

FREEDOM FROM RELIGION *foundation*

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

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**SENT VIA EMAIL & U.S. MAIL: Frank.Kruppenbacher@osceolaschools.net,
fklegal@hotmail.com**

Frank Kruppenbacher
Counsel
School District of Osceola County
817 Bill Beck Boulevard
Kissimmee, FL 34744

Re: Proposed Unconstitutional Prayer at School Board Meetings

Dear Mr. Kruppenbacher:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding the School District of Osceola County's proposal to bring back prayers at its school board meetings. It is our understanding that the School District of Osceola County is considering a proposal to bring prayer back to its school board meetings. We understand that this practice would be similar to the legislative prayer practice in *Town of Greece v. Galloway*. We write to urge the Board to continue with its moment of silence, which offends no one and does not expose the Board to any potential legal liability.

While allowing local religious leaders to deliver prayers has been found permissible in the context of legislative meetings, multiple courts have made it clear that prayers are impermissible as part of school board meetings. The Board's proposed policy 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 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 U.S. 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).

As you are aware, students and parents have the right—and often have reason—to participate in school board meetings. It is coercive, embarrassing, and intimidating for nonreligious citizens to be required to make a public showing of their nonbelief (by not rising or praying) or else to display deference toward a religious sentiment in which they do not believe, but which their school board members clearly do. Board members are free to pray privately or to worship on their own time in their own way. The school board, however, ought not to lend its power and prestige to religion, amounting to a governmental endorsement of religion which alienates non-religious Americans. Non-religious Americans make up the fastest growing segment of the U.S. population by religious identification—35 percent of Americans are non-Christians, and this includes the 25 percent of Osceola County residents who identify as religiously unaffiliated.¹

It is unconstitutional for the Board to institute prayers at its meetings, and it made the right decision when ending the divisive practice. The Board should stand by its decision and respect the rights of all Osceola County parents, students, and community by not reinstating prayer at its meetings.

Sincerely,



Christopher Line
Staff Attorney
Freedom From Religion Foundation

¹ *The 2020 Census of American Religion*, Public Religion Research Institute (July 8, 2021), available at <https://www.ppri.org/research/2020-census-of-american-religion>.