

FREEDOM FROM RELIGION *foundation*

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May 22, 2012

**SENT VIA FAX & U.S. MAIL
(803) 476-8047**

Stephen Hefner, Ed.D.
Superintendent
School District Five of Lexington and Richland Counties
1020 Dutch Fork Rd.
Irmo, SC 29063

Re: Illegal Prayer to Take Place at Irmo High School Graduation

Dear Dr. Hefner:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to the school district scheduling a prayer at a public high school graduation. We were contacted by a concerned student about this constitutional violation. FFRF is a national nonprofit organization with over 18,000 members across the country including over 100 members in South Carolina. Our purpose is to protect the constitutional principle of separation between state and church.

It is our information and understanding that earlier this year, Irmo High School administration passed out ballots in homeroom classes and graduating seniors were asked to vote on whether or not there would be a prayer at graduation. It is our further understanding that the vote passed in favor of the prayer. Our student complainant rightly pointed out that "this violates the separation of church and state."

It is well settled that public schools may not advance or promote religion. *See generally, 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 Twshp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962). Moreover, "the preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere." *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 310 (2001)(quoting *Lee v. Weisman*, 505 U.S. at 589). In *Lee v. Weisman*, 505 U.S. 577 (1992), the Supreme Court extended the prohibition of school sponsored prayers beyond the classroom to all school functions. Thus, holding a prayer at a public school graduation ceremony is in violation of the Establishment Clause.

The Supreme Court has continually struck down prayers at school-sponsored events, including public school graduations. *See Lee v. Weisman*, 505 U.S. 577 (1992)(declaring unconstitutional clergy-delivered prayers at a public school graduation). Even if student-delivered, school officials may not invite a student, teacher, faculty member, or clergy to give any type of prayer, invocation, or benediction at a public high school graduation. *See Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000)(holding that student-delivered prayers at high school football games violate the Establishment Clause).

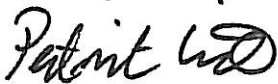
In *Santa Fe Indep. Sch. Dist. v. Doe*, the U.S. Supreme Court specifically struck down a school policy that authorized students to vote on whether to hold a prayer at high school football games. In finding the student vote unconstitutional, the Court specifically addressed the constitutional problem this practice poses. The court stated, “[a] student election does nothing to protect minority views but rather places the students who hold such views at the mercy of the majority... ‘[F]undamental rights may not be submitted to vote; they depend on the outcome of no elections...’” *Id.* at 304-305 (citations omitted).

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 308. The Court stated that in this context, “[r]egardless of the listener’s support for, or objection to, the message, an objective student will unquestionably perceive the ... prayer as stamped with her school’s seal of approval.” *Id.*

Given clear precedent prohibiting prayer at high school graduations — even when delivered by a student— it is puzzling why the District decided to subject this matter to a vote by the student body. The Supreme Court has settled this matter — high school graduations must be secular to protect the freedom of conscience of all students.

Therefore, the District must take immediate action to ensure that no prayer, invocation or benediction is scheduled for any part of the graduation ceremony. We ask that you undo this unlawful “vote,” and immediately inform us in writing of the steps you are taking to prevent this serious constitutional violation.

Sincerely,



Patrick C. Elliott
Staff Attorney

Cc: Irmo High School Principal Rob Weinkle, via fax: 803-476-3020