

FREEDOM FROM RELIGION *foundation*

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**SENT VIA EMAIL & U.S. MAIL: zone2@minidokaschools.org,
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Russ Suchan
Board Chair
Minidoka County Board of Trustees
310 10th Street
Rupert, ID 83350

Re: Unconstitutional Prayer at Board of Trustees Meeting

Dear Chair Suchan and Trustees:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring at Minidoka County Board of Trustees meetings. FFRF is a national nonprofit organization with more than 40,000 members across the country, including members in Idaho. 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 Minidoka County School District parent has reported that the Board opens all of its meetings with Christian prayer led by trustees. The Board's agendas and video of its meetings confirm that every meeting begins with a Christian prayer. For example, the March 18, 2024 meeting opened with a prayer delivered "in the name of our savior Jesus Christ" by Trustee Juan Perez. The February 26, 2024 meeting opened with a prayer delivered by Trustee Jacob Claridge "in the name of thy Son Jesus Christ." The January 23, 2024 meeting opened with a prayer delivered by Trustee Rick Kent in the name of "Jesus Christ."

We write to ask that the Board cease opening its meetings with prayer going forward.

It is beyond the scope of a public school board to schedule or 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), *petition for review en banc denied*, No. 16-55425 (9th Cir., Dec. 26, 2018); *Doe v. Indian River School District*, 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).

In the most recent case striking down a school board's prayer practice, the Ninth Circuit Court of Appeals, which controls in Idaho, 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)).

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 *Lund v. Rowan Cty., N. Carolina*, the Fourth Circuit Court of Appeals found that even prayer at legislative meetings is unconstitutional when the members of the legislative body are the only ones giving prayers because the government is delivering prayers that were exclusively prepared and controlled by the government, constituting a “much greater and more intimate government involvement” in the prayer practice than those that have been found constitutional. 863 F.3d 268, 278 (4th Cir. 2017). Here, the prayers are being delivered by trustees. These government-delivered prayers, taking place in the public school context with its heightened Establishment Clause concerns, are an even clearer violation of the Constitution.

It is important to note that this case is readily distinguishable from the Supreme Court’s ruling in *Kennedy v. Bremerton School District*. In *Bremerton*, the Court held that a high school football coach’s silent, private post-game prayer was constitutional. 142 S.Ct. 2407, 2415–16 (2022). Throughout its opinion, the Court repeatedly stressed that the coach silently prayed alone. *Id.* (the coach “offered his prayers quietly while his students were otherwise occupied.”). The prayers “were not publicly broadcast or recited to a captive audience. Students were not required or expected to participate.” *Id.* at 2432. Additionally, the Court concluded the coach’s quiet private prayer was private speech. *Id.* at 2423–24. (the coach’s prayer was not given while he was performing official duties such as instructing players, discussing strategy, or encouraging

better performance). In contrast, the Board here holds a public prayer as an official part of its meeting.

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. 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 which excludes the thirty-seven percent of Americans who are non-Christian, including the nearly one in three Americans who now identify as religiously unaffiliated.¹

Calling upon students, parents, and other Board meeting attendees to pray is unconstitutional. We ask that you refrain from including prayers as part of future Board of Trustees meetings and other school-sponsored events to uphold the rights of conscience embodied in our First Amendment. Please inform us in writing at your earliest convenience of the steps you are taking to remedy this constitutional concern so that we can inform our complainant.

Sincerely,

A handwritten signature in blue ink that reads "Chris Line". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation

¹ Gregory A. Smith, About Three-in-Ten U.S. Adults Are Now Religiously Unaffiliated, Pew Research Center (Dec. 14, 2021), available at www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/.