



# CONGRESSIONAL PRAYER CAUCUS FOUNDATION

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March 28, 2018

Mike James Sr.  
President  
Okmulgee Board of Education  
316 E. 8<sup>th</sup> Street  
Okmulgee, OK 74447

Re: Superintendent Renee Dove

Dear President James:

I have the honor of serving as the Executive Director of the Congressional Prayer Caucus Foundation. The Foundation serves nearly 100 members of Congress who are part of the Congressional Prayer Caucus (the names of those members of Congress who serve on the Congressional Prayer Advisory Team are listed on the left).

In addition, the Foundation serves Legislative Prayer Caucuses in over 30 states, including Oklahoma, which have nearly 1,000 state senators and state representatives as members. These leaders are working together to preserve the integrity of our founding principles and to protect First Amendment rights for all.

We recently learned that the Freedom from Religion Foundation (“FFRF”) sent you a letter alleging that on February 24, 2018, Superintendent Renee Dove spoke at a “prayer walk” for Okmulgee County, and discussed ways in which the Bible, Jesus, and Christian stories can arise in public schools. She apparently stated that Jesus is present in school (“we take him there [in our hearts] every day”), that people pray over the classrooms and building, that librarians have a Bible on top of the shelf and direct students to it if they ask, and the subject of Christianity can be discussed if a student raises it first.

FFRF, starting with its very name and in comments made to you and others, does not begin with what the Constitution says or the law requires, but instead what it wishes were true, i.e., that a government must treat religious beliefs and organizations in a hostile way. To the contrary, the Constitution in the “Establishment Clause” of the First Amendment fosters religion by preventing the

*government* from establishing a particular religion or treating one religion more favorably than others. The Constitution does *not*, as FFRF suggests, prohibit state action that facilitates religion, that recognizes the religious character and practices of its citizens, or that exempts religious individuals or organizations from generally applicable laws that might conflict with their religious beliefs and practices.

In fact, the "Free Exercise Clause" of the First Amendment only prohibits laws that *restrict* the free exercise of religion; it does not prohibit laws that *favor* religion and its exercise. As the Supreme Court reiterated just last year in *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012, 2021 (2017), state action that discriminates against a church or other religious organization just because it is religious violates the Free Exercise Clause. See also *Mitchell v. Helms*, 530 U.S. 793, 828 (2000) (plurality opinion) (noting "our decisions that have prohibited governments from discriminating in the distribution of public benefits based upon religious status or sincerity" (citing *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819 (1995); *Lamb's Chapel v. Center Moriches Union Free School Dist.*, 508 U.S. 384 (1993); *Widmar v. Vincent*, 454 U.S. 263 (1981)); *Walz v. Tax Comm'r of the City of N.Y.*, 397 U.S. 664 (1970) (upholding municipal tax exemption for religious nonprofit organizations against an Establishment Clause challenge).

Like every other citizen, Superintendent Dove has free speech rights that she was exercising when she spoke at the prayer walk which, I gather, was NOT at the school, and was a PRIVATE function. Apparently according to FFRF's view, Ms. Dove must give up her free speech rights when she becomes a public employee.

Perhaps more importantly, Ms. Dove has free exercise of religion rights which she does not abandon when she crosses the threshold of her school building. She does not forfeit her right to pray either silently or with other teachers while inside the school, she can freely ask silently or with other teachers for divine protection over school classrooms and buildings, and if a student raises a religious perspective on the subject discussed, the teacher is not prohibited from commenting.

The Okmulgee Board of Education would, in our opinion, pose a greater constitutional risk if it yielded to FFRF's demand to reprimand or discipline Superintendent Dove. Its demand, on its face, is viewpoint discrimination because their goal is to silence every public school employee from talking about religion (even in non-school meetings), while favoring non-religious speech. Such action would have the primary effect of showing hostility to religion, something the U.S. Supreme Court forbids. As the U.S. Supreme Court stated well in *Zorach v. Clauson*, 343 U.S. 306, 314 (1952), "we find no constitutional requirement which makes it

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necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence." The religious community is just as much a part of your community as those who have no religious beliefs, and the religious members of a community cannot be treated as "outsiders" any more than their secular neighbors.

In closing, our nation has enjoyed a cultural heritage of freedom that rests upon Judeo-Christian ethics. Americans have generally appreciated the contributions of religious organizations toward the strengthening of our society. Our government has had a history of benevolent accommodation of religion. It was not until the 1960s that the U.S. Supreme Court gave the Establishment Clause new interpretations that portended a stricter separation from religion would be required in the public sphere. The Supreme Court has backed away from those interpretations in the decades since, but organizations like the Freedom from Religion Foundation pretend that those earlier interpretations are still binding and should be extended to ever greater degrees, causing confusion in our public institutions to this day.

We hope that you will not yield to threats to rob you, your employees, and your community of your rights and heritage. To protect our freedom, we must exercise that freedom.

May God bless you and your students,



Lea Carawan  
Executive Director  
Congressional Prayer Caucus Foundation