureate service, has canceled its prior order for programs and has refused to lend any financial support, either direct or indirect, to assist the [religious group] in its sponsorship of the event.” In addition, no “district personnel are involved in any aspect of the service, either in their capacities as District employees or . . . in their personal, individual capacities.”); *Verbena Methodist Church v. Chilton Bd. of Educ.*, 765 F. Supp. 704 (M.D. Ala. 1991) (“The Board must also ensure that no other school officials promote, lead, or participate in the service.”).

5. Teaching creationism in public school classrooms is illegal.

We are told that many OGHS and Oak Grove Middle School (OGMS) teachers include a “balanced” curriculum in their lessons regarding evolution and the biblical view of the creation of the world. It is our understanding that OGMS students who express belief in evolution sometimes face skepticism and questioning from their teachers over this position.

Teaching creationism or any of its offshoots, such as intelligent design, in a public school is unlawful because creationism is not based in fact; it is not science. Courts have routinely found that such teachings are religious, despite many new and imaginative labels given to the alternatives. The Supreme Court first struck down the teaching of “scientific creationism” in public schools in 1987, and courts have been consistent on this point ever since. *See Edwards v. Aguillard*, 482 U.S. 578 (1987). Similarly, efforts to “teach the controversy” or “balance” the curriculum are unlawful, as the effect is to infuse a science curriculum with religious ideology. Federal courts consistently rejected such efforts in public schools:

- *Epperson v. Arkansas*, 393 U.S. 97 (1968) (holding that school officials may not prohibit the teaching of evolution);
- *Kitzmiller v. Dover Area Sch. Dist.*, 400 F. Supp. 2d 707 (M.D. Pa 2005) (holding that a policy requiring students to hear a statement that intelligent design is an alternative to Darwin’s theory of evolution violates the Establishment Clause);
- *Freiler v. Tangipahoa Parish Bd. of Educ.*, 201 F.3d 602 (5th Cir. 2000) (holding that reading a disclaimer before teaching evolution violates the Establishment Clause);

- *Peloza v. Capistrano Unified Sch. Dist.*, 37 F.3d 517 (9th Cir. 1994) (holding school’s prohibition on teaching creationism valid because permitting a teacher “to discuss his religious beliefs with students during school time on school grounds would violate the Establishment Clause.”);
- *Webster v. New Lenox Sch. Dist. No. 122*, 917 F.2d 1004 (7th Cir. 1990) (holding school board’s prohibition on teaching “creation science” valid because the board had a responsibility to ensure that the teacher was not “injecting religious advocacy into the classroom”);
- *McLean v. Arkansas Bd. of Educ.*, 529 F. Supp. 1255 (D.C. Ark. 1982) (striking down a state statute mandating “balanced treatment for creation science and evolution science” because it violated the Establishment Clause).

It is wildly inappropriate for the beliefs of one school of religious thought to be pushed on a captive audience of public school students. The District has a constitutional obligation to ensure that “teachers do not inculcate religion” and are not “injecting religious advocacy into the classroom.” *Lemon v. Kurtzman*, 403 U.S. 602, 619 (1971); *Webster*, 917 F.2d at 1007. Such a practice alienates those who practice other religious faiths or are nonreligious, while doing a disservice to all District students, who are being denied straightforward education on a basic scientific concept.

6. The District’s distribution of religious fliers communicates endorsement.

We are told that Oak Grove Elementary School (OGES) regularly sends its students home with fliers for religious camps or extracurricular programs. For example, students were sent home with fliers for a vacation bible school, titled “International Spy Academy: Agents for the One True God.” Another flier distributed to students gave information about Paradise Outfitter Ministries’ “Paradise Fishing Camp.” The flier depicts a cartoon fish next to a Latin cross and the slogan “Hooked for Life.” Please see enclosed images of the fliers (pages 10 and 11).

