

# **Graduation Prayers in Public Schools**

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The United States Supreme Court decision in *Lee v. Weisman*, 112 S. Ct. 2649 (U.S. 1992), has caused some confusion as to whether prayers are permissible at public school graduation ceremonies. While prayers have been restricted at public school graduations, they have not been completely prohibited. It is important to know what the Court did and did not say.

## **What Is Prohibited?**

To understand what is presently prohibited by the United States Supreme court decision in *Lee v. Weisman*, it is important to know some of the history regarding that case. The Supreme Court focused on the following three factors: (1) the principal decided that an invocation and benediction would be given at the ceremony and placed prayer on the agenda; (2) the principal chose the religious participant; and (3) the principal provided the clergyman with a copy of *Guidelines for Civic Occasions*, produced by the National Council of Christians and Jews, outlining suggestions for delivering non-sectarian prayers. Justice Kennedy found that these three factors actually placed the school in the position of guiding and directing the prayer during a public ceremony, and based upon his opinion, this participation and guidance of the prayer was a violation of the First Amendment Establishment Clause.

What the Supreme Court prohibited can be summed up as follows: School officials cannot direct that prayer be part of a public school graduation ceremony, cannot specifically select a religious participant to say a prayer during a public graduation ceremony, and cannot give guidelines on how to say a prayer during a public graduation ceremony even if these guidelines are meant to be used in a non-sectarian manner. In practical terms, a public school cannot invite a clergyman to say a prayer at a graduation ceremony. As an additional note, this decision probably does not affect graduation prayers at post-secondary schools.

## **What is Permitted?**

Though a school cannot invite clergy to say a prayer at a public school graduation ceremony, prayers are still permissible at such ceremonies. A school retains a number of options for the continuation of prayer.

### **Option One**

If a school avoided placing prayer on the agenda and avoided a specific selection of a clergyman to say a prayer, it would avoid two of the major concerns of the Supreme Court. Consequently, school officials could use secular criteria for selecting any of the participants. A secular criteria would simply mean one that does not specifically look for someone who is a religious participant to say a specific religious message. If a school chose a speaker because of some contribution the speaker made to society and not because the speaker happened to be a clergyman, then the school would avoid one of the concerns of the Supreme Court. In short, school officials could choose a speaker or participant because of some recognized contribution to society. A clergyman could be a participant as long as the selection was made using secular criteria and not solely because the participant is religious.

A participant selected on a secular criteria could then participate in the public graduation ceremony and could voluntarily choose to offer a prayer. In this way, the school does not specifically select a religious person for the purpose of offering prayer. For the school to forbid this participant from saying a prayer may well be a violation of the person's First Amendment right to freedom of expression. Furthermore, for a school to prohibit such a person from saying a prayer either before or after the fact could violate the First Amendment Establishment Clause because the school would be showing hostility toward religion. In summary, a school could select a participant on a secular basis, and that participant could voluntarily pray.

## **Option Two**

Similar to option one, another option is for a valedictorian, salutatorian, or any other student participant chosen based upon academic criteria or other secular standards to be a part of the graduation ceremony to pray voluntarily. In this circumstance, the school would not specifically be placing prayer on the agenda and would not be selecting the student for the specific purpose of praying. The school may not even know that the participant would pray until the participant actually stood up and did pray. Again, under this particular option, for the school to prohibit this student participant from praying could be construed as a violation of the First Amendment Free Speech and Establishment Clause in that the school would be restricting speech and showing hostility toward religion.

## **Option Three**

Similar to option two, prayer could still be conducted at a graduation ceremony if the student body were permitted to elect a student chaplain. This chaplain could be elected by the student body in the same way that the student body elects class officers. Some schools already elect student chaplains along with the election of other class officers. As part of the graduation ceremony, the student chaplain could address the student body along with the other officers of the class, and the address could include a prayer. In this manner, the school would not be directly endorsing the school officers since they would be elected by the student body. The school chaplain could certainly be placed on the agenda, and the school should avoid any efforts to guide or direct the prayer or address given by the school chaplain. As an additional factor, the chaplain could announce, or the bulletin could state, that while all are asked to rise for the invocation and benediction, none are compelled to do so.

## **Option Four**

The Court was concerned that school officials specifically placed prayer on the agenda, selected a clergyman, and gave the clergyman guidelines for saying non-sectarian prayers. If these three factors were avoided, prayers could be permissible. One way that these factors could be avoided is for school officials to allow a parent and/or student committee to create the agenda for graduation ceremonies. This parent/student committee could then come up with its own agenda, which could include prayer. This parent/student committee could specifically choose a religious participant to say a prayer and could in fact discuss the prayer with the participant. By permitting a parent/student committee to create the agenda and select the participants, the school would avoid any appearance of sponsorship. The school could note that the graduation ceremony or baccalaureate service was not actually sponsored by the school, but rather was sponsored by the parents and students. The parents and students could request to use the school facilities in order to conduct the graduation ceremonies.

## **Option Five**

Under the above options one through four, prayer could still be conducted during public school graduation ceremonies. The First Amendment permits prayer as noted above, but does not require prayer. In other words, prayer could still be conducted under the circumstances presented above, but the First Amendment would not require the speaker or participant to pray, the student to pray, or the school officials to allow a parent/student committee. Under options one through four, there may be some years when prayer would be conducted and other years when it would not be conducted. In order to insure that prayer would be conducted on a consistent basis during public school graduations, community leaders and churches could privately sponsor graduation ceremonies. Currently, many schools are not large enough to conduct public graduation ceremonies. Such schools often use outside facilities, and many use church auditoriums. Churches throughout the community could organize public graduation ceremonies or baccalaureate services. The time, place, and manner could be organized by the churches or other community leaders, and student groups could publicize the information through their on-campus clubs. Public school students along with teachers and staff could be invited to participate in the ceremony, so long as the ceremony was held off campus, designed and choreographed by non-school officials.

School officials could participate in ceremonies conducted at churches so long as they were not necessarily organizing it as part of a sponsorship of the local school. At such a service, there would be no prohibition against inviting a religious speaker to address the students.

## **Summary**

Prayers at public school graduations have been limited by the United States Supreme Court. The tradition that can be dated back as far as July of 1868, when the first public school graduation is officially documented, will no longer continue as it has for so many years. However, prayer is still permissible at public school graduation ceremonies.

The Supreme Court has ruled that a school cannot place prayer on the agenda of a public graduation ceremony, cannot select a religious participant for the purpose of praying, and cannot give guidelines to a religious participant as to how that participant should pray. However, prayer is still permissible if a school selects a participant using secular criteria and the participant voluntarily prays. Prayer is also permissible if a student participant who was selected to be a part of the graduation ceremony based upon some outstanding achievement voluntarily prays. Prayer could also be conducted by a student chaplain elected by the student body in the same way class officers are elected. Additionally, prayer could be permissible if the school officials permitted a parent/student committee to create the agenda and to select the participants. In this instance, the school should avoid any sponsorship of the ceremony and may even want to place in the agenda that the ceremony is being sponsored by the parents and students. Finally, prayer at a public school graduation ceremony is permissible if organized and conducted by non-school officials, without school sponsorship, and off school premises.

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