

FREEDOM FROM RELIGION *foundation*

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

June 5, 2017

**SENT VIA FAX & U.S. MAIL
(334) 493-3060**

Mr. Michael Smithart
Superintendent
Opp City Schools
305 E. Stewart Avenue
Opp, AL 36467

Re: School Sponsorship of Baccalaureate Ceremony and Graduation Prayers

Dear Superintendent Smithart:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in Opp City Schools. A concerned district community member contacted us. FFRF is a national nonprofit organization with 29,000 members across the country, including members in Alabama. FFRF's purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that Opp High School held a baccalaureate service in its auditorium on May 21 and that Opp High Principal Aaron Hightower led the seniors in prayer during the service. Please find enclosed pictures of the baccalaureate program, which include reference to Principal Hightower's participation in the ceremony. We believe that the high school organized and sponsored this religious event.

Additionally, we understand that religious activities took place at the Opp High School graduation ceremony. According to our complainant, high school administrators scheduled a prayer for the event, which was included on the graduation program and was delivered to the audience by a student. Principal Hightower also gave a speech with references to God and prayer. Pictures of the graduation program are enclosed.

School-sponsored baccalaureate services are illegal.

The Establishment Clause of the First Amendment prohibits public schools from sponsoring any type of religious practice. *See Lee v. Weisman*, 505 U.S. 577, 590 (1992). Baccalaureate programs are religious services that include prayer and worship. Schools may not in any way plan, design, or supervise 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).

When courts have permitted privately sponsored baccalaureate services in public schools, the schools took significant steps to ensure that there was no school endorsement. *See Randall v. Pagan*, 765 F. Supp. 793 (W.D.N.Y. 1991) (noting that “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.” In addition, no “district personnel are involved in any aspect of the service, either in their capacities as District employees or . . . in their personal, individual capacities.”). At least one Alabama court has already required a public school to take explicit steps to disassociate itself and its employees from a baccalaureate service. *See 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.”).

The school’s role in sponsoring a baccalaureate on school property would cause any reasonable graduating senior or parent to conclude that the District endorses the religious messages espoused at the service. To avoid the perception of school sponsorship of religious practices, the District must immediately end all involvement with the baccalaureate. This means that no public school employees can be involved in further hosting, organization, planning, or coordination of the event.

Graduation ceremonies cannot include scheduled prayers.

It is well settled that public schools may not advance or promote religion. *See generally, Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2001); *Lee*, 505 U.S. 577; *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). Moreover, “the preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere.” *Santa Fe* 530 U.S. at 310 (quoting *Lee*, 505 U.S. at 589).

The Supreme Court has continually struck down prayers at school-sponsored events, including public school assemblies and graduations. *See Lee*, 505 U.S. 577 (declaring unconstitutional clergy-delivered prayers at a public school graduation). Even if student-led, 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-sponsored event. *See Santa Fe Indep. Sch. Dist.*, 530 U.S. 290 (holding that student-delivered prayers at high school football games violate the Establishment Clause).

Opp City Schools has a legal duty to remain neutral toward religion. It makes no difference how many students want religious speeches or wouldn’t be offended by them at their graduation ceremony. 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 *West Virginia Bd. of Ed. v. Barnette*, 319 U.S. 624, 638 (1943)). A graduation should be a celebration for all students, not an exercise in alienating nonreligious students with a Christian message.

By scheduling such unlawful graduation prayers, the District abridges its duty to remain neutral and violates the Constitution. It does not escape this duty when it assigns these prayers to be

delivered by graduating students. We ask that you cease sponsorship and hosting of future baccalaureate services occurring in the District, that you ensure that no prayers are scheduled for future high school graduation ceremonies or any other school-sponsored events occurring in the District, and that you inform us in writing of the steps the District is taking to respect the right of conscience of each of its students.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sam Grover', followed by a long horizontal line extending to the right.

Sam Grover
Staff Attorney

STG:rmb

Enclosures



OPP HIGH SCHOOL

Class of



2017



Baccalaureate Service

May 21, 2017 – 6:00 pm
Opp High School Auditorium

Welcome *Rev. Gary Miller, Westview Baptist Church*

Song of Worship "Good, Good Father" *Southside Praise Team*

Scripture reading - Jeremiah 29:11-13, Proverbs 3:5-6 *Genesis Drake*

Prayer *Eli Russell*

Words to Graduates *Principal Aaron Hightower*

Song of Worship "O Praise the Name" *Southside Praise Team*

Scripture Reading Joshua 1:7-9 *Rev. Mark Lilly, First Methodist Church*

Message *Rev. Stewart Young, Southside Church*

Closing Prayer *Rev. Trey Poole, Opp Church of Christ*

Annual Commencement Program
of

Opp High School

Founded 1901

Opp, Alabama



honoring

The Class of 2017

May 25, 2017

The Board of Education of the Opp City Schools
William Hines, Chairman

Dr. Walter H. Burgess, Vice-Chairman

Scotty Short, District 1

Merrill Culverhouse, District 3

Dr. Lori Stanfield, District 5

Mr. Michael Smithart	Superintendent of Education
Ms. Emily Edgar	Assistant Superintendent
Mr. Aaron Hightower	Principal of Opp High School
Dr. Amanda Inabinett	Assistant Principal of Opp High School

The Graduation Exercises

Channel Lee Stadium

Thursday Evening, May 25, 2017

Seven-thirty O'clock

*PROCESSIONAL: "Pomp and Circumstance" Elgar

PRESIDENT'S GREETING Mary Beth Baker

Class President

OPENING PRAYER Abigail Barnett

Class Vice-President

*PLEDGE TO THE FLAG Morgan Johnson

Student Government President

*"THE STAR-SPANGLED BANNER" Key Smith

SPECIAL MUSIC: "100 Years" OHS Voices

Song by Fighting Fire

COMMENTS Mr. Aaron Hightower, Principal

SALUTATORY: "Concluding this Chapter" Courtney Morgan Osborn

Salutatorian

VALEDICTORY: "Into the Unknown" Eli Carnley Russell

Valedictorian

PRESENTATION OF DIPLOMAS Mr. Aaron Hightower, Principal

Dr. Amanda Inabinett, Assistant Principal

Mr. Michael Smithart, Superintendent

Ms. Emily Edgar, Assistant Superintendent

Mr. William Hines, Chairman

*"THE OPP HIGH SCHOOL ALMA MATER" Catherine K. Lyon

Isabella Ritter

Gather 'round our banners, jolly comrades, one and all, Over us it waves so free.
Black and Gold are streaming in the sunlight bright and clear
Calling us again to thee!

Live on in each heart a love so true; Alma Mater, there is none like you.
From your portals as we pass each day, We carry lessons that will last for aye.

*RECESSIONAL: "Grand March" from Aida Verdi

*The audience is requested to stand.

Please remain at your seats until the seniors exit.