

# FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 › MADISON, WI 53701 › (608) 256-8900 › WWW.FFRF.ORG

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**SENT VIA EMAIL & U.S. MAIL: [pamela\\_mckinney@charleston.k12.sc.us](mailto:pamela_mckinney@charleston.k12.sc.us),  
[carlotte\\_bailey@charleston.k12.sc.us](mailto:carlotte_bailey@charleston.k12.sc.us), [keith\\_grybowski@charleston.k12.sc.us](mailto:keith_grybowski@charleston.k12.sc.us),  
[edward\\_kelley@charleston.k12.sc.us](mailto:edward_kelley@charleston.k12.sc.us), [darlene\\_roberson@charleston.k12.sc.us](mailto:darlene_roberson@charleston.k12.sc.us),  
[carol\\_tempel@charleston.k12.sc.us](mailto:carol_tempel@charleston.k12.sc.us), [courtney\\_waters@charleston.k12.sc.us](mailto:courtney_waters@charleston.k12.sc.us),  
[leah\\_whatley@charleston.k12.sc.us](mailto:leah_whatley@charleston.k12.sc.us)**

Ms. Pamela McKinney  
Board of Trustees Chair  
Charleston County Board of Trustees  
75 Calhoun Street  
Charleston, SC 29401

Re: Unconstitutional Prayer at School Board Meetings

Dear Chair McKinney and Board members:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding the Board's recent decision to begin its meetings with prayer. FFRF is a national nonprofit organization with more than 39,000 members across the country, including members in South Carolina. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

A concerned District community member has reported that the Board recently decided to open its meetings with prayer. It is our understanding that the Board intends to invite community faith leaders to open board meetings with prayer. We understand that the original amendment instituting prayer said that faith leaders could not invoke "Jesus Christ," but that provision was removed after multiple board members noted that it discriminated against Christians. We understand the amendment now prevents faith leaders from invoking any specific deity, allowing only blanket references like "God" or "the Almighty." The prayers must also be non-sectarian.

It is clear from these requirements that the Board intends for these prayers to be inclusive and non-exclusionary, but it fails to recognize that not imposing any prayers on those gathered to address school business is the most inclusive practice of all. We ask that the Board not impose prayer upon students, staff, and community members, and instead consider a moment of silence or no board-sponsored religious activity at all, which would comply with the Establishment Clause and protect the constitutional rights of students and parents.

The Supreme Court has 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) (holding formal recitation of prayers in public schools unconstitutional). In each of these cases, the Supreme Court struck down school-sponsored prayer because it constitutes government favoritism towards religion, which violates the Establishment Clause of the First Amendment. The Court's recent decision in *Kennedy v. Bremerton School District* did not alter the law regarding these kinds of coercive prayer practices, nor did it overrule these previous decisions.

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." *FFRF v. Chino Valley Unified Sch. Dist. Bd. of Educ.*, 896 F.3d 1132, 1137 (9th Cir. 2018). 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)). The Court reaffirmed in *Kennedy* that the schools cannot "make a religious observance compulsory." *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407, 2429 (2022) (quoting *Zorach v. Clauson*, 343 U. S. 306, 314 (1952)).

Furthermore, it is unconstitutional for the District to open a public forum for prayer and then place restrictions on the content of those prayers. Many religions do not pray to one generalized deity, and requiring them to do so raises serious free speech and free exercise concerns. The best way to avoid these additional legal issues is to not institute this unconstitutional prayer practice in the first place.

Students and parents have the right—and often reason—to participate in school board meetings. It is coercive, insensitive, and intimidating to force nonreligious citizens to choose between making a public showing of their nonbelief by refusing to participate in the prayer or else 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. However, the Board ought not to lend its power and prestige to religion or coerce attendees into participating in religious exercise, which alienates the thirty-seven percent of Americans who are non-Christians, including the nearly one in three Americans who now identify as religiously unaffiliated.<sup>1</sup>

It is unconstitutional for the Board to institute prayers at its meetings. We request that the Board refrain from including prayer at its meetings in order to protect the rights of students, their parents, and the local community. Please inform us in writing of the steps the Board will take to resolve this matter.

Sincerely,



Christopher Line  
Staff Attorney  
Freedom From Religion Foundation

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<sup>1</sup> Gregory A. Smith, *About Three-in-Ten U.S. Adults Are Now Religiously Unaffiliated*, Pew Research Center (Dec. 14, 2021), [www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/](http://www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/).