

# FREEDOM FROM RELIGION *foundation*

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Gail Hughes  
Chair, Board of Trustees  
Dorchester School District Two  
115 Devon Road  
Summerville, SC 29483

Re: Unconstitutional Prayer at School Board Meetings and School-sponsored Events

Dear Chair Hughes and Board of Trustees members:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding multiple constitutional violations occurring in Dorchester School District Two. FFRF is a national nonprofit organization with more than 35,000 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 parent has reported that the Dorchester School District Two opens its school board meetings, and many other school-sponsored events, with prayer. The Board of Trustees' agendas confirms that each meeting begins with an "invocation." Our complainant reports that these invocations are led by members of the Board and are always Christian prayers. Our complainant also reports that on March 15, 2021, Assistant Principal William Hodges led a prayer to open an academic awards ceremony at their child's high school. We understand that this is a common practice and that prayer opens up most school-sponsored events.

We write to ensure that the District ceases opening school-sponsored events, or school board meetings, with scheduled prayer led by district staff or board members.

### **Prayer at School-sponsored Events**

It is unlawful for any school-sponsored event to include prayer. The Supreme Court has continually struck down formal and school-led prayer in public schools. *See, e.g., Engel v. Vitale*, 370 U.S. 421 (1962) (declaring prayers in public schools unconstitutional); *Abington Twp. Sch. Dist. v. Schempp*, 374 U.S. 203 (1963) (declaring unconstitutional devotional Bible reading and recitation of the Lord's Prayer in public schools); *Lee v. Weisman*, 505 U.S. 577 (1992) (ruling prayers at public school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturning law requiring daily one minute "period of silence . . . for meditation or daily prayer"); *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 308 (2000) (striking down a school policy that authorized students to vote on whether to hold a prayer at high school football games).

In all of the aforementioned cases, the Supreme Court struck down school-sponsored prayer in public schools because it constitutes a government endorsement of religion, which violates the Establishment Clause of the First Amendment and interferes with the personal conscience of students.

All school events must remain neutral toward religion. School sponsorship of a religious message is impermissible “because it sends the ancillary message to . . . nonadherents ‘that they are outsiders, not full members of the political community and accompanying message to adherents that they are insiders, favored members of the political community.’” *Santa Fe Indep. Sch. Dist.*, 530 U.S. at 309-10 (quoting *Lynch v. Donnelly*, 465 U.S. at 668 (O’Connor, J., concurring)).

### **School Board Prayer**

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. 2018), *petition for review en banc denied*, No. 16-55425 (9th Cir., Dec. 26, 2018); *Doe v. Indian River School District*, 653 F.3d 256 (3d Cir. 2011), *cert. denied*, 132 S. Ct. 1097; *Bacus v. Palo Verde Unified Sch. Dist.*, 52 Fed. Appx. 355 (9th Cir. 2002); *Coles v. Cleveland Bd. of Educ.*, 171 F.3d 369 (6th Cir. 1999).

In *Indian River School District* the Third Circuit Court of Appeals 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 held that 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.

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. The Sixth Circuit noted in *Coles*, “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.

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)).

It is important to note that the U.S. Supreme Court’s decision in *Town of Greece v. Galloway*, permitting sectarian prayers at legislative meetings, has no applicability to the constitutionality of prayers at public school board meetings. In *Chino Valley*, decided after *Town of Greece v. Galloway*, the court distinguished

the Chino Valley School Board from the deliberative 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." *Chino Valley*, 896 F.3d 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, ought not to 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>

Calling upon Board members, parents, students, and members of the public to pray is unconstitutional. We ask that you immediately refrain from scheduling prayers as part of future school board meetings and other school-sponsored events to uphold the rights of conscience embodied in our First Amendment. Please inform us in writing at your earliest convenience of the steps you are taking to remedy these constitutional violations.

Sincerely,

A handwritten signature in blue ink that reads "Chris Line". The signature is written in a cursive, flowing style.

Christopher Line  
Staff Attorney  
Freedom From Religion Foundation

Cc: Joseph Pye, Superintendent, via [jpye@dorchester2.k12.sc.us](mailto:jpye@dorchester2.k12.sc.us)

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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.ppri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf](http://www.ppri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf).