

FREEDOM FROM RELIGION *foundation*

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December 4, 2023

SENT VIA EMAIL & U.S. MAIL: eric.norden@k12.sd.us

Superintendent Eric Norden
Miller School District
P.O. Box 257
Miller, SD 57362

Re: Unconstitutional school-sponsored prayer

Dear Superintendent Norden:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding another constitutional violation that recently occurred in the Miller School District (the District). As you may recall, FFRF is a national nonprofit organization with more than 40,000 members across the country, including members in South Dakota. 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 employee reported that the District's November 9, 2023 Veteran's Day assembly was opened and closed by prayers delivered by a pastor. It is our understanding that the District's annual Veteran's Day assembly took place during the school day on District property and was attended by the entire student body, grades pre-K through 12. Further, we are told that students were required to attend the assembly. We are informed that the pastor asked the audience of students and staff to stand before he began the assembly with the following prayer:

Father, we thank you that we were formed as one nation under God with liberty and justice for all. Thank you for those principles and Lord, we just ask you today that you just guide and direct the leaders of this country. Father, I pray for those in service that were disabled in one way or another that you would just bring peace to them, Lord. Just be with them and touch them, guide them and direct them in Jesus' name Amen.

Reportedly, the pastor once again asked the audience to stand and then closed the Veteran's Day assembly with a second overtly Christian prayer:

Lord, we just thank you for this country that you have placed us in. Lord, I could have been in Germany during World War II as a kid if my grandparents had not immigrated to this country. Lord, I thank you for this freedom that I so enjoy. The freedom of worship, the freedom of speech, and the freedom to be who I want to

be. Lord, I thank you that we can trust you. And Father as I just had read from the words of the song, help us all to be faithful in everything, in Jesus' name, Amen.

Additionally, it is our understanding that the pastor made religious remarks throughout the assembly, such as telling the audience of students that "The Bible says, 'we're faithful in the little things, be faithful in the big things.' I want to leave you today the idea of being faithful. To your county, to your god, and to yourself."

We write to request that the District investigate this situation and ensure that no future school-sponsored events include prayer.

Students have the First Amendment right to be free from religious indoctrination in their public schools, including when participating in school-sponsored events. It is well 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); *McCullum v Bd. of Ed.*, 333 U.S. 203 (1948). The Supreme Court has continually struck down prayers at school-sponsored events. *See Lee*, 505 U.S. 577 (declaring clergy-delivered prayers unconstitutional at a public school graduation). A public school district cannot circumvent the law by asking a third-party to deliver prayers and religious remarks at a school assembly. School officials may not invite a clergy member to give any type of prayer, invocation, benediction, or sermon at a school-sponsored event. *See Santa Fe*, 530 U.S. 290 (holding that student-delivered prayers pursuant to school policy at high school football games violate the Establishment Clause). "It is beyond dispute that, at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise[.]" *Lee* at 587. Furthermore, government-led prayer "has the improper effect of coercing those present to participate in an act of religious worship." *Santa Fe*, at 312.

Here, the District's actions clearly crossed the Constitutional line. The prayers delivered at this school-sponsored assembly were inappropriate and violated the First Amendment rights of all students, staff, and community members in attendance. The District displayed clear favoritism towards religion over nonreligion, and Christianity above all other faiths. Further, students and other audience members were coerced to observe and participate in multiple Christian prayers and proselytizing remarks in order to participate in a mandatory school assembly meant to honor veterans, not promote religion. By permitting this pastor to lead prayers and proselytize at its Veteran's Day assembly, the District put students to the unconstitutional choice of deciding between violating their conscience, or attempting to leave the assembly, risking punishment and retaliation. This is no choice at all.

Moreover, imposing prayer on attendees violates their religious rights. The District serves a diverse population with diverse religious beliefs, including Jews, Muslims, atheists, and agnostics. Thirty-seven percent of the American population is non-Christian, including the

almost 30 percent¹ who are nonreligious. At least a third of Generation Z (those born after 1996) have no religion², with a recent survey revealing almost half of Gen Z qualify as “nones” (religiously unaffiliated).³

In order to comply with the Constitution, the District must investigate this matter and ensure that no future school-sponsored events include prayer. Please inform us in writing of the steps the District is taking to address this constitutional violation so that we may inform our complainant. Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Samantha F. Lawrence". The signature is written in a cursive, flowing style.

Samantha F. Lawrence
Anne Nicol Gaylor Legal Fellow
Freedom From Religion Foundation

¹ 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/.

² Samuel J. Abrams, *Perspective: Why even secular people should worry about Gen Z's lack of faith*, Deseret News (Mar. 4, 2023), www.deseret.com/2023/3/4/23617175/gen-z-faith-religious-nones-civic-life-volunteers-charity

³ 2022 Cooperative Election Study of 60,000 respondents, analyzed by Ryan P. Burgen, www.religioninpublic.blog/2023/04/03/gen-z-and-religion-in-2022/.