

FREEDOM FROM RELIGION *foundation*

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

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SENT BY EMAIL AND U.S. MAIL

kruesken@griffith.k12.in.us

Kathy Ruesken
School Board President
Griffith Public School
602 N. Raymond
Griffith, IN 46319

Re: Opening school board meetings with prayer

Dear President Ruesken:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to constitutional concerns over the prayer practice at Griffith Public Schools Board of Trustees (Board) meetings. FFRF is a national nonprofit organization with more than 34,000 members across the country, including nearly 500 members in Indiana. 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 district community member contacted FFRF to report that the Board opens each of its meetings with a prayer, led by either a guest or a member of the Board. For example, Pastor Freda Scales with Griffith Lutheran was invited to lead the opening prayer during the January 14, 2021 regular board meeting¹ and Mr. John Dudlicek, Second Vice President of the Board, led the opening prayer during the November 19, 2020 special board meeting.² We are informed that these prayers are invariably Christian in nature.

We write to urge the Board to voluntarily cease opening its meetings with prayer. Ending this practice would create a more welcoming environment for the community's minority religious and nonreligious members. At the very least, the Board should revise its prayer practice. Replacing the prayer practice with a moment of silence would allow the Board's meetings to come to order without ostracizing a significant portion of those in attendance.

The Board is an essential part of the public school system. Students, parents, and district employees have the right—and often have reason—to participate in school board meetings. While those in the religious majority may view opening prayers as striking an appropriately

¹ <https://www.youtube.com/watch?v=rcXc31M29Pc> [YouTube Video]; See also <https://in01000714.schoolwires.net/site/handlers/filedownload.ashx?moduleinstanceid=4245&dataid=7269&FileName=1.14.2021%20Board%20Minutes.pdf>

² <https://in01000714.schoolwires.net/site/handlers/filedownload.ashx?moduleinstanceid=3754&dataid=7175&FileName=November%2019%202020%20Special%20Board%20Meeting.pdf>

solemn tone to mark the start of a meeting, the prayers have the opposite effect for those who do not hold the same religious beliefs as the prayer giver. Minority religious families and community members, as well as those who practice no religion at all, should not be required to make a public showing of their nonbelief (by not rising, bowing their heads, and praying) or else display deference toward a religious sentiment in which they do not believe, in order to participate in official school board business.

Board members are free to pray privately or to worship on their own time, in their own way. No Board member, however, should seek to impose his or her personal religious preferences on those in attendance at meetings. The Board may not lend its power and prestige to religion, amounting in this case to a governmental endorsement of Christianity that excludes the 30% of Americans who are non-Christian. Nationally, among millennials and younger Americans—who make up the entirety of the nation’s student population and most students’ parents—about 46% are non-Christian, either practicing a minority religion or no religion at all.³ Including prayer at meetings unnecessarily ostracizes this significant, growing portion of the district’s community. Griffith Public Schools is religiously diverse and the Board’s practices at meetings should embody a respect for that diversity.

In addition to the divisiveness caused by these opening prayers, the practice also sends the impermissible message that the school district endorses religion over nonreligion. By allowing Board members themselves to lead prayers at meetings, the Board’s current practice likely violates the Establishment Clause of the First Amendment, which prohibits government actors from endorsing one religion over another or religion generally over nonreligion.

Though the Fifth Circuit Court of Appeals recently approved of a school board prayer practice in *American Humanist Association v. McCarty*, the factual background that led to the court’s approval diverges significantly from the Griffith Public Schools Board of Trustees’ practice. *See* 851 F.3d 521 (5th Cir. 2017) (“Although it is possible to imagine a school-board student-expression practice that offends the Establishment Clause, this one, under its specific facts, does not.”).

In *McCarty*, Birdville ISD had established a decades-long practice of opening school board meetings with *student-led statements*, that “can include an invocation” though at a number of meetings “the student speakers have presented poems or read secular statements.” *See McCarty* at 524. Each district campus selected students on a rotating basis to deliver the statements, based on neutral criteria including “academic achievement, leadership, citizenship extracurricular activities, and other factors.” *Id.* at 524 n.4. In fact, when distinguishing Birdville ISD’s practice from other school board prayer practices that have been struck down by the Third and Sixth Circuits, the Fifth Circuit *explicitly noted*, “BISD board members do not deliver the invocations.” *Id.* at 528; *see also id.* at 529 n.24 (“BISD’s case is factually distinguishable from [*Bormuth v. Cty. of Jackson*, 849 F.3d 266 (6th Cir. 2017)], which . . . concerned a county board whose members personally delivered religious invocations . . .”).

³ Robert P. Jones & Daniel Cox, *America’s Changing Religious Identity*, PUBLIC RELIGION RESEARCH INSTITUTE (Sept. 6, 2017), *available at* www.prrri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.

In its current form, the Board's prayer practice needlessly exposes the school district to legal liability while also ostracizing members of your community. Calling upon Board members, district employees, parents, students, and members of the public to pray is unnecessary and divisive. We ask that the Griffith Public Schools Board of Trustees refrain from scheduling invocations as part of future meetings in order to respect the rights of conscience of those in the community who practice a minority religion or no religion at all. Please inform us in writing at your earliest convenience of the changes made to the Board's practice.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe McDonald". The signature is fluid and cursive, with the first name "Joe" and last name "McDonald" clearly distinguishable.

Joseph McDonald
Patrick O'Reiley Legal Fellow
Freedom From Religion Foundation