

FREEDOM FROM RELIGION *foundation*

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February 23, 2012

SENT VIA MAIL AND FAX TO (502) 564-2517

The Honorable Steve Beshear
Governor of Kentucky
700 Capitol Avenue, Suite 100
Frankfort, Kentucky 40601

Re: Cancel Unconstitutional Prayer Breakfast, Remove State Seal from Advertisements, Remove References and Links from State Website

Dear Governor Beshear:

The Freedom From Religion Foundation (FFRF) is a nonprofit educational organization representing over 17,000 members across the country including members in Kentucky. We represent the viewpoint of 400,000 Kentuckians who self-identify as nonreligious¹ and are offended or excluded by the Governor's Prayer Breakfast. FFRF protects the constitutional principle of separation between state and church.

We understand that on March 6, 2012 you plan to hold a "Governor's Prayer Breakfast." We urge you to cancel this event; it is unnecessary, divisive, and not within the power of a civil government. There can be no doubt that this event has official government sanction and imprimatur. It is consistently referred to as the "Governor's" prayer breakfast, the event appears on the official webpage of the Governor. The state Seal of Kentucky appears on the webpage and the reservation forms. Your letter begins "Jane and I would like to [sic] this opportunity and invite you to the 47th annual Governor's Prayer Breakfast." The official website, which is part of the official Governor's Website for the State of Kentucky, also states that you, the Governor, "chose this theme" of "prayerful humility" and wish "to, with God's guidance, build a stronger future for all Kentuckians."

Government Sponsorship and Promotion of Prayer Breakfasts is Unconstitutional

The Establishment Clause in the First Amendment to the U.S. Constitution prohibits government sponsorship of religious messages. The Supreme Court has said time and again, that the "First Amendment mandates government neutrality between religion and religion, and between religion and nonreligion." *McCreary County, Ky. v. American Civil Liberties Union of Ky.*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Everson v. Board of Ed. of Ewing*, 330 U.S. 1, 15-16 (1947). By sponsoring a Prayer Breakfast, which calls Kentucky citizens to prayer, you abrogate your duty to remain neutral. The event sends a message that the Governor of Kentucky prefers and endorses religion over nonreligion and more specifically the Christian faith. Moreover, these actions exclude and offend a significant portion of the population, which is non-Christian or non-religious.

¹ Based on American Religious Identification Survey, 2008, finding 15% of Americans are nonbelievers.
http://commons.trincoll.edu/aris/files/2011/08/ARIS_Report_2008.pdf

The separation between state and church is among one of the most fundamental principles of our system of government. The United States Supreme Court has held that public officials may not advance or promote religion. The Supreme Court has specifically stated, “If there is any fixed star in our constitutional constellation, it is that **no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.**” *West Virginia Board of Education v. Barnett*, 319 U.S. 624, 642 (1943)(emphasis added). Instead of co-sponsoring an event exhorting citizens to engage in religious ritual, we encourage you instead to celebrate our freedom of conscience and the separation between religion and government.

The danger of events like this is that they turn nonbelievers into second-class citizens; they send the message “to nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.” *County of Allegheny v. American Civil Liberties Union*, 492 U.S. 573, 595 (1989)(quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984)).

Prayer is Unnecessary and Divisive

The State of Kentucky Governor’s official website claims, “Kentuckians have come together in prayerful humility and reflection to ask God’s wisdom in guiding the future of our Commonwealth.” <http://governor.ky.gov/Pages/prayerbreakfast.aspx>. But prayer is not necessary for a government to be successful. The Founders did not require prayer when they wrote the Constitution, a godless document whose references to religion are exclusionary. Surely if the founders did not need prayer to write the document that established our great nation, then you can successfully conduct the civil business of Kentucky without prayer as well.

Religion and prayer are not only unnecessary for good government, but harmful. Religion is inherently divisive and when mixed with government causes significant discord. In the Federalist No. 10, James Madison wrote, “A zeal for different opinions concerning religion... Have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to co-operate for their common good.”

The Supreme Court wrote, “The Framers and the citizens of their time intended to guard ... against the civic divisiveness that follows when the government weighs in on one side of religious debate; nothing does a better job of roiling society,” and “the divisiveness of religion in current public life is inescapable.” *McCreary County, Ky. v. American Civil Liberties Union of Ky.*, 545 U.S. 844, 876, 881 (2005). In fact, the “purposes of the First Amendment’s Religion Clauses [are] to assure the fullest possible scope of religious liberty and tolerance for all, to avoid the religious divisiveness that promotes social conflict, and to maintain the separation of church and state.” *Van Orden v. Perry*, 545 U.S. 677, 678 (2005). As a wise jurist once said:

there is no such source and cause of strife, quarrel, fights, malignant opposition, persecution, and war, and all evil in the state, as religion. Let it once enter our civil affairs, our government would soon be destroyed. Let it once enter our common schools, they would be destroyed. *Weiss v. District Board*, 44 N.W. 967 (1890).

