

FREEDOM FROM RELIGION *foundation*

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

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SENT VIA EMAIL & U.S. MAIL: mney@fridayfirm.com

Mr. Marshall Ney
Senior Counsel
Friday, Eldredge & Clark LLP
3350 S Pinnacle Hills Pkwy, Suite 301
Rogers, AR 72758

Re: Unconstitutional Prayer at Bentonville Public School Event

Dear Mr. Ney:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation that occurred in Bentonville Public Schools. We were contacted by a concerned parent. I understand that you represent the school district. FFRF is a national nonprofit organization with 23,000 members across the country, including many members in Arkansas. Our purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that on February 19, Cooper Elementary School held a ribbon cutting ceremony for their new fitness trail co-sponsored by Mercy Health and General Mills. We understand that attendees included a school board member, the assistant superintendent, the principal, the vice principal, all four of the school's physical education teachers, Arkansas State Representative Sue Scott, assorted representatives from Mercy and General Mills, and a class of third grade students. We received a video recording, which shows that a nun from Mercy began the event and that another Mercy representative led the congregation in a prayer of blessing, asking even the school children to participate.¹

The prayer begins with the Mercy representative proselytizing and reading from the Bible. He then instructs everyone, including the school children, to raise their hand to collectively ask God's blessing for the new area. All of the adults, including the school officials, raise their hands and participate in this prayer blessing. Following the prayer, the nun then sprinkled holy water over the site to complete the religious ritual.

It is unlawful for any school-sponsored event to include religious activities. The Supreme Court has continually struck down school-sponsored prayer in public schools. *See, e.g., Engel v. Vitale*, 370 U.S. 421 (1962) (declaring prayers in public schools unconstitutional); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963) (declaring unconstitutional devotional Bible reading and recitation of the Lord's Prayer in public schools); *Lee v. Weisman*, 505 U.S. 577 (1992) (ruling prayers at public school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturning law requiring daily one minute "period of silence . . . for meditation or daily prayer").

¹ The video is available here: <http://www.youtube.com/watch?v=U1111111111>

Even when outside the typical school environment, the Supreme Court has found prayers taking place at school-sponsored events unconstitutional. *See Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 308 (2000) (striking down school policy that authorized prayer at high school football games). In all of the aforementioned cases, the Supreme Court struck down school-sponsored prayer in public schools because it constitutes a government endorsement of religion, which violates the Establishment Clause of the First Amendment and interferes with the personal conscience of students.

A prayer taking place at a “regularly scheduled school-sponsored function conducted on school property” would lead an objective observer to perceive it as state endorsement of religion. *Id.* at 307. The Court stated that in this context, “Regardless of the listener’s support for, or objection to, the message, an objective . . . student will unquestionably perceive the inevitable . . . prayer as stamped with her school’s seal of approval.” *Id.* at 308.

Parents have the right to send their children to public schools without having to worry that their children are being coerced into participating in a religious ceremony. Parents would be justifiably upset to find that school officials have taken away some of their children’s valuable instructional time in order for them to participate in a lengthy religious ritual complete with Christian prayer, bible reading, and magical holy water.

Courts have continually reaffirmed that the rights of minorities are protected by the Constitution. It makes no difference how many people want prayer or wouldn’t be offended by prayer at school events, because “fundamental rights may not be submitted to vote; they depend on the outcome of no elections.” *Id.* at 304-05 (quoting *W. Va. Bd. of Educ. 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 District has a duty to remain neutral toward religion. By including prayers at school-sponsored events, the District abridges that duty and alienates the nearly 30% of Americans who are non-Christians, either practicing a minority religion or no religion at all.²

We request that Bentonville Public Schools discontinue prayer at future school-sponsored activities. Please inform us in writing of the steps the District taking to remedy this constitutional violation. Thank you in advance for your time and attention to this matter.

Sincerely,



Patrick Elliott
Staff Attorney

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