

FREEDOM FROM RELIGION *foundation*

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SENT VIA EMAIL & U.S. MAIL: cclifford@gwusd.org, lhaynes@gwusd.org, ehaynes@gwusd.org, plewis@gwusd.org, dwallace@gwusd.org,

Cherrill Clifford
Board of Trustees President
Gateway Unified School District Board of Trustees
4411 Mountain Lakes Blvd
Redding, CA 96003

Re: Unconstitutional Prayer at School Board Meetings

Dear President Clifford 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 more than 5,000 members and two local chapters in California. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

It is our understanding that the Board recently decided to open its meetings with prayer. We understand that on January 18, 2023, you made a motion to begin the meeting with prayer. The Board then voted 3-2 to open the school board meeting with prayer.

We ask that the Board cease imposing prayer upon students, staff, and community members in order to 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. 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 the most recent case striking down a school board's prayer practice, the Ninth Circuit Court of Appeals, which has jurisdiction over California, 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)).

If the Board continues to pray it will subject the school district to unnecessary liability and potential financial strain. When FFRF secured a court order against a California school district regarding its school board prayers, the court ordered the district to pay more than \$200,000 in the plaintiffs’ attorney fees and costs. *Freedom From Religion Found. v. Chino Valley Unified Sch. Dist.*, No. 5:14-cv-02336-JGB-DTB (C.D. Cal. Feb. 18, 2016).¹ After appeal, the court ordered the district to pay an additional \$75,000 for plaintiffs’ attorney fees and costs associated with the appeal for a total of more than a quarter million dollars.

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.²

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

¹ https://ffrf.org/uploads/legal/FFRFvChinoValley_FeeOrder.pdf

² 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/.