The distribution of fliers for religious organizations raises multiple concerns. First, if the school does not already have a neutral policy allowing for the distribution of fliers by private organizations, then these religious organizations may not receive preferential treatment by being allowed to directly advertise to District students in this manner. If the school does have such a neutral flier policy, then religious groups cannot be excluded, but there are good reasons to end flier distributions entirely. The distribution of literature for religious organizations and activities requires the time and resources of paid school personnel. Policies that allow these third parties to distribute their literature forces teachers of diverse views and beliefs to distribute religious promotional materials. While at best this mandatory endorsement may make some school employees uncomfortable, at worst it sends a divisive message of community exclusion of those who hold minority religious views or have no religion, which is a significant portion of the Oak Grove community.

Second, as you will notice, the enclosed fliers do not contain appropriate disclaimers disassociating the District from the religious organizations. Without such a disclaimer, a parent or student is likely to understand the District endorses the organizations’ religious messages. See *Peck v. Upshur Cty. Bd. of Educ.*, 155 F.3d 274, 282 (4th Cir. 1998)

“Additionally, the Board has taken significant steps to prevent Upshur County students from mistakenly concluding that the Board is sponsoring the [religious message] by requiring . . . that disclaimers be placed on the tables that explicitly state that the schools are neither endorsing or sponsoring the [religious message].”); *Hills v. Scottsdale Unified Sch. Dist.*, 329 F.3d 1044 (9th Cir. 2003) (“There is even less danger of a perception of ‘endorsement’ for materials containing an express disclaimer that the school does not endorse or sponsor the organization promoting the activity.”). Any school policy allowing for private flier distribution should require such disclaimers in the future.

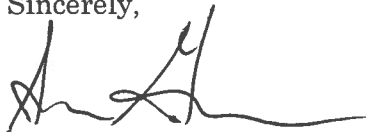
Conclusion

The Oak Grove R-VI School District has neglected its obligations to protect the religious freedom and rights of conscience of its students and faculty under the Establishment Clause. In order to remedy these serious violations of the First Amendment, we request the District take the following actions:

1. Immediately cease scheduling prayers or inviting speakers to pray at school-sponsored events and meetings;
2. Remind school administrators not to promote their personal religious beliefs to students or school employees;
3. Ensure that all religious symbols, scriptures, and memorabilia currently displayed in classrooms or offices are removed from public view;
4. Cease organizing, promoting, or sponsoring baccalaureate services. Additionally, the District cannot require school faculty or students to attend such services or plan any student group’s involvement in those services;
5. Ensure that no teacher includes lessons on creationism or other religion-based alternatives to evolution in science classes; and
6. Ensure that the District will not grant any religious group preferential access to advertise to students through flier distributions and, to the extent a neutral flier distribution policy exists in any district school, that policy must require outside groups to include a disclaimer of District endorsement on its fliers.

Thank you for your time and attention to these concerns. Please inform us in writing of the steps the District takes to ensure these constitutional violations do not reoccur.

Sincerely,



Sam Grover
Associate Counsel

STG:CEM:ewp

Enclosures (5)



Oak Grove R-6 Staff Appreciation
Luncheon – Middle School Commons
Friday May 31, 2019
12:15pm

Welcome - *Dr. Thomsen*

Blessing – *John Lindmark*

Lunch

Years of Service

Teacher Grant Presentations – *Randy McClain*

Flowers given to the following:
CTO/MSTA Oak Grove District Educator of the Year
Carla Sands

