

FREEDOM FROM RELIGION *foundation*

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March 25, 2016

SENT VIA EMAIL & U.S. MAIL: president@uiowa.edu

Mr. Bruce Harreld, President
University of Iowa
President's Office
101 Jessup Hall
Iowa City, Iowa 52242

Re: Religious Prayer Rooms at the University of Iowa

Dear Mr. Harreld:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding constitutional concerns with the new Muslim prayer rooms at the University of Iowa. FFRF is a national nonprofit organization with more than 23,000 members across the country, including many members in Iowa. Our purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that the University of Iowa has recently created two new prayer rooms for Muslim students and faculty in the Iowa Memorial Union. We understand these rooms are segregated by gender with one being for men and the other for women and that there are shoe racks for people to remove their shoes along with signs instructing users to do so. We also understand that for more than 60 years the university has had a chapel, Danforth Chapel, which, in practice, is primarily used for Christian groups and Christian religious services.¹ According to an inscription in the chapel, it was “dedicated to the worship of God...” We understand that the chapel is non-denominational but regularly features a Latin cross on an altar.

We request that the University close the room designated for Muslim prayer and remove Christian iconography from Danforth Chapel, including the Latin cross.

Unconstitutional Religious Advancement and Endorsement

By creating rooms and areas that are exclusively used by specific religious groups such as Christian and Muslim groups, the University of Iowa is violating the Establishment Clause of the First Amendment. This goes beyond any claimed accommodation provided to students. The University may not establish worship and prayer spaces targeted to certain religious persons and practices. It is also very concerning that the University is facilitating the discriminatory practice of gender segregation.

¹ <http://www.kwwl.com/story/31144598/2016/02/04/u-iowa-adds-new-muslim-prayer-spaces>

State-run colleges have a constitutional obligation to not endorse, advance, or aid religion. In *County of Allegheny v. American Civil Liberties Union Greater Pittsburgh Chapter*, the Court explained that “the prohibition against governmental endorsement of religion ‘preclude[s] government from conveying or attempting to convey a message that religion or a particular religious belief is favored or preferred.’” 492 U.S. 573, 593 (1989). The goal of this endorsement test is to ensure that the government does not “appear to take a position on questions of religious belief.” *Id.* at 594.

The Muslim prayer room creates the impression that the University is endorsing and aiding a specific religious group. No student could reasonably think that these Muslim prayer rooms exist without the support and approval of the University. Likewise, the regular display of the Latin cross on an altar in the Danforth Chapel creates the impression that it is a space for Christians. This state sponsorship of religious messages “is impermissible because it sends the ancillary message to . . . nonadherents ‘that they are outsiders, not full members of the political community and accompanying message to adherents that they are insiders, favored members of the political community.’” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309-10 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. at 668) (O’Connor, J., concurring). More than one third of college students identify as nonreligious.² Their school should not be in the business of helping select religious groups perform prayer and worship.

Religious Entanglement

When a government entity like the University of Iowa creates prayer areas for specific religions and imposes religious rules upon students (removing shoes, segregating men and women), it has unconstitutionally entangled itself with religion. The university finds itself in a position where it must either sponsor and endorse the tenets of a religion by allowing it to impose religious rules, or dictate to religious students which tenets they are allowed to follow on university property.

Recently, it was reported that three German universities closed down prayer rooms used by Muslims.³ The Technical University of Berlin closed its two separate prayer rooms for male and female students earlier this month. The president of the university said that the decision “boiled down to the fundamental question: do we want religious facilities at our universities? I think higher education and religion should be kept separate.”⁴ Though this quote is coming from a German university, it highlights the principle behind the Establishment Clause of the First Amendment. The Technical University of Dortmund permanently closed its prayer room, intended for people of all faiths, because “Muslim men had tried to take over the room by imposing gender segregation and storing prayer mats inside.”⁵

It will not be long before other groups start seeking prayer rooms of their own and the University will either have to provide those rooms or risk treating certain religious views unequally and

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

³ <http://www.independent.co.uk/news/world/europe/three-german-universities-close-prayer-rooms-used-by-muslims-a6930486.html>

⁴ *Id.*

⁵ *Id.*

violating the First Amendment. We understand that Hindu statesman Rajan Zed gave a statement last month, just weeks after these rooms were created, indicating that Hindus at the University are seeking a permanent and exclusive prayer room.⁶ Zed, like the Muslim Student Association, is claiming that the University is not meeting the spiritual needs of its students (which is not a secular purpose for a public institution). The University is entering dangerous territory by entangling itself with the religious practices of its students.

The prayer room raises many questions about how it could be sustained in the long-term at a public university. How will the University handle conflicting uses of the space? Will vocal prayers be allowed, even though those would disturb others seeking to use the space? How will the University address the fact that some want to segregate students and staff by gender for religious purposes? These decisions are fraught with entanglement in religious matters. It is for this reason that places dedicated to prayer and worship are not located in public buildings.

Potential Free Speech Violations

Besides the entanglement problems, the rules pertaining to use of a public facility raise significant freedom of speech and freedom of association problems. Under the First Amendment, any regulation of speech or expressive conduct in a limited public forum not only has to be viewpoint neutral (e.g., the space has to be open to persons who would use the space to criticize religion or Islam), but also must be *reasonable*. The separation of men and women in use of these rooms is not a reasonable time, place, and manner restriction on speech and expressive conduct. The restriction on wearing shoes (which may be the custom of some who would use the space) is also not reasonable. These restrictions fail even the most basic constitutional tests.

Bad Policy Creates Bad Precedent

The decision to create the Muslim prayer room sets a precedent that the state is the proper entity to construct spaces for prayer and worship. This is not the role of the government as outlined by our First Amendment and the Iowa Constitution, which provides:

The general assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; **nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship**, or the maintenance of any minister, or ministry. Iowa Const., Art. I § 3.

This is admirably clear: the government, including the University, cannot be in the business of building places of worship.

Following this bad decision the constitutional violations will only get worse. The designation of spaces for prayer and worship will expand to other religions, other campus buildings and other campuses. The University of Iowa is Iowa's flagship public university and sets an example for other public colleges and universities within the state. The proper line to draw is to not involve

⁶ <https://www.prlog.org/12533664-designated-hindu-prayer-room-sought-at-university-of-iowa.html>

the university in these matters. Local religious institutions must privately organize and manage their own places for worship.

Conclusion

On behalf of our Iowa members, we urge the University to follow the Iowa Constitution and the United States Constitution. Given both the legal and policy concerns, the University should close the room designated for Muslim prayer and remove Christian iconography from Danforth Chapel, including the Latin cross. The best way for the university to ensure that it is not violating the constitutional rights of its students is for the university to refrain from designating permanent rooms or areas for religious purposes. Religious student groups may reserve space on an as-needed basis like any other student group.

Please inform us in writing of the steps you are taking to resolve this matter. Thank you for your time and attention to this matter.

Sincerely,



Patrick Elliott
Staff Attorney

PCE:cal