If the goal of this event is, as your website claims, to honor your citizens and build a stronger future for Kentuckians, you could hardly have chosen a more divisive event.

Civil Powers and Individual Rights

As a civilian you are certainly able to hold prayer breakfasts on your own time with your own funds; you can worship however you choose. But as Governor, chief executive officer of Kentucky, your powers are limited by the Constitution. The Kentucky Constitution states:

No preference shall ever be given by law to any religious sect, society or denomination; nor to any particular creed, mode of worship or system of ecclesiastical polity; nor shall any person be compelled to attend any place of worship, to contribute to the erection or maintenance of any such place, or to the salary or support of any minister of religion; nor shall any man be compelled to send his child to any school to which he may be conscientiously opposed; and the civil rights, privileges or capacities of no person shall be taken away, or in anywise diminished or enlarged, on account of his belief or disbelief of any religious tenet, dogma or teaching. No human authority shall, in any case whatever, control or interfere with the rights of conscience. (Article I, Section 5)

In the words of Alexander Hamilton, the Constitution gives the executive “no particle of spiritual jurisdiction.” Using your authority as the state’s highest executive to sponsor a religious meeting is a misuse of power, and you could not be given such power under our system of government.

President Thomas Jefferson recognized the intrinsic problems when religion and government mix and actively opposed government sponsorship of prayer:

I consider the government of the U.S. as interdicted by the Constitution from intermeddling with religious institutions, their doctrines, discipline, or exercises . . . I do not believe it is for the interest of religion to invite the civil magistrate to direct its exercises, its discipline, or its doctrines; nor of the religious societies that the general government should be invested with the power of effecting any uniformity of time or matter among them. Fasting & prayer are religious exercises. The enjoining them an act of discipline... every one must act according to the dictates of his own reason, & mine tells me that civil powers alone have been given to the President of the United States and no authority to direct the religious exercises of his constituents. (Jefferson’s letter to Rev. Samuel Miller, 1808).

Likewise, James Madison, the primary architect of the U.S. Constitution and Bill of Rights, and our fourth president, opposed government prayers and congressional chaplaincies. In his *Detached Memoranda*, Madison wrote, “Is the appointment of Chaplains to the two Houses of Congress consistent with the Constitution, and with the pure principle of religious freedom? In strictness the answer on both points must be in the negative. The Constitution of the U. S. forbids everything like an establishment of a national religion... The establishment of the chaplainship to Congress is a palpable violation of equal rights, as well as of Constitutional principles.” Madison was equally critical of presidential and governmental prayer:

Religious proclamations by the Executive recommending thanksgivings & fasts are shoots from the same root... Although recommendations only, they imply a religious agency, making no part of the trust delegated to political rulers. ... An *advisory* Government is a contradiction in terms. ***The members of a Government as such can in no sense, be regarded as possessing an advisory trust from their Constituents in their religious capacities.*** In their individual capacities, as distinct from their official station, they might unite in recommendations of any sort whatever, in the same manner as any other individuals might do.

In this passage Madison rejects the idea that any government action involving religion is somehow voluntary, going so far as to call the idea a "contradiction." If you wish to hold religious services of whatever kind please follow the role model of the primary author of our Constitution and Bill of Rights: check your elected position at the door (along with the concomitant resources of the state) and do so as a private individual.

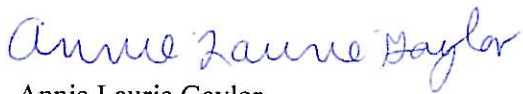
Remove Links, Cancel Sponsorship

Although you claim that the prayer breakfast "is a long standing tradition in Kentucky dating back to 1965" (<http://governor.ky.gov/Pages/prayerbreakfast.aspx>) we would urge you to uphold the Establishment Clause of our First Amendment, dating back to 1791.

While elected officials may of course attend private functions on their own time in their personal capacity, it is a misuse of office for the Governor or his staff to promote, organize or cosponsor activities such as prayer breakfasts or to lend the Governor's name to a "Governor's Prayer Breakfast." If another sponsor exists, the actual sponsor must use their own names, reservation forms, and website, and not imply State or gubernatorial approval or sponsorship. It is an unconstitutional use of the governor's website to proclaim and promote a religious event, much less to act as official host, invite citizens and legislators act as primary publicist and post links to tickets.

Please cancel this event immediately and to remove anything indicating official government sponsorship from the website, reservation forms, media packets, décor, etc. The event must be immediately removed from the Governor's website, the event must drop the use of the title Governor, the State and Governor's seal must not be used to promote a strictly religious event. If you wish to be a part of this event you may do so only in your capacity as a citizen, not as Governor.

Very truly,



Annie Laurie Gaylor