

Free Speech Exam Question

A student, known in court papers as A.M., earned the right as co-president of her class to deliver a message at the annual "Moving Up Ceremony" in June 2009 at Taconic Hills Central School District. A.M. asked her English teacher to review her proposed speech.

The last line of the speech read: "As we say our goodbyes and leave middle school behind, I say to you, may the LORD bless you and keep you; make His face shine upon you and be gracious to you; lift up His countenance upon you, and give you peace." The English teacher told A.M. to consult with the principal. Her school counselor gave her similar advice.

Principal Neil Howard allegedly told A.M. that the last line "sounded too religious" and should be omitted. A.M.'s mother requested that Superintendent Mark Sposato review the matter. Sposato agreed with Howard. The superintendent said the religious message delivered by A.M. could violate the establishment clause of the First Amendment. Under the establishment clause, government bodies, including public schools, are barred from promoting religion.

A.M. delivered her message without the last line at the event. Soon, however, she sued the school district, Howard and Sposato in federal court, contending that they violated her free-speech rights. Specifically, she alleged that they discriminated against her on the basis of her religious viewpoint.

U.S. Northern District Court of New York granted the defendants summary judgment, find no violation of A.M.'s free speech rights. A.M. appeals the decision. You are the judge. Do you affirm or reverse? Why?

Freedom of Religion Exam Question

Before 1999, the Town of Greece, NY, would open its Town Board meetings with a moment of silence. Beginning in that year, however, the town began to invite local clergy to offer an opening prayer. The prayer is delivered over the Board's public address system. Prayer-leaders have often asked audience members to participate by bowing their heads, standing, or joining in the prayer. The prayer is followed by the town's normal business, including a public forum and a portion of the meeting where business owners and residents apply for zoning changes or various permits.

The town has no formal policy for inviting prayer-givers, for the content of the prayers, or for any other aspect of its prayer practice. The town says that it would permit any type of invocation and that it has never denied a request to lead a prayer. The town does not publicize these facts to residents, however. Town staff invites religious leaders to offer the prayers. From 1999 to 2007, all of the clergy members who delivered the opening prayer were Christian. Between 2007 and 2010, four prayers were delivered by non-Christian individuals. Of the invocations that took place from 1999 to 2010, two-thirds included uniquely Christian language (words like "Jesus," "Christ," or "Holy Spirit"), and the remaining one-third spoke in more generally theistic terms.

Susan Galloway and Linda Stephens attended numerous Town Board meetings since 1999, and began to complain about the prayer practice in 2007. In 2008, they sued the town for violating the Establishment Clause of the First Amendment.

Does the Town of Greece's practice of opening board meetings with a prayer violate the First Amendment? Why?