

FREEDOM FROM RELIGION *foundation*

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

April 17, 2024

SENT VIA EMAIL AND U.S. MAIL: millers@frankfort.k12.in.us; suttonk@frankfort.k12.in.us; mcquadej@frankfort.k12.in.us; beardsleyk@frankfort.k12.in.us; marcumr@frankfort.k12.in.us; mitchellm@frankfort.k12.in.us; tatumjo@frankfort.k12.in.us

President Sandra Miller
Community Schools of Frankfort Board of Trustees
2400 E. Wabash St.
Frankfort, IN 46041

Re: Continued unconstitutional school board prayer

Dear President Miller & Board Members:

I am again writing on behalf of the Freedom From Religion Foundation (FFRF) regarding an ongoing constitutional violation occurring at the CSF Board of Trustees meetings. Unfortunately, we have yet to receive a response to our January 8, 2024 letter regarding prayers at Board meetings.

A concerned community member reported that the Board has continued its practice of opening its meetings with prayer. It is our understanding that following our initial letter, the Board attempted to “fix” the constitutional violation by asking a local pastor to lead the prayer rather than a Board member. For example, the official video of the February 13, 2024 Board meeting shows a Board member calling a pastor to the front of the room to deliver the following pre-planned invocation given in the name of “Dear Heavenly Father” and “God.”¹ Per the video, the pastor asked audience members to bow their heads and participate in the overtly Christian prayer.² Further, the March 12, 2024 Board meeting and April 9, 2024 meeting also opened with Christian prayers led by community members.³

We again write to request that the Board cease opening its meetings with prayer in violation of the Constitution’s Establishment Clause.

As we previously explained, the Supreme Court has consistently struck down prayers offered at school-sponsored events. *See, e.g., Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (striking down school-sponsored prayers at football games); *Lee v. Weisman*, 505 U.S. 577 (1992) (finding prayers at public high school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturning law requiring daily “period of silence not to exceed one minute . . . for meditation or daily prayer”); *Abington Twp. Sch. Dist. v. Schempp*, 374 U.S. 203 (1963) (declaring school-sponsored devotional Bible reading and recitation of the Lord’s Prayer unconstitutional); *Engel v. Vitale*, 370 U.S.

¹ *School Board Meeting February 13, 2024*, <https://www.frankfortschools.org/apps/video/watch.jsp?v=368639>.

² *Id.*

³ *School Board Meeting March 12, 2024*,

https://www.frankfortschools.org/apps/pages/index.jsp?uREC_ID=813657&type=d&pREC_ID=video&showMore=1&titleREC_ID=370331; *School Board Meeting April 9, 2024*,

https://www.frankfortschools.org/apps/pages/index.jsp?uREC_ID=813657&type=d&pREC_ID=video&showMore=1&titleREC_ID=371812.

421 (1962) (holding formal recitation of prayers in public schools unconstitutional). In each of these cases, the Supreme Court struck down school-sponsored prayer because it is coercive and constitutes government favoritism towards religion, which violates the Establishment Clause of the First Amendment. The Court's decision in *Kennedy v. Bremerton School District* did not alter the law regarding these kinds of coercive prayer practices, nor did it overrule these previous decisions. 597 U.S. 507 (2022).

The Board is aware that federal courts have held that opening public school board meetings with sectarian prayer 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. 2018), *petition for review en banc denied*, No. 16-55425 (9th Cir., Dec. 26, 2018); *Doe v. Indian River Sch. Dist.*, 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). Here, the Board's new practice of inviting clergy and community members to deliver religious invocations at the start of meetings unconstitutionally coerces attendees to participate in and observe religious exercise. The Board's choice to set aside time at the beginning of each meeting specifically for uniformly Christian invocations displays clear favoritism towards Christianity over all other faiths, and religion over nonreligion.

The Supreme Court's decision in *Town of Greece v. Galloway*, permitting sectarian prayers at legislative meetings, like county board meetings or meetings of Congress, has no applicability to the constitutionality of prayers at public school board meetings. In *Chino Valley*, which was decided after *Town of Greece v. Galloway*, the court distinguished the school board from the deliberative legislative bodies considered in *Marsh v. Chambers* and *Galloway* and held that the board's prayer practice must be analyzed as a school prayer case. See *Marsh v. Chambers*, 463 U.S. 783 (1983). 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." *Chino Valley*, 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).

Opening Board meetings with prayer is unconstitutional, even if the scheduled, uniformly religious and entirely Christian prayers are read by clergy and community members rather than Board members. We again ask that the Board refrain from opening its meetings with prayer out of respect for attendees' First Amendment rights and the separation between state and church. We look forward to your response in writing detailing the steps the Board is taking to address this matter.

Sincerely,

A handwritten signature in black ink that reads "Samantha F. Lawrence". The signature is written in a cursive style with a large initial 'S'.

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