

# FREEDOM FROM RELIGION *foundation*

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## SENT VIA EMAIL & U.S. MAIL

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Zonie Jackson  
President  
McGuffey Area School Board  
90 McGuffey Drive  
Claysville, PA 15323

Re: Unconstitutional School Board Prayer

Dear President Jackson and Board Members:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring at the McGuffey School District. FFRF is a national nonprofit organization with over 40,000 members across the country, including over 1,100 members in Pennsylvania. 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 school district employee informs us that at the February 15, 2024 meeting of the McGuffey School Board, President Jackson announced that the majority of Board members decided to begin Board meetings with prayer led by “a pastor or minister from a church.” The pastor who gave the prayer at the meeting thanked “Dear Heavenly Father” for the Board members wanting to “include You” in Board meetings, continuing, “I thank You for all that You’re going to do through this school now that things are being under You [*sic*].” The pastor concluded, “We praise You in Your precious heavenly name.”

The person who reached out to us wrote, “As a member of the community and a person who works at the district, I was appalled and felt excluded that they were saying a Christian prayer in a public school building during the school board meeting.”

We ask that you immediately cease including prayer in your school board meetings.

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 school graduations impermissible); *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 prayer in public schools unconstitutional). In each of these cases, the Supreme Court struck down school-sponsored prayer because it constitutes government favoritism towards religion, which violates the Establishment Clause of the First Amendment. The Court’s recent 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. 142 S.Ct. 2407 (2022).

It is beyond the scope of a public school board to conduct, or allow others to conduct, prayer as part of its meetings. This practice 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); *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 *Doe v. Indian River School District*, a case also not overruled by *Kennedy*, the Third Circuit Court of Appeals, which has jurisdiction over Pennsylvania, 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. 653 F.3d 256, 275 (3d Cir. 2011), *cert. denied*, 132 S.Ct. 1097 (2012). 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.* at 275. 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. That court concluded that the school board prayer policy “[rose] above the level of interaction between church and state that the Establishment Clause permits.” *Id.* at 290. So too does the Board instituting prayer before its school board meetings.

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.” *FFRF v. Chino Valley Unified Sch. Dist. Bd. of Educ.*, 896 F.3d 1132, 1137 (9th Cir. 2018). 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 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.” 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).

Students, parents, and employees have the right—and often reason—to participate in school board meetings. It is coercive, insensitive, and intimidating to force nonreligious attendees to choose between making a public showing of their nonbelief by refusing to participate in the prayer or else 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. Needlessly including prayer at Board meetings excludes those who are among the 37 percent of Americans who are non-Christians,<sup>1</sup> including the 49 percent of Generation Z who are religiously unaffiliated.<sup>2</sup>

It is unconstitutional for the McGuffey School Board to impose prayer on those students, parents, employees, and community members in attendance at its meetings. We request that you take immediate action to stop official prayer at Board meetings to protect the rights of students, their parents, your employees, and the local community. Please inform us in writing of the steps the Board will take to resolve this matter.

Sincerely,



Madeline Ziegler  
Staff Attorney  
Freedom From Religion Foundation

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<sup>1</sup> 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/](http://www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/).

<sup>2</sup> 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/](http://www.religioninpublic.blog/2023/04/03/gen-z-and-religion-in-2022/).