

# FREEDOM FROM RELIGION *foundation*

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November 24, 2010

Larry Smith, Chairman  
McNairy County Schools  
170 W Court Ave  
Selmer, TN 38375

Re: Prayers at School Board Meetings

Dear Mr. Smith:

I am writing on behalf of a concerned McNairy County citizen, and other members of the Freedom From Religion Foundation (FFRF), who object to the School Board's practice of opening each meeting with prayer. FFRF is a national nonprofit organization with 16,000 members across the country including nearly 200 in Tennessee. Our purpose is to protect the constitutional principle of separation between state and church.

It is our information and understanding that the McNairy County School Board (Board) begins its monthly meetings with prayer. Oftentimes, these prayers are Christian in nature. Our complainant informs us that the Board meets regularly at the McNairy County Courthouse.

It is beyond the scope of a public school board to schedule prayer as part of its monthly meetings. Federal courts have struck down school board practices that include this religious ritual. *See 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). The Board compounds the violation when a majority of prayers are to Jesus. Such prayerful practices demonstrate the Board's unconstitutional endorsement not only of religion over nonreligion but also Christianity over all other faiths. *See 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 board's practice of opening meetings with sectarian prayer unconstitutional); *Bacus v. Palo Verde Unified Sch. Dist.*, 52 Fed.Appx. 355, 2002 WL 31724273 (C.A. 9 (Cal.)) (finding that a school board violated the Establishment Clause in allowing prayers "in the name of Jesus").

Oftentimes, local school board meetings are attended by students who are directly affected by the policies and decisions made at the board meetings. This raises additional concerns given the line of cases prohibiting prayer at public school events. 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. den., 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.

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 these meetings are wholly school-related affecting the daily lives of district students and parents. In striking down the board’s prayers in *Coles v. Cleveland Bd. of Educ.*, 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.” 171 F.3d at 377. Therefore, prayer at public school board meetings is no different than a prayer given at other school district events and is unconstitutional.

Finally, 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 rise and 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% of the U.S. population that is nonreligious (Religious Identification Survey 2008).

McNairy County, Tennessee, is within the Sixth Circuit, which has held that prayers at school board meetings are unconstitutional. Therefore, McNairy County School Board must discontinue the practice of scheduling an invocation as part of its meetings. By hosting prayers, which inevitably show preference for Christianity, the Board is inappropriately imposing its religious beliefs on the parents and students who attend meetings for school business.

We request a written reply regarding the steps you are taking to address this serious constitutional violation so that we may notify our complainant.

Sincerely,



Rebecca S. Markert  
Staff Attorney