

FREEDOM FROM RELIGION *foundation*

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June 5, 2024

SENT VIA EMAIL & U.S. MAIL: garrenm@loudoncounty.org

Superintendent Michael Garren
Loudon County Schools
100 River Road
Loudon, TN 37774

Re: Unconstitutional graduation prayer & venue

Dear Superintendent Garren:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a graduation prayer that occurred at North Middle School. 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 parent informs us that North Middle School's May 14, 2024, graduation took place at the local First Baptist Church. We are also informed that prayer commenced the ceremony. NMS's program indicates that First Baptist Church delivered the invocation. Our complainant notes that a youth pastor was invited on stage to deliver a long, sectarian prayer to students.

We ask the District to investigate and ensure that NMS does not continue to use First Baptist Church as a ceremony venue. We also ask that District schools refrain from having school-sponsored prayer at official events.

Students have a constitutional right to be free from religious indoctrination in public schools. 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). Pre-planned prayers at graduation ceremonies are unconstitutional, even if student-led. *See Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (holding that a school's policy allowing student-delivered prayers at high school football games violates 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*, 505 U.S. at 587. Furthermore, government-sponsored prayer "has the improper effect of coercing those present to participate in an act of religious worship." *Santa Fe*, 530 U.S. at 312.

Similarly it is inappropriate for the District to hold important, milestone events at churches. Many courts have held that holding graduations in churches violates the Establishment Clause. *See, e.g., Doe v. Elmbrook Sch. Dist.*, 687 F.3d 840 (7th Cir. 2012); *Does v. Enfield Pub. Sch.*, 716 F. Supp. 2d 172 (D. Conn. 2010) ("By choosing to hold graduations at [a church], [a school] sends the message

that it is closely linked with [the church] and its religious mission, that it favors the religious over the irreligious, and that it prefers Christians over those that subscribe to other faiths, or no faith at all.”); *Musgrove v. Sch. Bd. of Brevard Cnty.*, 608 F.Supp.2d 1303 (M.D. Fla. 2005) (ruling that plaintiffs had demonstrated likelihood of success on the merits of their claim that holding public high school graduations in a church violates the Establishment Clause).

Voluntary attendance is no defense. Courts have summarily rejected arguments that voluntariness excuses a constitutional violation. *See Lee*, 505 U.S. at 596 (“It is a tenet of the First Amendment that 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.”); *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 288 (1963) (Brennan, J., concurring) (“Thus, the short, and to me sufficient, answer is that 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.’”).

As a final matter, we note that “a student who graduates typically continues to have a live claim for damages against a school for a past constitutional violation.” *Am. Humanist Ass’n v. Greenville Cnty. Sch. Dist.*, 652 F.App’x 224, 228 (4th Cir. 2016). If NMS continues to hold ceremonies at church venues, any parent or student whose rights were violated could pursue legal claims after the fact.

The popularity of any given prayer is immaterial; courts continually reaffirm that minority rights 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.” *Santa Fe*, 530 U.S. 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. The District has a constitutional duty to remain neutral toward religion. By having prayer at its church-based graduation ceremony, the District abridges that duty and needlessly excludes students who are a part of the forty-nine percent of Generation Z who are religiously unaffiliated.¹

In order to respect students’ First Amendment rights, the District must ensure that all future graduations and other school-sponsored events do not include prayers and that churches do not serve as official venues. Please respond in writing with the steps the District is taking to remedy this constitutional violation and ensure that it does not recur. Thank you for your time and attention to this matter.

Sincerely,



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

¹ 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/>.