

FREEDOM FROM RELIGION *foundation*

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SENT VIA U.S. MAIL AND EMAIL

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Elizabeth P. Keith
School Board President
Lebanon Community School Corporation
1810 N. Grant St.
Lebanon, IN 46052

Re: Unconstitutional Prayer at School Board Meetings

Dear Ms. Keith:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in the Lebanon Community School Corporation. FFRF is a national nonprofit organization with more than 36,000 members, including almost 500 members and a chapter in Indiana. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters related to nontheism.

A concerned community member contacted us to report that the Lebanon Community School Corporation Board meetings begin with a prayer. The agenda, found on the Corporation's website, for the October 19, 2021 meeting lists the pledge of allegiance as the first item of business with no mention of prayer. A review of archived school board meeting minutes did not find documentation of prayer. However, a video of the October 19 meeting confirms that "as is our custom, we begin our time with a word of prayer."¹ A prayer was then led by a school board member:

Join me in prayer. Dear God, establish the work of our hands and bring to fulfillment all that you have given us to do in these uncertain days. We pray that you would make our way purposeful and our footsteps firm out of your witness and love. Give us a heart of wisdom to hear your voice and make us strong by your favor and grace. Amen.

Students, who were present to receive awards, were then called up to recite the pledge of allegiance.

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

¹ <https://www.youtube.com/watch?v=HGO8vbaLi3E>.

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 a government advancement and endorsement of religion, which violates the Establishment Clause of the First Amendment.

Scheduling or conducting prayer as part of its meetings is beyond the scope of a public school board. 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 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 with regards 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 found 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 court concluded 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)).

The 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.” *Id.* at 1142 (internal citations omitted).

Students and parents have the right—and often have reason—to participate in school board meetings. Requiring nonreligious citizens to make a public showing of their nonbelief (by not participating) or else to display deference toward a religious sentiment in which they do not believe, but which their school board members do, is coercive, embarrassing, and intimidating. Board members are free to pray privately or to worship on their own time in their own way. By praying at official meetings the school board lends its power and prestige to religion, amounting to a governmental endorsement. Prayer also alienates non-religious Americans who make up the fastest growing segment of the U.S. population by religious identification—35 percent of Americans are non-Christians, including more than one in four Americans who now identify as religiously unaffiliated.²

By praying at school board meetings the Board violates the constitutional requirement of religious neutrality in public schools. We request that the Board immediately refrain from scheduling prayers as part of future meetings to uphold the rights of conscience embodied in our First Amendment. Please inform us in writing of the steps the Board is taking to remedy this constitutional violation so that we may inform our complainant.

Sincerely,



Karen M. Heineman
Patrick O’Reiley Legal Fellow
Freedom From Religion Foundation

² *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/>.