

FREEDOM FROM RELIGION *foundation*

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

June 13, 2019

SENT VIA EMAIL AND U.S. MAIL:
mgerbig@dkattorneys.com

Mary S. Gerbig
Davis & Kuelthau
318 S. Washington St.
Ste. 300
Green Bay, WI 54301

Re: Repeated abuse of school board position to promote religion and request for public records

Dear Ms. Gerbig:

I am writing on behalf of the Freedom From Religion Foundation to object to the Appleton School District's failure to take appropriate action to stop a board member from using a government position to promote his personal religion. FFRF is a Wisconsin-based national nonprofit with 31,000 members nationwide, including more than 1,400 in Wisconsin. FFRF's purposes are to protect the constitutional separation between church and state, and to educate the public about matters relating to nontheism.

Multiple individuals, including parents, students, and District employees, recently contacted FFRF to report that the 2019 Appleton North High School graduation included inappropriate religious content by Alvin Dupree, a member of the Appleton Area School District Board of Education. This is far from the first instance of Dupree abusing his position as a Board member to promote his personal religion, and this is now the third time that FFRF has contacted the District to request appropriate action to correct these constitutional violations. We are writing now to alert the District that it must take immediate and concrete action to ensure that future District events will be secular, or else FFRF intends to pursue these matters in court.

We discussed this issue over the phone earlier this week, and FFRF understands that the District is committed to resolving this issue through training and taking any other effective measures to resolve these concerns. We share the District's desire to resolve this issue outside of litigation and welcome the opportunity to work with the District to develop appropriate training. Given Dupree's past conduct and statements—described in detail below—we share our complainants' concerns that Dupree will almost certainly ignore the training as he has ignored the law. As such, we request at a minimum that the District provide assurances that Dupree will not be a speaker at any future District events (other than school board meetings), as would certainly be the appropriate action if any other invited speaker repeatedly and defiantly broke the law after being invited to speak at a District event. We also urge the District to develop new policies regarding commencement speeches and regarding the fact that school board members always speak on behalf of the

District when speaking at District events, a point that will need to be addressed in training as well.

Alvin Dupree has a history of abusing his position to promote religion, and bragging about doing just that.

Dupree has consistently and openly stated that his intention in joining the school board was to inject his personal religious views into the school system. In a Facebook post on April 3, 2017 (the day before the election), Dupree wrote:

I ask you to vote for me so we can have someone who will stand on the Christian views that this country was founded on upon in the Appleton School District. Please encourage your friends and family to go to the polls to vote for someone from the Christian perspective.¹

Dupree frequently brags that he was listed as “Pastor Dupree” on the ballot,² suggesting that the Establishment Clause does not apply to him because District voters knowingly elected a pastor to be on the school board. Needless to say, this is incorrect—as an elected government official, Dupree is bound by the U.S. Constitution, including its guarantee of a secular public school system.

Shortly after being elected, on July 13, 2017 Dupree gave a presentation to the Outagamie County Republican Party entitled “Placing God in the Classroom.” An advertisement for the event described Dupree as “New Appleton School Board Member.”³ The same year, Dupree spoke at the 2017 Appleton North graduation.

FFRF received complaints that Dupree’s graduation speech promoted religion in general, and Christianity in particular. FFRF contacted the District on November 16, 2017 to alert it that Dupree was very likely to repeat this conduct—especially considering that he had given a presentation on inserting religion into public schools—and requesting that the District take appropriate action.⁴ Superintendent Baseman responded on December 4, 2017, asserting that District policy was followed at the graduation without further specifics.⁵ The letter did not indicate any intention by the District to stop Dupree from abusing his position to promote religion in the future.

¹ See enclosed screenshot. The image accompanying the post included the top bullet point, “Man of God First.”

