

FREEDOM FROM RELIGION *foundation*

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

July 3, 2024

SENT VIA EMAIL & U.S. MAIL: moorem@cocke.k12.tn.us

Manney Moore
Director of Schools
Coke County School District
305 Hedrick Drive
Newport, TN 37821

Re: Unconstitutional baccalaureate promotion

Dear Director Moore:

I am writing on behalf of the Freedom From Religion Foundation regarding Cosby High School's unconstitutional baccalaureate program and its promotion. FFRF is a national nonprofit organization with more than 40,000 members across the country, including a chapter in Tennessee. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

A concerned community member informs us that the District hosted and promoted its own baccalaureate graduation service. On Sunday, May 5, 2024, CHS hosted a baccalaureate service for graduating seniors at Northport Baptist Church. [REDACTED]—a Cosby Elementary teacher¹—hosted the baccalaureate service. On March 28, 2024 the District advertised the service via its official Facebook account.² And then again on April 27, 2024.³ On the day of the service itself, the District's Facebook feed, refers to “the 2024 CHS Baccalaureate Service.”⁴ That post thanks [REDACTED] for “organizing the program.”

Public schools may not host—and then promote—religious ceremonies. That includes baccalaureate services. We ask the District to refrain from hosting and promoting future ones.

It is well-settled law that public schools may not show favoritism toward nor coerce belief or participation in religion. *See generally 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); *McCullum v. Bd. of Educ.*, 333 U.S. 203 (1948).

¹ cockecountyschools.org/resources/staff-directory/cosby-elementary-school-staff-directory/.

² www.facebook.com/permalink.php?story_fbid=pfbid0aEisiKektci14xZa4eWuZ8ULWVBhYxSASXd5XuSQv1QDdRgtMEjnPnvq8GHQMRkRI&id=100063944928769.

³ www.facebook.com/permalink.php?story_fbid=pfbid02JJaxPMpoSGxAfeT5NzgKQL1ybPUgr7TPMGr1BGESbFUuf1AyhotPccu5TaDXPh4HI&id=100063944928769.

⁴ www.facebook.com/permalink.php?story_fbid=pfbid02Z1QbGkumEZr8oF9aqupFaLucMEFk16qcMCX3KUbAm85EjvX9D5mj7XTfBVUfZQEhl&id=100063944928769

Baccalaureate programs are religious services with prayer and worship. Schools may not plan, design, or host baccalaureate programs. *See, e.g., Warnock v. Archer*, 443 F.3d 954 (8th Cir. 2006) (upholding injunction prohibiting school district from orchestrating or supervising prayers at school graduation or baccalaureate ceremonies). By hosting and promoting a baccalaureate ceremony, the District demonstrates clear favoritism toward religion over nonreligion, and Christianity above all other faiths. That favoritism enlarges when a District employee organizes and hosts the service. It is also telling that the service is held on a Sunday, the Christian Sabbath. This was a church service; and the school—through ████████—created it.

Courts have permitted *privately* sponsored baccalaureate services; but those Districts took significant steps to ensure there was *no appearance of school sponsorship*. *See Randall v. Pagan*, 765 F. Supp. 793 (W.D.N.Y. 1991) (“the school board has already formally and publicly dissociated itself from the baccalaureate service, has canceled its prior order for programs and has refused to lend any financial support, either direct or indirect, to assist the [religious group] in its sponsorship of the event...[no] district personnel are involved in any aspect of the service, either in their capacities as District employees or . . . in their personal, individual capacities.”); *Verbena Methodist Church v. Chilton Bd. of Educ.*, 765 F. Supp. 704 (M.D. Ala. 1991) (“The Board must also ensure that no other school officials promote, lead, or participate in the service.”). CCSD did the opposite. The District not only failed to take any steps to disassociate itself from this baccalaureate ceremony, but had its own employees host the service. The May 5 service is just that, a religious service. And for all intents and purposes, the baccalaureate is a District event.

“Voluntariness” is no defense for the District. *See generally Lee*, 505 U.S. at 596 (“the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice.”); *Schempp*, 374 U.S. at 288 (Brennan, J., concurring) (“... the availability of excusal or exemption simply has no relevance to the establishment question”); *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003) (“VMI cannot avoid Establishment Clause problems by simply asserting that a cadet’s attendance at supper or his or her participation in the supper prayer are ‘voluntary.’”); *Jager v. Douglas Cnty. Sch. Dist.*, 862 F.2d 825, 832 (11th Cir. 1989) (“... whether the complaining individual’s presence was voluntary is not relevant to the Establishment Clause analysis . . . The Establishment Clause focuses on the constitutionality of the state action, not on the choices made by the complaining individual.”). Here, the District promotes and prefers a Christian ceremony that only Christian graduates would feel comfortable attending. This sends an impermissible message to non-Christian graduates that they are not the District’s favored students. The District cannot circumvent the Establishment Clause problem by pointing to the attendees’ voluntary attendance. CHS promoted, sponsored, and spent money for a religious ceremony—the May 5 baccalaureate service. It then shared this sponsorship with the broader District community by publishing the event details in its newsletter. The District has a constitutional duty to remain neutral toward religion. By hosting the baccalaureate service, the District abdicates that duty—needlessly alienating the forty-nine percent of Generation Z who are religiously unaffiliated.⁵

⁵ Ryan P. Burge, *2022 Cooperative Election Study of 60,000 respondents*, Apr. 3, 2023, <https://religioninpublic.blog/2023/04/03/gen-z-and-religion-in-2022/>.

The District must respect the constitutional rights of all its students to be free from religious coercion and indoctrination in their public schools, and so it must immediately cease sponsoring or promoting baccalaureate ceremonies. Please inform us in writing of the steps the District is taking to ensure this constitutional violation is addressed and does not recur.

Sincerely,

A handwritten signature in cursive script that reads "Hirsh M Joshi".

Hirsh M. Joshi
Patrick O'Reiley Legal Fellow
Freedom From Religion Foundation

Enclosures