

FREEDOM FROM RELIGION *foundation*

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

May 30, 2017

**SENT VIA FAX & U.S. MAIL
(252) 247-1045**

Ms. Beth Simpson
Director of Aging Services
The Leon Mann, Jr. Enrichment Center
3820 Galantis Dr.
Morehead City, NC 28557

Re: Unconstitutional Prayer at Senior Center

Dear Director Simpson:

I am writing on behalf of the Freedom From Religion Foundation regarding a constitutional violation occurring at the Leon Mann, Jr. Enrichment Center. We were contacted by a concerned local resident. FFRF is a national nonprofit organization with 29,000 members across the country, including members in South Carolina. FFRF's purpose is to protect the constitutional principle of separation between state and church.

It is our information and understanding that the Leon Mann, Jr. Enrichment Center, a public facility operated and managed by the Carteret County Senior Services Department, is delivering prayers each day before meals. According to our complainant, a former preacher who attends the center leads everyone in prayer, and those who don't wish to participate are made to leave the room.

Federal regulations prohibit senior centers receiving federal funding to engage in religious activities at government-sponsored functions such as senior lunches. Centers like LMEC typically receive some funding from the federal government in the form of Social Services Block Grants (SSBGs) via the Social Security Act, administered by the Department of Health and Human Services. The Code of Federal Regulations is explicit and unequivocal in its prohibition on religious activities as part of any program funded through the Department of Health and Human Services. 45 C.F.R. § 87.2(c) states:

Organizations that receive direct financial assistance from the Department [of Health and Human Services] may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance from the Department. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded with direct financial assistance from the Department, and participation must be voluntary for beneficiaries of the programs or services funded with such assistance.

Additionally, the regulations clearly proscribe any discrimination on the basis of religious belief. 45 C.F.R. § 87.2(e) provides:

An organization that participates in programs funded by direct financial assistance from the Department shall not, in providing services, discriminate against a program beneficiary or

prospective program beneficiary on the basis of religion or religious belief.

It is our understanding and information that the Center receives at least some of its budget from federal, state, and county funds. Given that this agency receives public funding, the center must adhere to the federal regulations specified above. That means that the center cannot engage “in inherently religious activities, such as worship, religious instruction, or proselytization.” Prayer is an inherently religious activity. Therefore, allowing, promoting, or encouraging prayer at these government-subsidized activities places your agency in direct violation of the federal mandate.

It is inappropriate for government employees to organize prayer or encourage others to pray in any way. Government employees, acting in their official capacities as public servants, cannot actively endorse, prefer, or promote religion. Government employees should refrain from actively participating in religious activities while acting within their governmental role to avoid any perception of government endorsement of religion and/or excessive entanglement with religion. *See Milwaukee Deputy Sheriff's Ass'n v. Clarke*, 588 F.3d 523, 525-26 (7th Cir. 2009) (holding sheriff's religious speech, bible readings, and Christian literature distributions during mandatory employee meetings unconstitutional); *Warnock v. Archer*, 380 F.3d 1076, 1080 (8th Cir. 2004) (“The Constitution, however, forbids [the government] from conveying the message that it decisively endorses a particular religious position.”); *Culbertson v. Oakridge Sch. Dist.*, 258 F.3d 1061 (10th Cir. 2001) (holding a school district policy allowing teachers to distribute religious literature violated the Establishment Clause because it creates an impression of school endorsement of religion);

Not only does organizing public prayer at these meals cause concern that the government is endorsing religion, it also violates our citizens' rights to be free from religious proselytizing. “At a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise.” *Lee v. Weisman*, 505 U.S. 577, 587 (1992). The Center's support of public prayer during these meals ignores the rights of other seniors who may not wish to participate in the religious activities because they disagree with a particular faith publicly exercised, they prefer to be private in their worship, or they do not believe at all. Certainly, we can agree that it is disrespectful and inappropriate for this center to serve as a forum for some seniors to impose their religious beliefs on others in attendance.

For all of the foregoing reasons, we respectfully request that LMEC immediately discontinue organizing, endorsing, or facilitating prayers and asking for others to join in those prayers or leave the room. Of course, citizens are free to continue to pray on their own. We further request that you promptly inform us in writing of the steps you are taking to remedy this matter.

Sincerely,



Andrew Seidel
Staff Attorney

ALS:rmb