Retirees stand and presented gift:
Linda Williams and Carla Sands

Ice Cream

Thank You to Sponsors

Baccalaureate Service

May 9, 2019

7:00 pm

*Seniors Enter

Music by Jerrold Tidwell

*Invocation

Alex Easter

Introduction of Speaker

Tracy Carpenter

Pastor

Grace United Methodist Oak Grove

Song by Senior Choir Members

Presentation of Scholarships

C. J. Myers

*Benediction

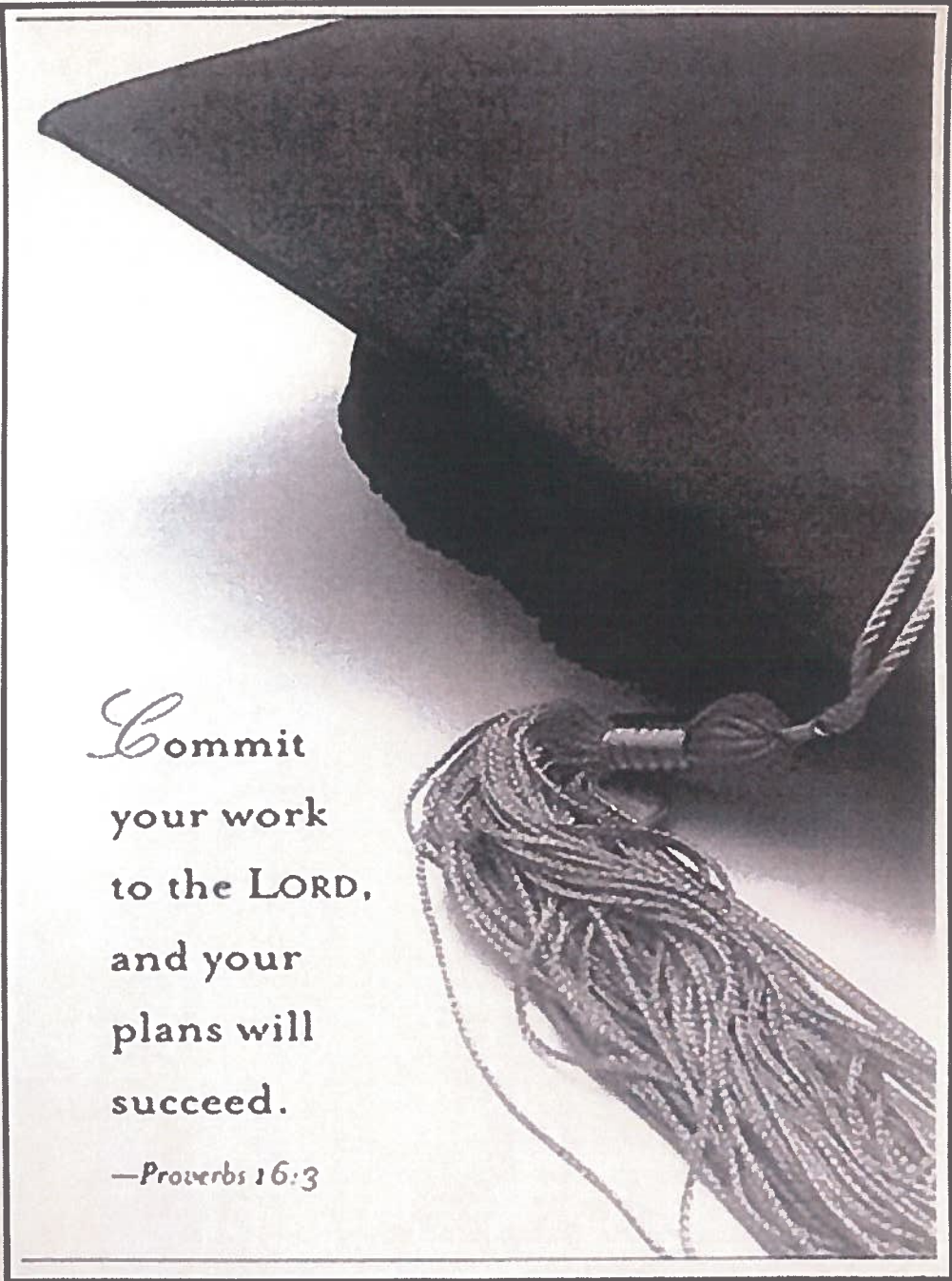
Cassandra Herring

*Seniors Exit

Please remain standing until seniors have exited.

