

# FREEDOM FROM RELIGION *foundation*

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**SENT VIA EMAIL & U.S. MAIL: Tami.Tobey@misd.gs, Gary.Vineyard@misd.gs,  
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Tami Tobey  
President  
Midlothian ISD Board of Trustees  
100 Walter Stephenson Rd.  
Midlothian, TX 76065

Re: Unconstitutional Prayer at School Board Meetings

Dear President Tobey and Board of Trustees members:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring at Midlothian ISD School Board meetings. FFRF is a national nonprofit organization with more than 40,000 members across the country, including more than 1,600 members and a local chapter in Texas. 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 Midlothian ISD resident contacted us regarding the Board's practice of opening meetings with exclusively Christian prayers. Our complainant was particularly concerned with a Christian prayer delivered to open a meeting on August 8, 2022. During the prayer, the board member delivering the prayer explicitly discussed not only the business of the school district, but "[God]'s business":

Heavenly Father, we thank You for Your blessings, Lord. Lord, we thank You for a successful first week of school. We lift up our students, our teachers, our staff to You, Lord. Lord, we thank You for the rain. And Heavenly Father, just give us the wisdom to conduct not just the business of the district but Your business. Heavenly Father we give this meeting to You and we pray that Your wisdom be with us. We ask You all this in Jesus' name. Amen.

Our complainant also reports that on December 12, 2022, a board member told the story of Christmas from the bible before leading the opening Christian prayer:

I'd like to start this meeting with a little story. This is a great time of the year - we celebrate Christmas. I think we ought to start with The Christmas Story.  
As it was, Joseph and Mary were traveling to Bethlehem to be taxed. And Mary was great with Child. While they were in Bethlehem came time for her to be delivered. And she brought forth her first-born son wrapped Him in swaddling clothes and laid him in the manger 'cause there was no room for them in the Inn.  
And in the same country shepherds abiding in the field watching over their flocks by night. An angel of the Lord appeared before them and the Glory of the Lord shown about

them. And the shepherds were frightened. And an angel said “fear not! For I bring you tidings of great joy. For unto you this day, in the City of David is born a Savior, Christ the Lord.” And the angel was joined with a multitude of heavenly beings shouting praises to God, saying: “Glory to God in the Highest; Peace on Earth to all men.” And that’s what this community shares with each other.

If you’ll pray with me.

Lord, we thank You for this time that we gather as a board to go about the duties of our office. Allow us to have understanding and just share the good will that we have; to give us knowledge and wisdom in all that we do we ask this in Jesus' Name. Amen.

It is our understanding that students regularly participate in school board meetings for the purposes of presenting to the board or receiving recognition, and that those students are often present during these opening prayers.

We write to urge the Board to voluntarily cease opening its meetings with prayer. Ending this practice of featuring exclusively Christian prayers 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 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, such as our complainant. Minority religious families, students, employees, and 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, or 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 of course 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 government preference for Christianity that excludes the students, families, and employees who belong to the thirty-seven percent of Americans who are non-Christians, including the nearly one in three Americans who now identify as religiously unaffiliated.<sup>1</sup> Including prayer at meetings unnecessarily ostracizes this significant, growing portion of the District’s community. Midlothian ISD is religiously diverse and the Board’s practices at meetings should embody a respect for that diversity and seek to be inclusive.

By including only Christian prayers often with proselytizing or other sectarian religious content, the Board’s current practice likely violates the Establishment Clause of the First Amendment, which prohibits government favoritism of one religion over another or religion generally over nonreligion. It is well

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<sup>1</sup> 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/](http://www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/).

settled that public schools may not show favoritism towards or coerce belief or participation in religion. *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000); *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); *McCollum v Bd. of Ed.*, 333 U.S. 203 (1948). Moreover, government-sponsored prayer “has the improper effect of coercing those present to participate in an act of religious worship.” *Santa Fe*, at 312.

Though the Fifth Circuit Court of Appeals approved of a school board prayer practice in *American Humanist Association v. Birdville Independent School District*, the factual background that led to the court’s approval diverges significantly from the Midlothian ISD Board of Trustees’ practice. 851 F.3d 521 (5th Cir. 2017) (finding that the school board’s practice of opening meetings with student-led statements did not violate the Establishment Clause). Birdville ISD had established a decades-long practice of opening school board meetings with **student-led statements**, that “could include an invocation” though **at a number of meetings “the student speakers have presented poems or read secular statements.”** See *Birdville* at 3 (emphasis added). In contrast, the Midlothian ISD Board of Trustees allows board members, not students, to open its meetings with only Christian prayers. Unlike the Board in Birdville, the Midlothian ISD Board has reportedly not made any attempts to be inclusive by seeking out or allowing invocations or opening statements that represent religions or viewpoints beyond Christianity.

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 Midlothian ISD Board of Trustees refrain from scheduling invocations as part of future meetings in order to respect the rights of conscience all in attendance. Please inform us in writing of the changes made to the Board’s practice so that we may inform our complainant.

Sincerely,



Christopher Line  
Staff Attorney  
Freedom From Religion Foundation