

FREEDOM FROM RELIGION *foundation*

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June 23, 2023

SENT VIA EMAIL & U.S. MAIL: ncfbot@ncf.edu

Debra A. Jenks
Board Chair
New College of Florida Board of Trustees
5800 Bay Shore Road
Sarasota, FL 34243

Re: Divisive invocation practice at Board of Trustees meetings

Dear Chairwoman Jenks and Board of Trustees members:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional concern at New College of Florida Board of Trustees meetings. FFRF is a national nonprofit organization with more than 40,000 members, including more than 2,000 members and a local chapter in Florida. 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 New College of Florida employee has reported that the Board of Trustees recently began opening all of its meetings with prayer at the behest of former board member Eddie Speir. The Board's meeting minutes confirm that each meeting begins with prayer and our complainant reports that these prayers are overwhelmingly Christian in nature.

We write to ask that the Board drop its divisive prayer practice in order to respect the rights of staff members and the general public to attend public board meetings without being asked to engage in religious practices.

Prayer at board meetings is unnecessary, inappropriate, and divisive. Board members are free to pray privately or to worship on their own time in their own way. They do not need to worship at a time when they are gathered to address matters concerning a public college. Including prayer at Board meetings needlessly excludes those who are among the nearly 30 percent of adult Americans who are religiously unaffiliated, as well as the additional six percent of Americans adhering to non-Christian faiths.¹

It is important to note that the U.S. Supreme Court's decision in *Town of Greece, N.Y. v. Galloway*, 134 S. Ct. 1811 (2014), which allows invocations at city council meetings under certain circumstances, did not address prayers in a public school or public college context, and in subsequent cases, courts have held that *Greece* does not apply and that prayer is not permissible

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/.

at school board meetings. *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). Other courts have made it clear that prayer at school board meetings is unconstitutional. *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). Prayer at college board meetings is more similar to the school board prayers that have been found unconstitutional than the invocations addressed in *Greece*.

In order to demonstrate the Board's respect for the diverse range of religious and nonreligious persons within the New College of Florida community, we urge the Board to leave religion to the private conscience of each individual by refraining from opening Board meetings with prayer. Please respond in writing with the steps the Board is taking to address these concerns so that we may inform our complainant.

Sincerely,

A handwritten signature in blue ink that reads "Chris Line". The signature is written in a cursive, flowing style with a long horizontal stroke extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation

CAL:pbw