

ACLU of Virginia

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December 4, 2009

Via Facsimile (804/717-6297) and Regular Mail

Board of Supervisors
County of Chesterfield
P.O. Box 40
9901 Lori Road, Suite 503
Chesterfield, Virginia 23882

Dear Members of the Board of Supervisors:

I am writing regarding your refusal to add Ms. Cyndi Simpson, a Wiccan, to the list of religious leaders who deliver invocations at the regular meetings of the Chesterfield County School Board. This practice of religious discrimination violates the United States Constitution.

It is my understanding that over the past two years, various clergy from a wide range of Christian denominations have given an invocation at each meeting. Your exclusion of Ms. Simpson, based solely upon her religious beliefs, violates her First Amendment rights to free exercise of religion and freedom of expression, as well as her Fourteenth Amendment right to equal protection of the laws. Moreover, it is an unconstitutional establishment of religion.

There is no legitimate justification for this blatant religious discrimination. In his letter to Ms. Simpson, County Attorney Steve Micas alluded to *Marsh v. Chambers*, a 1983 Supreme Court case that upheld a state legislature's practice of opening its sessions with a nondenominational prayer delivered by a state-employed chaplain. But *Marsh* did not endorse the kind of discrimination at issue here.

First, in *Marsh*, the Supreme Court's ruling was "limited to the challenge to the practice of opening sessions with prayers by a *State-employed clergyman*." This distinction is crucial. Because the same person delivered the prayer each time, there was no issue of discrimination among individuals of different faiths. In contrast, Chesterfield has opened up the floor to assorted members of the community. Having done so, the County may not pick and choose its speakers based on religion.

Moreover, the Supreme Court made clear in *Marsh* that the prayer could not be "exploited . . . to disparage any . . . faith or belief." According to Mr. Micas's letter, Chesterfield County has rejected Ms. Simpson based explicitly on the "neo-pagan" nature of her religion and its alleged invocation of "polytheistic, pre-Christian deities." If that were not enough, the sardonic comments of Supervisors quoted in the newspaper demonstrates the Board's disparagement of Ms. Simpson's religion.

This situation brings into focus the wisdom of the Framers of the First Amendment, who recognized the political divisiveness inherent in government sponsorship of religion. The Board of Supervisors apparently does not want to include prayers in its regular meetings that it deems erroneous or odd. This is easily – and constitutionally – accomplished by eliminating prayer as a part of the meetings. If, however, the Board insists on having prayers offered by members of the community, it may not impose its own religious preferences by excluding those religions that it finds objectionable.

Sincerely,
Rebecca K. Glenberg
Legal Director

cc: Steven L. Micas