

FREEDOM FROM RELIGION *foundation*

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SENT VIA EMAIL & U.S. MAIL: chrisgraham@dorchester2.k12.sc.us

Christy Graham
District Attorney
Dorchester School District Two
115 Devon Road
Summerville, SC 29483

Re: Unconstitutional prayer at school board meetings

Dear Ms. Graham:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding an ongoing constitutional violation in Dorchester School District Two. We wrote to the District in 2021 regarding its practice of opening school board meetings and other school events with prayer. In a July 28, 2023 letter, you informed us that our concerns regarding school-sponsored prayer had been “addressed in accordance with state and federal law.” It is our understanding that the school board prayers stopped at this time.

A concerned District community member has reported that in 2022, the Board resumed its practice of opening its meetings with Christian prayers led by Board members. The Board’s agendas confirm that each meeting has opened with a scheduled prayer since September 2022.

We ask that the Board immediately cease imposing prayer upon students, staff, and community members in order to comply with the Establishment Clause of the First Amendment and to respect the rights of every member of the community.

As you are aware, 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)).

In *Lund v. Rowan Cty., N. Carolina*, the Fourth Circuit Court of Appeals, which controls in South Carolina, found that even legislative prayer is unconstitutional when the members of the legislative body are the only ones giving prayers because the government is delivering prayers that were exclusively prepared and controlled by the government, constituting a “much greater and more intimate government involvement” in the prayer practice than those that have been found constitutional. 863 F.3d 268, 278 (4th Cir. 2017). Here, these government delivered prayers are taking place in the school context with its heightened Establishment Clause concerns, a clear violation of the Constitution.

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. Including prayer at Board meetings needlessly excludes those who are among the 37 percent of Americans who are non-Christians,¹ including the 49 percent of Generation Z who are religiously unaffiliated.²

It is unconstitutional for the Board to lead or to host prayers at its meetings. We request that the Board cease 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

¹ 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/.

² 2022 Cooperative Election Study of 60,000 respondents, analyzed by Ryan P. Burge www.religioninpublic.blog/2023/04/03/gen-z-and-religion-in-2022/.