

FREEDOM FROM RELIGION *foundation*

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

June 13, 2023

SENT VIA EMAIL & U.S. MAIL: burkja@tulsaschools.org

Jana Burk
General Counsel
Tulsa Public Schools
Education Service Center
3027 S. New Haven Ave.
Tulsa, OK 74114

Re: Unconstitutional prayer at graduation ceremony

Dear Ms. Burk:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation that recently occurred in Tulsa Public Schools. As you are aware, FFRF is a national nonprofit organization with more than 41,000 members across the country, including members in Oklahoma. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

Multiple concerned Tulsa Public Schools community members, including a staff member, have reported that Tulsa Public Schools Board member E'Lena Ashley misused her position to impose her personal religious beliefs on graduating students and their families during the East Central High School Graduation on May 18, 2023. Our complainants report that Ms. Ashley participated in the graduation in her official capacity as a board member and delivered a Christian prayer:

I want to invite you for a moment just to say a moment of prayer with me. I pray in the name of Jesus Christ that each one of you will walk forward from this moment in the excellence and love of God. That He will guide you, direct you, and draw you to your ultimate goal. In the name of Jesus. Amen.

We write to request that the District investigate this situation and ensure that future district graduation ceremonies do not include prayer. A public school may not violate the constitutional rights of graduating students and their families by subjecting them to prayer. We also ask that you ensure that Ms. Ashley understands her constitutional duties while acting in her official capacity as a representative of Tulsa Public Schools.

As you are aware, it is well settled that public schools may not show favoritism towards or coerce belief or participation in religion. *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000); *Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Epperson v. Arkansas*, 393 U.S. 97 (1967); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962); *McCollum v. Bd. of Ed.*, 333 U.S. 203 (1948). The Supreme Court has continually struck down prayers at school-sponsored events, including graduations. *See Lee*, 505 U.S. 577 (declaring clergy-delivered prayers unconstitutional at a public school graduation). School officials may not invite a student, teacher,

school board member, or clergy member to give any type of prayer, invocation, benediction, or sermon at a public high school-sponsored event. See *Santa Fe*, 530 U.S. 290 (holding that student-delivered prayers at high school football games violate the Establishment Clause). “It is beyond dispute that, at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise[.]” *Lee* at 587. Furthermore, government-led prayer “has the improper effect of coercing those present to participate in an act of religious worship.” *Santa Fe*, at 312.

It makes no difference how many students want prayer or wouldn’t be offended by prayer at their graduation ceremony; the courts have continually reaffirmed that the rights of minorities are nonetheless protected by the Constitution. As the Supreme Court has said, “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.

It is important to note that this situation differs significantly from the Supreme Court’s recent decision in *Kennedy v. Bremerton School District*, holding that a high school football coach’s silent, private post-game prayer was constitutional. 142 S.Ct. 2407, 2415–16 (2022). Throughout its opinion, the Court repeatedly stressed that the coach silently prayed alone. *Id.* (the coach “offered his prayers quietly while his students were otherwise occupied.”). The prayers “were not publicly broadcast or recited to a captive audience. Students were not required or expected to participate.” *Id.* at 2432.

In contrast, this prayer was publicly broadcast to all graduating students and their families who were forced to choose between enduring the prayer or leaving the graduation ceremony. Prayers at graduation needlessly alienate the students and families who are non-Christians, including those students who are a part of the 49 percent of Generation Z who are religiously unaffiliated.¹

A school board member co-opting a public school graduation ceremony in order to promote their personal religious beliefs and ask students to engage in a religious ritual is inappropriate and unconstitutional. The District must ensure that in future the First Amendment rights of all students, families, and attendees at school-sponsored events are respected. Please respond in writing with the steps the District is taking to ensure this violation does not recur.

Sincerely,

A handwritten signature in blue ink that reads "Chris Line". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation

¹ 2022 Cooperative Election Study of 60,000 respondents, analyzed by Ryan P. Burge
www.religioninpublic.blog/2023/04/03/gen-z-and-religion-in-2022/.