

FREEDOM FROM RELIGION *foundation*

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February 23, 2011

Mike Bur
Director
Cheboygan Center
1531 Sand Rd.
Cheboygan, MI 49721

Re: Lord's Prayer at Senior Center Lunches

Dear Mr. Bur:

I am writing on behalf of a concerned area citizen who frequently participates in lunch services provided at the Cheboygan Center, which is run by the Cheboygan County Council on Aging. This citizen and other area members of the Freedom From Religion Foundation (FFRF) object to the Christian prayers occurring at your facility before mealtimes. FFRF is a nationwide nonprofit with 16,000 members and over 400 members in Michigan whose purpose is to protect the constitutional principle of separation of state and church.

It is our information and understanding that the Cheboygan Center provides meal services for up to 110 seniors a day, five days a week. Our complainant informs us that the "Lord's Prayer" is offered before these meals. We further understand that a Cheboygan Center employee recites this prayer using a microphone every day.

Federal regulations prohibit senior centers receiving federal funding to engage in religious activities at government-sponsored functions such as senior lunches. Centers, like Cheboygan Center, typically receive some funding from the federal government in the form of Social Services Block Grants (SSBGs) via Title XX of the Social Security Act, 42 U.S.C. § 1397. Social Services Block Grants (SSBGs) are administered by the Department of Health and Human Services according to the stipulations enumerated in the Code of Federal Regulations (CFR), 45 C.F.R. §§ 96.70–96.74. The C.F.R. is explicit and unequivocal in its prohibition on religious activities as part of any program funded through an SSBG via the Department of Health and Human Services.

SSBGs are governed by Section 2 (Formula and Block Grants) of Part 87 (Equal Treatment for Faith-Based Organizations) of Subchapter A (General Administration) of Subtitle A (Department of Health and Human Services) of Title 45 (Public Welfare) of the Code of Federal Regulations (C.F.R.), which states:

(c) Organizations that receive direct financial assistance from the Department may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial

assistance from the Department. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded with direct financial assistance from the Department, and participation must be voluntary for beneficiaries of the programs or services funded with such assistance. 45 C.F.R. § 87.2.

Additionally, the regulations clearly proscribe any discrimination on the basis of religious belief in the dissemination of services funded by an SSBG via the Department of Health and Human Services. Section 87.2 of Title 45 of the Code of Federal Regulations reads:

(e) An organization that participates in programs funded by direct financial assistance from the Department shall not, in providing services, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief. 45 C.F.R. § 87.2.

These regulations also are applicable to centers established under the Older Americans Act (OAA), 42 U.S.C. §§ 3001-3058ff. As you know, local and regional senior centers and programs receive their Social Services Block Grants (SSBGs) through State and Area Agencies on Aging (AAAs), as well as grants administered directly under the Older Americans Act (OAA). The AAAs receive the SSBGs and OAA grants from the federal government, according to the Older Americans Act, all of which is overseen by the Administration on Aging (AoA). The Administration on Aging is part of the Department of Health and Human Services. Organizations receiving OAA grants must also abide by the prohibition on religious activities provided in the federal regulations.

It is our understanding and information that the Cheboygan Center receives at least some of its budget from federal, state and county funds. Given that this agency receives federal funding, the Cheboygan Center must adhere to the federal regulations specified above. That means Cheboygan Center cannot engage “in inherently religious activities, such as worship, religious instruction, or proselytization.” Prayer is an inherently and quintessentially religious activity. Therefore, allowing, promoting, or encouraging prayer at these government-subsidized meals places your agency in direct violation of the federal mandate.

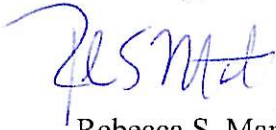
It is grossly inappropriate for county employees to lead others in prayer or encourage others to engage in prayer in any way. Government employees, acting in their official capacities as public servants, cannot actively endorse, prefer or promote religion. In fact, Supreme Court Justice Blackmun has stated, “it is not enough that the government restrain from compelling religious practices, it must not engage in them either...” *Lee v. Weisman*, 505 U.S. 577, 604 (1992) (Blackmun, J., concurring). Government employees should refrain from actively participating in religious activities while acting within their governmental role to avoid any perception of government endorsement of religion and/or excessive entanglement with religion. *See Culbertson v. Oakridge Sch. Dist.*, 258 F.3d 1061 (10th Cir. 2001) (held a school district policy allowing teachers to distribute religious literature violated the Establishment Clause because it creates an impression of school endorsement of religion); *Bd. of Educ. of the Westside Cmty. Sch. v. Mergens*, 496 U.S. 226, 253 (1990) (“Under the [Equal Access] Act, ... faculty monitors may not

participate in any religious meetings, and non school persons may not direct, control, or regularly attend activities of student groups.”).

Not only does permitting public prayer at these meals cause concern that the government is endorsing religion, it also violates our citizens’ rights to be free from religious proselytizing. “At a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise.” *Lee v. Weisman*, 505 at 587. Cheboygan Center’s support of public prayer during these meals ignores the rights of other seniors who may not wish to participate in the religious activities because they disagree with a particular faith publicly exercised, they prefer to be private in their worship, or they do not believe at all. Certainly, we can agree that it is disrespectful and inappropriate for this center to serve as a forum for some seniors to impose their religious beliefs on others in attendance.

For all of the foregoing reasons, we respectfully request that Cheboygan Center immediately discontinue the practice of mealtime prayer at government-subsidized functions. We further request that you promptly inform us, on behalf of our complainants, of the steps the Cheboygan County Council on Aging undertakes to remedy these violations of law at Cheboygan Center and any other center in the county.

Sincerely,



Rebecca S. Markert
Staff Attorney