² See www.outagamie.org/home/showdocument?id=47016 (ballot lists “Alvin Pastor Dupree”). Incidentally, this appears to violate laws that prohibit placing candidate titles on the ballot. See, e.g., Wis. Stat. § 5.58(3) (“Only their names shall appear on the official spring ballot.”); Wis. Stat. § 7.08(2)(a) (“. . . no other abbreviations or titles are permitted.”). Form EL-162SD For School District Candidates states instructs candidates to write “Any combination of first name, middle name or initials with surname. A nickname may replace a legal name.” The title “Pastor” is no more a nickname than titles like “Doctor” or “Professor,” particularly when Dupree has stated that he thinks he can ignore the Establishment Clause because voters knew they were voting for a pastor, not someone nicknamed “Pastor,” and when Dupree insists on being referred to as “Pastor Dupree,” using the word as a title, at all District events.

³ See enclosed screenshot.

⁴ FFRF letter available on request.

⁵ Baseman letter available on request.

Following this complaint, Dupree appeared on a local Christian radio show called “Stand Up For The Truth” on December 20, 2017.⁶ The theme of Dupree’s interview was that he refused to be silenced by FFRF or anyone else, openly defying any attempt to keep him from promoting Christianity to District students, or from encouraging District employees to do the same. Dupree’s statements on the show were alarming:

- Dupree said that the “achievement gap” is one of the main reasons he ran for the school board. When asked how he planned to use his position as a school board member to fix this problem, he responded: “I believe that the one answer to everything is the one answer that the school system is starting to turn away from, and that’s pointing people to the cross, and really being intentional on having an opportunity to tell them that there is hope in that regard.”
- He stated that he supports telling students, “my faith helped me. You might want to find a church in your neighborhood.” He specifically said that teachers should have “the ability to tell a child to pray or to go to or find a church, or point a parent in that direction.”
- Dupree referred to all non-Christian attempts to fix the achievement gap (specifically “psychology” and “counseling”) as both “madness” and “the enemy,” meaning the devil. He blamed psychology and counseling for the high teen pregnancy rates, violence in schools, and the school to prison pipeline. His solution was to be more “free to say ‘hey look, my faith helped me. You might want to find a church in your neighborhood.’”
- He misunderstands of the First Amendment, saying that “When there’s an intentionality of not allowing people of faith to just be open, I think that’s just a total infringement of the First Amendment right. Just having the ability to tell a child to pray or to go to or find a church, or point a parent in that direction.”
- He summarily concluded that “There’s no hope outside of looking to Jesus Christ. I think the enemy is very strategic, and really pushing these agendas within our schools across this nation to force God out. And if God’s not present, then there’s only one other choice that’s present, and that’s the enemy. And he’s there. And he puts on the form of godliness, but not the power of. All these hopeful things, but obviously the statistics still reflect suicide is going up. So it’s a matter of, those of us who do have the faith, to not be shy about who we are. . . .”

The District apparently did not take any meaningful action to stop Dupree’s conduct. He helped to organize a collaborative MLK Day of Service event on January 21, 2019. Although that District co-sponsored event was commendable and well received, FFRF received a complaint that the event, which took place at a District high school, included a pre-meal prayer. Dupree introduced the prayer-giver, and records obtained by FFRF showed that Dupree organized the prayer using his District email address. In addition to organizing this religious ritual, Dupree spoke at the event and said, “You know I have to bring a little bit of

⁶ Available at standupforthetruth.com/2017/12/church-is-more-than-a-building-and-we-must-not-be-silent/. Recording available on request.

the Pastor to ya,” yet again defiantly promoting religion while acting in his capacity as a District representative.

Again, FFRF objected and requested that the District take appropriate action to stop this unconstitutional religious promotion by the District. We received a prompt response from you (as counsel for the District) via phone and email, and we have been working together to discuss how the commendable MLK event can be repeated without the constitutional problems at this year’s event.

Despite these repeated warnings about Dupree’s conduct, and Dupree’s open defiance of any attempt to “silence” his religious promotion, Pastor Dupree was the Board representative at the 2019 Appleton North graduation on June 6, 2019. The graduation program listed him as “Pastor Alvin Dupree, *Appleton Board of Education*.” He was introduced as “Pastor Dupree” and started his speech by emphasizing that religious title and saying that he asked God what he should say to the graduating class.

