

FREEDOM FROM RELIGION *foundation*

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August 17, 2012

SENT VIA FAX & U.S. MAIL
(717) 354-1512

Glenn M. Yoder
President
Eastern Lancaster County Board of School Directors
669 East Main Street
New Holland, PA 17557

Re: Prayers at School Board Meetings

Dear Mr. Yoder and Board Members:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a serious constitutional violation occurring in your school district. We were contacted by a Pennsylvania resident and taxpayer about the Eastern Lancaster County Board of School Directors' ("Board") practice of scheduling prayer as part of its meetings. FFRF is a national nonprofit organization with over 18,500 members, including over 600 members in Pennsylvania.

It is our information and understanding that the Board begins every meeting with prayer. We further understand that the Board holds a regular meeting once a month.

It is beyond the scope of a public school board to schedule prayer as part of its scheduled meetings. Federal courts have struck down school board practices that include this religious ritual. *See Doe v. Indian River School District*, 653 F.3d 256 (3d Cir. 2011), *cert. denied*, 132 S. Ct. 1097 (U.S. Jan. 17, 2012)(No.11-569)(holding that prayer at school board meetings conveys message favoring religion); *Coles v. Cleveland Bd. of Educ.*, 171 F.3d 369 (6th Cir. 1999)(finding that a school board's practice of opening its meetings with prayers violated the Establishment Clause); *Doe v. Tangipahoa Parish Sch. Bd.*, 473 F.3d 188 (5th Cir. 2006), *dismissed on other grounds*, 494 F.3d 494 (5th Cir. 2007)(finding a school boards practice of opening meetings with sectarian prayer unconstitutional); *Bacus v. Palo Verde Unified Sch. Dist.*, 52 Fed. Appx. 355, (9th Cir. Cal. 2002)(finding that a school board violated the Establishment Clause in allowing prayers "in the name of Jesus").

The Supreme Court has continually and consistently struck down prayer by school officials in the public schools. *See, e.g., Abington Township Sch. Dist. v. Schempp*, 374 U.S. 203 (1963)(declared unconstitutional devotional Bible reading and recitation of the Lord's Prayer in public schools); *Engel v. Vitale*, 370 U.S. 421 (1962)(declared prayers in public schools unconstitutional); *See also Lee v. Weisman*, 505 U.S. 577 (1992)(ruled prayers at public high school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985)(overturned law requiring daily "period of silence not to exceed one minute ... for meditation or daily prayer."); *Jager v. Douglas County Sch. Dist.*, 862 F.2d 825 (11th Cir. 1989), *cert. denied*, 490 U.S. 1090 (1989)(holding unconstitutional pre-game invocations at high school football games). In all of the aforementioned cases, the federal courts have struck down prayer in the public school context

because it constitutes a government endorsement of religion, which violates the Establishment Clause of the First Amendment.

The Third Circuit Court of Appeals, which encompasses Pennsylvania, emphasized in *Doe v. Indian River School District* that school board prayer is analogous to other school prayer cases when it comes 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 also held 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.* In *Indian River School District*, 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 final conclusion was that the school board prayer policy “[rose] above the level of interaction between church and state that the Establishment Clause permits.” *Id.* at 290.

Certainly, a public school board is an essential part of the public school system. *See Coles v. Cleveland Bd. of Educ.*, 171 F.3d at 381 (“...the 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. In striking down the board’s prayers in *Coles*, the Sixth Circuit found prayers at school board meetings to be squarely within the context of school prayer cases. The court noted, “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. Therefore, prayer at public school board meetings is no different than a prayer given at other school district events and is unconstitutional.

Prayer at public school board meetings is unnecessary, inappropriate, and divisive. Calling upon Board members, as well as parents and students of the school, to pray is coercive, embarrassing, and beyond the scope of our secular school system. 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 that excludes the 15% or more of the U.S. population that is nonreligious, including nearly 1.5 million Pennsylvanians (American Religious Identification Survey, 2008).

We ask that you take immediate action and refrain from scheduling prayers as part of future school board prayer meetings. We further ask that you respond in writing with the steps you are taking to remedy this constitutional violation.

Sincerely,



Rebecca S. Markert
Staff Attorney

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