

# FREEDOM FROM RELIGION *foundation*

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**SENT VIA U.S. MAIL AND EMAIL**

**lavelec@nv.ccsd.net**

Eleissa C. Lavelle  
General Counsel  
Clark County School District  
5100 West Sahara Ave  
Las Vegas, NV 89146

Re: Unconstitutional prayers at Clark County School Board meetings

Dear Attorney Lavelle:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to the unconstitutional prayers at Clark County School Board meetings. We were contacted by a concerned local resident. FFRF is a national nonprofit organization with more than 30,000 members across the country, including members in Nevada. FFRF protects the constitutional separation between state and church and educates about nontheism.

It is our understanding that Clark County School District Board of Trustees meetings begin with a prayer. For instance, the Thursday, December 12 meeting began with students saying the Pledge of Allegiance, which was immediately followed by an invocation. The Board asked everyone present, regardless of their religious beliefs or lack thereof, to “remain standing,” and introduced a preacher from the Messages of Faith Ministry to say the invocation. The prayer asked that the “children be trained up righteously,” which means trained as Christians.

Tellingly, the Board only prays at regular meetings. When only boardmembers and staff are present—for instance, at work sessions or committee meetings—there are no prayers.

It is beyond the scope of a public school board to schedule or conduct prayer as part of its meetings. This practice violates the Establishment Clause of the First Amendment. *See FFRF v. Chino Valley Unified Sch. Dist. Bd. of Educ.*, 896 F.3d 1132 (9th Cir.), *en banc denied*, 910 F.3d 1297 (9th Cir. 2018); *Doe v. Indian River School District*, 653 F.3d 256 (3d Cir. 2011), *cert. denied*, 132 S. Ct. 1097; *Coles v. Cleveland Bd. of Educ.*, 171 F.3d 369 (6th Cir. 1999).

In the most recent case striking down a school board’s prayer practice, the Ninth Circuit Court of Appeals reaffirmed that Establishment Clause concerns are heightened in the context of public schools “because children and adolescents are just beginning to develop their own belief systems, and because they absorb the lessons of adults as to what beliefs are appropriate or right.” *Chino Valley*, 896 F.3d at 1137. The court reasoned that prayer at school board meetings “implicates the concerns with mimicry and coercive pressure that have led us to ‘be [ ]

particularly vigilant in monitoring compliance with the Establishment Clause.’ ” *Id.* at 1146 (quoting *Edwards v. Aguillard*, 482 U.S. 578, 583–84 (1987)). FFRF litigated that case. In the end, that board paid out **\$282,602 in fees and costs**. Obviously, this Ninth Circuit opinion is binding on your client.

The U.S. Supreme Court’s decision in *Town of Greece v. Galloway*, permitting sectarian prayers at legislative meetings, does not apply to prayers at public school board meetings. In *Chino Valley*, decided after *Galloway*, the court distinguished school boards from the legislative bodies considered in *Marsh* and *Galloway*, and held that the board’s prayer practice must be analyzed as a school prayer case. The court found that “the nature of the audience at the Chino Valley Board meetings, and the nature of its relationship with the governmental entity making policy, are very different from those within the Marsh-Greece legislative-prayer tradition.” 896 F.3d at 1147. The court reasoned that prayers at school board meetings are “not the sort of solemnizing and unifying prayer, directed at lawmakers themselves and conducted before an audience of mature adults free from coercive pressures to participate that the legislative-prayer tradition contemplates. Instead, these prayers typically take place before groups of schoolchildren whose attendance is not truly voluntary and whose relationship to school district officials, including the Board, is not one of full parity.” *Id.* at 1142 (internal citations omitted).

Students and parents have the right—and often have reason—to participate in school board meetings. It is coercive, embarrassing, and intimidating for nonreligious citizens to be required to make a public showing of their nonbelief (by not rising or praying) or else to display deference toward a religious sentiment in which they do not believe, but which their school board members clearly do. Board members are free to pray privately or to worship on their own time in their own way. The school board, however, cannot lend its power and prestige to religion, amounting to a governmental endorsement of religion which excludes the 24% of Americans who are nonreligious, including 38% of Americans born after 1987.<sup>1</sup>

It is unconstitutional for the Board to schedule invocations at its meetings. We request that you immediately refrain from scheduling prayers as part of future school board meetings to uphold the rights of conscience embodied in our First Amendment. Please inform us in writing at your earliest convenience of the steps the Board is taking to remedy this constitutional violation.

Sincerely,



Madeline Ziegler  
Staff Attorney

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<sup>1</sup> Robert P. Jones & Daniel Cox, *America’s Changing Religious Identity*, Public Religion Research Institute (Sept. 6, 2017), available at [www.prrri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf](http://www.prrri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf).