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A reasonable location for graduation

One of the more intriguing concepts taught in law school is the hypothetical “reasonable person.” This mythical individual — who always acts properly, regardless of context — is a means of analyzing liability and other legal issues. The reasonable person does not remove the safety guard from a lawn mower when there are numerous, easily readable, large-print warnings not to do so. The reasonable person does not juggle butcher knives. The reasonable person does not believe that a carbolic smoke ball will cure the common cold.

The reasonable person also shows up in Establishment Clause jurisprudence. The U.S. Supreme Court has held that government entities cannot take actions that a reasonable person would interpret as an endorsement of religion. In this area, however, it is not always clear what a reasonable person would perceive. In recent years, a number of controversies — and some lawsuits — have risen in communities where public school graduations (as opposed to voluntary, non-school sponsored baccalaureate ceremonies) are held in religious venues, such as Christian churches.

Although having graduation exercises in a religious venue is commonplace in some communities — particularly in rural areas where a local church is the only place large enough to hold the crowd — it can sometimes place persons of faith, or no faith, in a difficult position. Recently, a Muslim high school student in New Jersey objected to his high school graduation taking place in a Christian church because entering a non-Islamic house of worship was anathema to his faith. Similar tenets would apply to graduates who are Jehovah’s Witnesses. Reasonable minds can disagree; most likely for every Christian who would not be offended by attending graduation in a mosque, there is one who would be.

With reasonability in the eye of the beholder, what authority is there to guide the well-intentioned reasonable person? Unfortunately, very little. Although the Supreme Court has ruled on a number of cases involving graduation prayer, it has never heard a case on holding public school graduations in religious venues. A handful of federal trial and appellate courts have considered the issue, but no decision created a settled principle of law for these cases.

Lacking clear guidance from the courts, with only the Supreme Court’s general admonition that government shall not endorse or appear to

endorse religion as a guide, where is the line of demarcation in these cases? The President’s Advisory Council on Faith-based and Neighborhood Partnerships recently grappled with a similar issue: whether religious organizations that receive government grants to carry out secular social services should be allowed to do so in rooms that contain religious art, Scripture, messages or symbols. After spirited debate, the Council ultimately voted to recommend that the president institute what is, essentially, a “reasonability standard”: that is, a religious service provider is not required to remove or cover up the accoutrements of faith, but is encouraged to do so whenever feasible if its beneficiaries object.

These concepts are equally applicable and administrable in the public school graduation setting. Our reasonable person would undoubtedly concede that although most graduations scheduled for religious venues are not veiled attempts to proselytize, graduation ceremonies should be held in a non-religious venue whenever possible. When a religious venue is the most suitable option, measures should be taken to ensure that there is no implicit or explicit linkage between the civic event and the host religious venue. For example, a church should not have to cover up its stained glass windows — our reasonable person would surely balk at the prospect of rising graduates and others having to fumble about in semi-darkness. Nor does the religious venue need to remove a mounted cross or other religious imagery from the walls of the room being used. But easily achieved and painlessly reversed accommodations, such as covering up items or temporarily removing portable religious objects or texts and storing them elsewhere, should be made.

In any case, when a religious venue is to be the site of a public school graduation, it is incumbent upon school administrators and religious leaders to find a way to be good neighbors without unduly associating church and state. The school should not place unreasonable demands on its religious host, and the host should not take advantage of a community need to further its religious mission. There is always the potential for conflict when religious venues and public ceremonies — or vice versa — intersect, but as is the case in other areas of church-state relations, education and the willingness to be reasonable can go a long way toward avoiding controversy.

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