

FREEDOM FROM RELIGION *foundation*

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

January 28, 2015

SENT VIA U.S. MAIL AND EMAIL TO: Steve.Schultz@d51schools.org

Steven D. Schultz
Superintendent, Messa County Valley School District
2115 Grand Avenue
Grand Junction, CO 81501

Re: Compulsive Attendance and Faculty Participation at Baccalaureate Ceremonies

Dear Superintendent Schultz:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to express serious constitutional concerns regarding Fruita Monument High School (FMHS) baccalaureate ceremonies. We were contacted by a concerned member of the FMHS community. FFRF is a nationwide nonprofit organization that strives to protect the constitutional principle of separation between state and church. FFRF represents more than 21,500 members across the country, including nearly 700 in Colorado and two local groups: the Denver and Colorado Springs FFRF chapters.

It is our information and understanding that FMHS held a baccalaureate ceremony in its southern gym on May 12, 2014. We understand that principal McClaskey, assistant principal Carleton, and other FMHS staff were involved in planning and organizing this event. Our complainant informs us that FMHS teachers and administrators spoke at the ceremony; some read bible verses, others spoke generally about the virtue of being a Christian. We also understand that FMHS choir and orchestra students were required to perform at this event. Those students who expressed reluctance, we are told, were threatened with lower grades and told that failing to attend would result in having to perform *all* of the concert music, *alone, in front of the entire class*, at a later date.

The Establishment Clause of the First Amendment prohibits public schools from sponsoring any type of religious practices. *See Lee v. Weisman*, 505 U.S. 577, 590 (1992). Baccalaureate programs are religious services. Accordingly, schools may not in any way plan, design, or supervise baccalaureate programs, even if nominally student organized. *See 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.).

Even if a public school does not officially sponsor or organize the baccalaureate service, there still exists a danger that a reasonable observer would conclude the service is school sponsored. *See e.g., Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 308 (2000) (holding that pre-game prayers by students over the public address system are unconstitutional given that an objective student would “unquestionably perceive” the prayers as “stamped with the school’s seal of

approval.”). FMHS bacculaureate ceremonies are held in the school’s gym, the principal and vice principal help organize the event, staff participates and preaches, and the school choir performs. These actions signal to students that FMHS endorses the event.

When courts have permitted privately sponsored bacculaureate services in public schools, the schools took significant steps to ensure that there was no school endorsement, which FMHS has not done in this case. *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 bacculaureate 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” and that no “district personnel are involved in any aspect of the service, either in their capacities as District employees or ... in their personal, individual capacities”); *see also Verbena Methodist Church v. Chilton Bd. of Ed.*, 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.”).

To avoid the perception of school sponsorship of religious practices, a public school should take measures to disassociate itself from religious activity. This means that no public school employees can be involved in the organization, planning, or coordination of the bacculaureate services and any employees that chose to attend may not participate in their official capacities. Most importantly, FMHS may not coerce students to perform at these religious events. Threatening student dissenters with lowered grades and public humiliation is not only unconstitutional, but also unconscionable.

FMHS and school staff may not have any involvement in organizing future bacculaureate ceremonies. Likewise, no FMHS employees may participate in bacculaureate ceremonies in their official capacities. School choir and orchestra class involvement must end and teachers must be reminded that coercing students into participating in religious events is impermissible. Please inform us, in writing, of the steps your district is taking to remedy these constitutional concerns so that we may inform our complainant.

Sincerely,



Andrew L. Seidel,
Staff Attorney

ALS: jki