

# FREEDOM FROM RELIGION *foundation*

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

July 13, 2022

**SENT VIA EMAIL & U.S. MAIL: m.chidester@californiaschoollaw.net**

Margaret A. Chidester, Esq.  
Chidester & Associates  
17762 Cowan, First Floor  
Irvine, CA 92614

Re: School Board Prayer following Bremerton Decision

Dear Attorney Chidester:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding concerns over statements made by members of the Chino Valley Unified School Board following a recent Supreme Court decision. It is my understanding that you represent the Board. Please let me know if this is no longer the case.

It was brought to our attention that after the Supreme Court decision in *Kennedy v. Bremerton School District* was released on June 27, 2022, some members of the Chino Valley Unified School Board have been discussing introducing prayer back into their school board meetings. The Board's Vice President, Andrew Cruz, recently made some alarming statements implying that the *Bremerton* decision universally permits prayer at school events. Cruz reportedly said, "People have the right to express their faith without fear of reprisal. That's important."<sup>1</sup> He continued, "What's the difference between a coach and me?"<sup>2</sup>

We write to remind the District that prayer during school board meetings remains unconstitutional, and that the *Bremerton* decision simply affirms that school officials may pray privately during times when they are not acting in their official capacity as District representatives. For instance, school board members may pray privately to themselves prior to board meetings. They could not, however, coerce those in attendance to participate in a religious practice by holding public prayers for everyone.

As you are aware, in our case against the District, the Ninth Circuit 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 (9th Cir.), en banc denied, 910 F.3d 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 Supreme Court has regularly struck down prayers imposed on everyone at school-sponsored events. *See, e.g., Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (striking down student-led prayer over a public address system 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

---

<sup>1</sup> Beau Yarbrough, *What Does Supreme Court School Prayer Ruling Mean for Chino Valley Unified?*, The Sun (June 29, 2022), available at

<https://www.sbsun.com/2022/06/29/what-does-supreme-court-school-prayer-ruling-mean-for-chino-valley-unified/>.

<sup>2</sup> *Id.*

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). The recent decision in the *Bremerton* case did not alter the law regarding these kinds of coercive prayer practices, nor did it overrule these previous decisions.

In *Kennedy v. Bremerton School District*, the Court ruled that the Bremerton School District inappropriately disciplined Mr. Kennedy for his personal, private, religious exercise because the prayers for which he was disciplined “were not publicly broadcast or recited to a captive audience.” No. 21-418, at \*29 (U.S. June 27, 2022). The Court also found that his exercise did not involve actually “leading prayers,” but was instead a brief and solitary practice at the conclusion of each game. *Id.* at \*10. Religious invocations at the beginning of school board meetings are entirely different from the private prayer practice the Court found permissible in *Bremerton*. School board meeting 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.” *Chino Valley*, 896 F.3d at 1142 (internal citations omitted).

The school board ought not to lend its power and prestige to religion, coercing those in attendance to participate in religious exercise, and alienating non-religious Americans. Non-religious Americans make up the fastest growing segment of the U.S. population by religious identification—37 percent of Americans are non-Christians, and this includes the nearly one in three Americans who now identify as religiously unaffiliated.<sup>3</sup>

While individuals are certainly free to pray privately or to worship on their own time in their own way, it remains unconstitutional for the Chino Valley School Board to institute prayers at its meetings and events. We request that you properly advise the Board regarding its continued legal obligations under the law in order to uphold the rights of conscience embodied in our First Amendment. We also remind the Board that two of its sitting members, James Na and Andrew Cruz, remain under a permanent injunction and can be held in contempt for violating that injunction. Please inform us in writing at your earliest convenience of any changes the District intends to make to its policies or practices concerning prayer at Board meetings.

Sincerely,



Christopher Line  
Staff Attorney  
Freedom From Religion Foundation

---

<sup>3</sup> Gregory A. Smith, About Three-in-Ten U.S. Adults Are Now Religiously Unaffiliated, Pew Research Center (Dec. 14, 2021), available at [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/).