Postlude

Jerrold Tidwell



*C*ommit
your work
to the LORD,
and your
plans will
succeed.

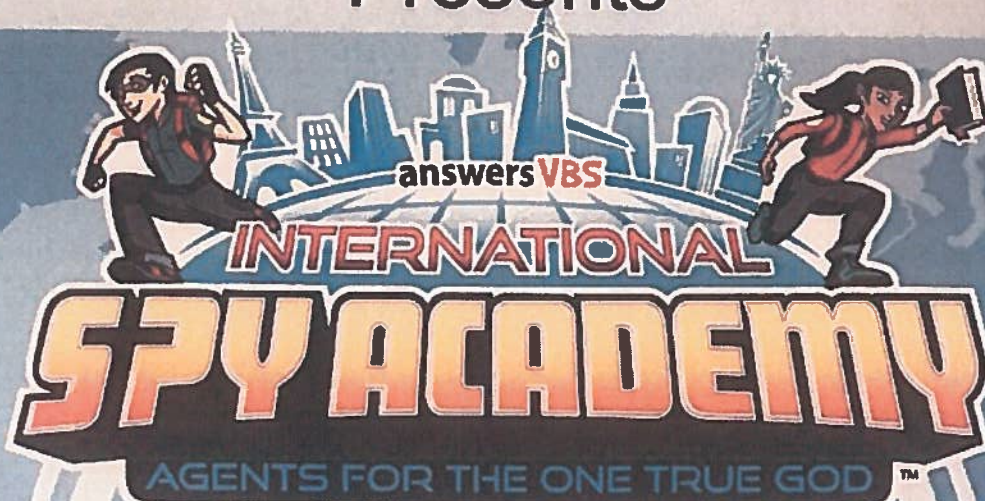
—Proverbs 16:3

Welcome to OGHHS Baccalaureate Service

graduates
its
Society

The Ministerial Alliance of Oak Grove and the faculty and staff of Oak Grove High School wish to thank you for your presence at this special event recognizing our graduates.

Faith In Christ Fellowship Presents



Vacation Bible School

Grab your secret decoder ring and put on your rear-view mirror glasses because this summer, kids ages 5-12 are invited to the International Spy Academy where they will train to become special agents in the Truth Force for the one true God!

WHEN: June 24 - 28, 6:30 pm to 9:30 pm

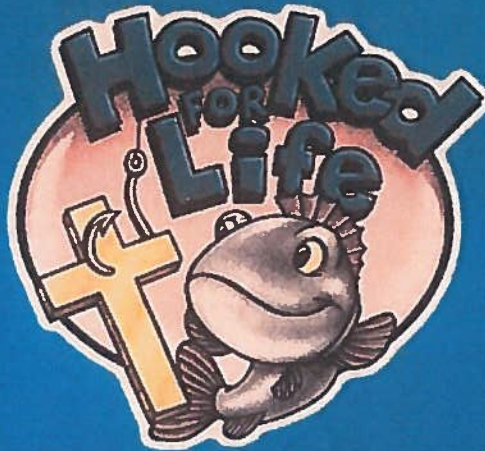
WHERE: Faith In Christ Fellowship
101 SW 21st St.
Oak Grove, MO 64075
(816) 616 - 3160

REGISTRATION:

Call Rick Monson @ (816) 694 - 6845 or fill out form on the back and return to Faith In Christ Fellowship.
Check out welveGod.com for more information.

Paradise Fishing Camp

June
24-27
6-9pm



\$10

Includes
a T-Shirt!

Grades K-6
(completed)

Fishing, Games, Crafts,
Skits, Snacks and more

Family Night is June 27 6pm-meal provided
Registration form is on the back of this flyer

For more information about Paradise Outfitter Ministries
or Paradise Fishing Camp, call 816-625-3552.
Or visit www.paradiseoutfitterministries.com
1500 S Broadway, Oak Grove, MO 64075

