

FREEDOM FROM RELIGION *foundation*

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SENT VIA EMAIL & U.S. MAIL
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Kevin Scott
President
Southern Wells Community School Board
9120 South 300 West
Poneto, IN 46781

Re: Unconstitutional Prayer at School Board Meetings

Dear Mr. Scott:

I am writing on behalf of the Freedom From Religion Foundation (“FFRF”) regarding prayers held at the beginning of Southern Wells Community School Board (“Board”) meetings. We were notified of the practice by a concerned local resident. FFRF is a national nonprofit organization with more than 29,000 members across the country, including more than 400 in Indiana. FFRF’s purpose is to protect the constitutional principle of separation between state and church.

We understand that opening prayers have been held during three Board meetings so far this year (the meetings of 1/17, 2/21, and 3/7). At least one of these was led by Vice President Aaron Westfall. We write to remind the Board that public school boards may not include, schedule, or conduct prayer as part of their meetings, nor may they engage in school official-led prayer. We ask that the Board stop this practice immediately.

Federal courts have repeatedly struck down school board prayer as a violation of the Establishment Clause. *See Doe v. Indian River Sch. Dist.*, 653 F.3d 256 (3d Cir. 2011), *cert. denied*, 132 S. Ct. 1097 (holding that prayer at school board meetings conveys a message favoring religion); *Doe v. Tangipahoa Parish Sch. Bd.*, 473 F.3d 188 (5th Cir. 2006), *dismissed on other grounds*, 494 F.3d 494 (5th Cir. 2007) (finding a school board’s practice of opening meetings with sectarian prayer unconstitutional); *Bacus v. Palo Verde Unified Sch. Dist.*, 52 Fed. Appx. 355 (9th Cir. 2002) (finding that a school board violated the Establishment Clause in allowing prayers “in the name of Jesus”); *Coles v. Cleveland Bd. of Educ.*, 171 F.3d 369 (6th Cir. 1999) (finding that a school board’s practice of opening its meetings with prayers violated the Establishment Clause).

The Supreme Court has continually and consistently struck down prayers offered at school-sponsored events. *See, e.g., Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (striking down school-sponsored prayers at football games); *Lee v. Weisman*, 505 U.S. 577 (1992) (finding prayers at public high school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturning law requiring daily “period of silence not to exceed one minute . . . for meditation or daily prayer”); *Abington Twp. Sch. Dist. v. Schempp*, 374 U.S. 203 (1963) (declaring school-sponsored devotional bible reading and recitation of the Lord’s Prayer unconstitutional); *Engel v. Vitale*, 370 U.S. 421 (1962) (declaring prayers in public schools unconstitutional). In each of these cases, the Supreme Court struck down school-sponsored prayer because it constitutes a government advancement and endorsement of religion, which violates the Establishment Clause of the First Amendment.

In *Indian River School District* the court emphasized that school board prayer is analogous to other school prayer cases when it comes to protecting children from the coercion of school-sponsored prayer, which is heightened in the context of public schools. 653 F.3d at 275. In that case, the court also held that the school board meetings are “an atmosphere that contains many of the same indicia of coercion and involuntariness that the Supreme Court has recognized elsewhere in its school prayer jurisprudence.” *Id.* The court’s “decision [was] premised on careful consideration of the role of students at school boards, the purpose of the school board, and the principles underlying the Supreme Court’s school prayer case law.” *Id.* at 281. The final conclusion was that the school board prayer policy “[rose] above the level of interaction between church and state that the Establishment Clause permits.” *Id.* at 290.

Certainly, a public school board is an essential part of the public school system. *See Coles*, 171 F.3d at 381 (“[T]he school board, unlike other public bodies, is an integral part of the public school system.”). Public school boards exist to set policies, procedures, and standards for education within a community. The issues discussed and decisions made at Board meetings are wholly school-related, affecting the daily lives of district students and parents. In striking down the school board’s prayers in *Coles*, the Sixth Circuit found prayers at school board meetings to be squarely within the context of school prayer cases. The court noted, “although meetings of the school board might be of a ‘different variety’ than other school-related activities, the fact remains that they are part of the same ‘class’ as those other activities in that they take place on school property and are inextricably intertwined with the public school system.” *Id.* at 377. Therefore, prayer at public school board meetings is no different than a prayer given at other school district events and is unconstitutional.

If the Board continues to pray it will subject the school district to unnecessary liability and potential financial strain. When FFRF secured a court order against a California school district regarding its school board prayers last year, the court ordered the district to pay more than \$200,000 in the plaintiffs' attorney fees and costs. *Freedom From Religion Found. v. Chino Valley Unified Sch. Dist.*, No. EDCV 14-2336- JGB (DTBx) (C.D. Cal. Feb. 18, 2016) (appeal pending).

We ask that the practice of including prayer at Board meetings be discontinued in the future. Please inform us in writing of the steps you take to remedy this constitutional violation. Thank you in advance for your time and attention to this matter.

Sincerely,



Ryan D. Jayne, Esq.
Elaine and Eric Stone Legal Fellow
Freedom From Religion Foundation

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