Without warning students ahead of time, Dupree brought up a deceased student and led a moment of silence and prayer. He said, “can we just pause for a moment and just reflect on him as I pray for him to myself?” As you know, the U.S. Supreme Court has specifically ruled that both pastors delivering prayers at public high school graduations⁷ and schools holding moments of silence with an official suggestion to pray⁸ violate the Establishment Clause.

Dupree’s central message to the graduating class was about not being silenced as a Christian, and not “conforming to another man’s norm” (presumably referring to following the U.S. Constitution, in his case, which Dupree describes as being “politically correct”). He emphasized his Christianity and then asked all the Christian students in the audience to clap and repeat after him, directly excluding all the non-Christian students:

For me, my source of strength is my faith and my relationship with Jesus Christ. It sounds like I got some believers in this room. If you’re here, you believe that, you go ahead and clap your hands. Never succumb to the pressure of being politically correct. Be you! Wherever you go, be you. Don’t conform to another man’s norm; if it makes them uncomfortable, I want you to repeat this after me, Class of 2019, I want you to say this, and I want you to mean it: tell people who want you to conform to their norm just because they’re uncomfortable with who you are, I want you to tell them, and you repeat after me, say, “Be comfortable,” and sound like you meant it. Say, “Be comfortable being uncomfortable, because I will not conform to any man’s norm.” Now clap your hands if you believe that up in here.

Finally, Dupree made a point of going “off script” in order to promote religion one more time at the end of his speech:

⁷ *Lee v. Weisman*, 505 U.S. 577 (1992).

⁸ *Wallace v. Jaffree*, 472 U.S. 38 (1985).

For the script that was made for me, on behalf of the Board of Education of the Appleton Area School District, it is my please to commend each of you for your achievement, and to publicly and formally accept the Appleton North High School Class of 2019 for graduation. Now, it was typed out to say, “Best wishes,” but I’m changing their script to what I would say: God bless!

Dupree’s comments were so thoroughly infused with religious promotion that the next day, FFRF received multiple complaints from parties ranging from students and parents to faculty, all agreeing that this seemed grossly inappropriate and expressing deep frustration that the District allowed this to happen, since Dupree did the same thing two years earlier and openly defied attempts to keep his official statements secular.

We share that frustration. After a group of students submitted a letter to the District objecting to its handling of this situation, Dupree spoke to local media and yet again indicated that he feels entitled to promote religion while acting in his official capacity as a Board member, arguing that he:

. . . is an elected official—not a district employee—and emphasized that he has no obligation to withhold his personal views. . . . “People of faith should not have to go in the closet while everyone else is allowed to be free and out of the closet,” Dupree said.⁹

In Dupree’s legally erroneous worldview, any restriction on his attempts to spread his religious message is political correctness run amok.

The District must take immediate effective action to ensure that these regular violations do not continue.

Whatever attempts the District has taken over the past two years to correct Dupree’s conduct have clearly been ineffective, and he is certain to go “off script” to promote religion if he is ever given the opportunity in the future. If any other adult violated District policies while speaking at a District event (not to mention violating state and federal law), it would certainly be reasonable for the District to prohibit that person from speaking at any future District events. We request the same treatment for Dupree, who has already been given several more chances than he deserves. We are not asking that Dupree be prohibited from speaking at Board meetings, of course, but that he be prohibited from speaking at graduations, the annual MLK Day of Service event, or any other similar events, whether or not he continues to serve as a member of the Board. We also ask that the Board take appropriate actions to condemn Dupree’s unconstitutional conduct, censuring or reprimanding him as appropriate, and taking steps to remove him from the Board if necessary.

Further, Dupree’s conduct has raised areas of confusion about when, and to what extent, religious messages are acceptable at District events. In addition to developing effective training for District representatives—which we understand the District is receptive to and

⁹ Samantha West, *Appleton graduation debate: Does religion have a place in commencement speeches?*, Appleton Post-Crescent (June 11, 2019), available at www.postcrescent.com/story/news/2019/06/11/appleton-school-board-members-commencement-speech-sparks-controversy/1420646001/.

has already taken some steps toward—we ask that the District adopt policies to clarify several important points for Board members and school employees:

- 1) All Board members and District employees speaking at District events are speaking as representatives of the District. Their statements are government speech and must comport with constitutional restrictions, including the prohibition against government endorsement of religion over nonreligion, or of any one religion in particular.
- 2) All commencement speeches or other speeches at graduations or similar events should be pre-approved by the District. If a speaker deviates from their approved remarks and violates District policy, their mic should be immediately turned off.

We request a response in writing from the District within 14 days so that FFRF does not have to seek a court order to bring the District into compliance with the First Amendment. Finally, please ensure that the below request for public records is forwarded to the proper custodian. Thank you for your time and attention to this matter.

Request for Public Records

Pursuant to Wis. Stat. §§19.31–19.39, I request a copy of the following:

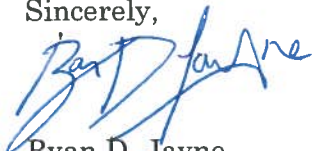
- 1) All correspondence, including email, to or from Alvin Dupree since January 1, 2019 regarding the graduation ceremony;
- 2) All correspondence, including email, to or from any District administrator or school board member regarding the selection of Dupree as a speaker at the graduation or regarding the content of Dupree’s speech; and
- 3) Dupree’s Form EL-162SD For School District Candidates for the 2017 school board election.

The law requires the District to respond to this request “as soon as practicable and without delay.”

Please be aware that under Wisconsin law, there is a “presumption of complete public access consistent with the conduct of government business. The denial of access generally is contrary to the public interest and only in exceptional cases can access be denied.” See Wis. Stat. §19.31. If the District chooses to deny this request, please respond with a written explanation of the denial including any references to statutory exemptions or other case law upon which you rely.

Any records available in electronic format (preferred) may be emailed to ryan@ffrf.org. If I can provide any clarification that will help expedite your attention to my request, please contact me at 608-256-8900.

Sincerely,



Ryan D. Jayne
Staff Attorney

Enclosures



Pastor Dupree for School Board added 3 new photos — with Alvin Dupree and 25 others.

April 3

VOTE "You, Me & Pastor Dupree for the Community" TOMORROW for the Appleton Area School District Board of Education

Greetings,

Tomorrow is the 2017 Spring Election and I am soliciting your vote for my candidacy on the Appleton Area School District Board of Education. I ask you to vote for me so we can have someone who will stand on the Christian views that this country was founded upon in the Appleton School District. Please encourage your friends and family to go to the polls to vote for someone from the Christian perspective.

Links to your polling/voting site below as well as a link to answer any voting related questions like what do I need to bring to vote.

Link to Polling/Voting Sites:

http://gis.appleton.org/community_development/citywards.pdf
<https://myvote.wi.gov/en-us/FindMyPollingPlace>

Information What to Bring to Vote and More:

<http://www.outagamie.org/modules/showdocument.aspx...>

Blessings,

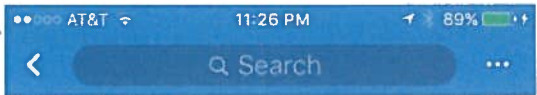
Pastor Alvin T. Dupree, Jr. (posted on behalf of)

FOR THE COMMUNITY

VOTE APR. 4

- Man of God First
- Retired 20 Year Combat Marine Veteran
- Faithful Husband & Loving Father with Five Children Currently in Appleton Area School District
- Pastor & Founder, Family First Ministries
- Active Leader in the Community

VOTE ALVIN DUPREE



HOME ABOUT PHOTOS REVIEW

Outagamie County Republican Party

June 30

Picnic & Politics on July 13 from 5PM till 9PM Lindbreg Park in Combined Locks

Featuring:

New Appleton School Board Member Pastor Alvin Dupree placing God in the class room.

and Grassroots Director of the Wisconsin Republican Party

answers what does the Party stand for.

Brats / Hamburgers & soda provided Bring a dish to pass if you wish

Donations are appreciated but not necessary to attend.

