

FREEDOM FROM RELIGION *foundation*

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October 16, 2020

SENT VIA EMAIL & U.S. MAIL: decoe@dothan.k12.al.us

Dennis Coe
Acting Superintendent
Dothan City Schools
1665 Honeysuckle Road
Dothan, AL 36305

Re: Multiple Constitutional Violations

Dear Superintendent Coe:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding multiple constitutional violations occurring in Dothan City Schools. FFRF is a national nonprofit organization with more than 33,000 members across the country, including members in Alabama. 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 multiple constitutional violations occurring in Dothan City Schools. Please investigate the following complaints and respond in writing with the steps the District will take to end these violations and ensure they will not reoccur in the future.

Unconstitutional Religious Promotion

A concerned parent has reported that Dothan Preparatory Academy has been using its Remind App to send out prayer requests to parents and to promote religious events. On September 6, 2020, the school sent the message:

Dothan Prep Parent: Asking all parents and guardians to take a few mins. out your day (5:30pm today) and PRAY for the DPA community with your child. Let's make this year successful for all of DPA!!!

This message was not intended to insult or disrespect anyone who receives it.

On September 12, 2020, Dothan Preparatory Academy promoted a religious prayer walk event through its Remind App:

Dothan Prep Parent: Parents Thank you for your support and a great school start! Let's keep this positive momentum going!! There will be a prayer walk-through this Sunday at 6pm on campus! Stay healthy and safe!

Please see the enclosed screenshots.

It is a fundamental principle of Establishment Clause jurisprudence that public schools may not advance, prefer, or promote religion. *See generally, Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Epperson v. Arkansas*, 393 U.S. 97 (1967); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962). Advancing and promoting religion is exactly what a school district does when it asks district parents to pray with their children or promotes religious prayer events.

Religion is a divisive force in public schools. The Supreme Court has repeatedly noted that “[s]chool sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are nonadherents ‘that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.’” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)). This endorsement of religion and religious events alienates those students, families, teachers, and members of the public whose religious beliefs are inconsistent with the message being promoted by the school. This excludes a sizable portion of your community, as 35 percent of Americans are not Christian, including the 26 percent who are not religiously affiliated.¹

We request that the District investigate this situation and take action to ensure that all of its staff understand and respect their constitutional obligation to remain neutral toward religion while acting in their official capacity.

Unconstitutional School Board Prayer

Our complainant also reported that the Dothan City Schools Board of Education begins all of its meetings with a Christian prayer led by a member of the board.

The Supreme Court has consistently struck down prayers offered at school-sponsored events. *See, e.g., Santa Fe*, 530 U.S. 290 (striking down school-sponsored prayers at football games); *Lee*, 505 U.S. 577 (finding prayers at public high school graduations an impermissible establishment of religion); *Wallace*, 472 U.S. 38 (overturning law requiring daily “period of silence not to exceed one minute . . . for meditation or daily prayer”); *Schempp*, 374 U.S. 203 (declaring school-sponsored devotional Bible reading and recitation of the Lord’s Prayer unconstitutional); *Engel*, 370 U.S. 421 (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 a government advancement and endorsement of religion, which violates the Establishment Clause of the First Amendment.

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.), *en banc denied*, 910 F.3d

¹ *In U.S., Decline of Christianity Continues at Rapid Pace*, Pew Research Center (Oct. 17, 2019), available at <https://www.pewforum.org/2019/10/17/in-u-s-decline-of-christianity-continues-at-rapid-pace/>.

1297 (9th Cir. 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 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.

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.

We request that Dothan City Schools immediately cease sending out prayer requests and promoting religious events to parents via its official communication channels. We also ask that the District refrain from scheduling prayers as part of future school board meetings 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, appearing to read "Chris Line", with a long, sweeping horizontal flourish extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation

Enclosures

Dothan Prep Parent: Asking all parents and guardians to take a few mins. out your day (5:30pm today) and PRAY for the DPA community with your child. Let's make this year successful for all of DPA!!!

This message was not intended to insult or disrespect anyone who receives it.

Today 11:18 AM

Dothan Prep Parent: Parents Thank you for your support and a great school start! Let's keep this positive momentum going!! There will be a prayer walk-through this Sunday at 6pm on campus! Stay healthy and safe!
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Text back to reply