

FREEDOM FROM RELIGION *foundation*

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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: Unconstitutional school board prayer

Dear President Miller & Board Members:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring at the CSF Board of Trustees Meetings. FFRF is a national nonprofit organization with more than 40,000 members across the country, including over 500 members and a local chapter in Indiana. 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 community member reported that the Board opens each of its meetings with Christian prayer. For instance, the December 12, 2023 Board meeting began with a Christian prayer led by a Board member following the Pledge of Allegiance.¹ All attendees were asked to stand for the Pledge and remain standing for the prayer. Similarly, the November 16, 2023 Board meeting also began with a Christian prayer led by a Board member following the Pledge, and attendees were asked to remain standing for the prayer which was addressed to “Dear Heavenly Father” and given in the name of Jesus Christ.²

Our complainant further explained that they “feel the school board does not respect the rights of citizens to be free of religious influence during its public meetings.”

We write to request that the Board cease opening its meetings with prayer in violation of the Constitution. If the Board wishes to solemnize its meetings, it can institute a moment of silence instead, which would allow individuals who wish to pray to do so privately without infringing upon the rights of others.

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

¹ December 12, 2023 Board Meeting,
https://www.frankfortschools.org/apps/pages/index.jsp?uREC_ID=813657&type=d&pREC_ID=video&showMore=1&titleREC_ID=365869.

² November 16, 2023 Board Meeting,
https://www.frankfortschools.org/apps/pages/index.jsp?uREC_ID=813657&type=d&pREC_ID=video&showMore=1&titleREC_ID=364798.

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. 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.

Further, 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 practice of opening meetings with member-led Christian prayers and expecting attendees to stand and participate in the prayers unconstitutionally coerces attendees to participate and observe a religious ritual. Further, the Board’s actions display clear favoritism towards religion over nonreligion, and Christianity over all other faiths.

In *Indian River School District* the Third Circuit Court of Appeals emphasized 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 held that 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.* 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.

A public school board is an essential part of the public school system. See *Coles*, 171 F.3d at 381 (“[T]he 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. The Sixth Circuit noted in *Coles*, “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.

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)).

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. The Board's actions needlessly alienate students, families, and community members who do not subscribe to Christianity. 37 percent of the American population is non-Christian, including the almost 30 percent³ who are nonreligious. At least a third of Generation Z (those born after 1996) have no religion⁴, with a recent survey revealing almost half of Gen Z qualify as "nones" (religiously unaffiliated).⁵

Calling upon students, parents, and other Board meeting attendees to pray is unconstitutional. We ask that the Board immediately refrain from opening its meetings with prayer. If the Board wishes to solemnize its meetings, we urge the Board to adopt a moment of silence instead out of respect for attendees' First Amendment rights. Please inform us in writing of the steps the Board is taking to address this matter so that we may inform our complainant. Thank you for your time and attention.

Sincerely,

A handwritten signature in black ink that reads "Samantha F. Lawrence". The signature is written in a cursive, flowing style.

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

³ 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/.

⁴ Samuel J. Abrams, *Perspective: Why even secular people should worry about Gen Z's lack of faith*, Deseret News (Mar. 4, 2023), www.deseret.com/2023/3/4/23617175/gen-z-faith-religious-nones-civic-life-volunteers-charity

⁵ 2022 Cooperative Election Study of 60,000 respondents, analyzed by Ryan P. Burge www.religioninpublic.blog/2023/04/03/gen-z-and-religion-in-2022/.