



FREEDOM  
FROM RELIGION  
foundation



November 15, 2024

**Re: Unlawful and unconstitutional prayer video request from State Superintendent Ryan Walters**

Dear Superintendent:

The undersigned organizations—the American Civil Liberties Union of Oklahoma, the American Civil Liberties Union, the Freedom From Religion Foundation, Americans United for Separation of Church and State, and Oklahoma Applesseed Center for Law & Justice—are writing to you regarding your obligations to follow the law and not to violate the constitutional rights of your students and those of their families.

We are aware that on November 14, in his capacity as State Superintendent of Public Instruction, Ryan Walters emailed<sup>1</sup> all school district superintendents within the state, asserting that they must show a political and religious video<sup>2</sup> of Walters to all district students and must also send it to all parents. The video includes a lengthy prayer by Walters.

The email request by Walters appears to further his personal political ambitions, but not any legitimate educational interest. Walters's demand is harmful to your students and violates the U.S. Constitution, the Oklahoma Constitution, state law, and likely your school district's policies.

**The prayer video violates the First Amendment to the U.S. Constitution.**

Students have the First Amendment right to be free from official school prayers. It is well settled that public schools may not show favoritism towards or coerce belief or participation in religion. *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000); *Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Epperson v. Arkansas*, 393 U.S. 97 (1967); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962); *McCullum v. Bd. of Educ.*, 333 U.S. 203 (1948). The Supreme Court has repeatedly prohibited prayers that are part of school events. *See Lee*, 505 U.S. 577 (declaring clergy-delivered prayers unconstitutional at a public school graduation); *Santa Fe*, 530 U.S. 290 (holding that prayers delivered pursuant to school policy at high school football games violate the First Amendment's Establishment Clause); *Schempp*, 374 U.S. 203 (striking down statute providing for school-sponsored prayer and Bible readings in the classroom);

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<sup>1</sup> A news report indicates that the email to some school districts was recalled hours after it was sent.

<sup>2</sup> <https://www.youtube.com/watch?v=wVBYmrppOnM>

*Engel*, 370 U.S. 421 (prohibiting school-sponsored voluntary morning prayers). “It is beyond dispute that, at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise[.]” *Lee*, 505 U.S. at 587. And government-led prayer “has the improper effect of coercing those present to participate in an act of religious worship.” *Santa Fe*, 530 U.S. at 312.

It is no defense that Walters claims in the video that students can choose not to join the prayer. The Supreme Court has repeatedly rejected arguments that allowing students to remain silent during school-sponsored prayer renders it constitutional. *See Lee*, 505 U.S. at 596; *Schempp*, 374 U.S. at 224–25; *Engel*, 370 U.S. at 430. School districts cannot escape their constitutional duties by improperly claiming that such prayers are “voluntary.”

Here, any school district that plays the Walters prayer video for students would be crossing the constitutional line. Requiring students to watch a prayer video violates students’ religious freedom, including their Establishment Clause rights.

### **The prayer video violates the Oklahoma Constitution.**

Under the Oklahoma Constitution, school officials may not abuse their authority by broadcasting prayers for students to observe or participate in. The Oklahoma Supreme Court has been clear that the Oklahoma Constitution protects the religious liberty of students by prohibiting the government from engaging in religious practices. *See Drummond ex rel. State v. Oklahoma Statewide Virtual Charter Sch. Bd.*, 2024 OK 53.

Playing or disseminating the prayer video would violate Article I, Section 2 of the Oklahoma Constitution. That constitutional clause states: “Perfect toleration of religious sentiment shall be secured, and no inhabitant of the State shall ever be molested in person or property on account of his or her mode of religious worship; and no religious test shall be required for the exercise of civil or political rights.” This clause provides at least the same protections as the federal Establishment Clause. *See Prescott v. Okla. Capitol Pres. Comm’n*, 2015 OK 54, ¶ 22, 373 P.3d 1032 (Taylor, J., concurring); *Guinn v. Church of Christ of Collinsville*, 1989 OK 8, ¶ 6, 775 P.2d 766 (Kauger, J., concurring in part); *McMasters v. State*, 207 P. 566, 568 (Okla. Crim. App. 1922). Subjecting students to the Walters prayer video would not be “[p]erfect toleration of religious sentiment” and would instead “molest[.]” students on “account of [their] mode of religious worship.”

### **The request exceeds the authority of the State Superintendent.**

Finally, Superintendent Walters lacks authority to require that local school districts include specific content in their delivery of instruction or in their day-to-day operations. School districts are charged with “maintain[ing] and operat[ing] a complete public school system of such character as the [local] board of education shall deem best suited to the needs of the school district.” 70 O.S. § 5-117(3). Moreover, “[s]chool districts shall *exclusively* determine the instruction, curriculum, reading lists and

instructional materials and textbooks, subject to any applicable provisions or requirements as set forth in law, to be used in meeting the [state] subject matter standards.” 70 O.S. § 11-103.6a(F) (emphasis added). Nothing in the statutes governing Superintendent Walters’s powers and duties authorizes him to require schools to play this video. *See* 70 O.S. §§ 3-104, 3-107, 3-107.1.

In *Independent School District Number 12 v. State Board of Education*, the Oklahoma Supreme Court ruled that “[a] general supervisory role, by itself, does not give [Superintendent Walters or the State Board of Education] authority to strip a local school board of its statutory control over a specific matter.” 2024 OK 39, ¶ 35. The allocation of authority to school districts to “maintain and operate” public schools (70 O.S. § 5-117(3)) and to determine specific instruction (70 O.S. § 11-103.6a(F)) is consistent with “the Legislature’s long-held public policy” that “[t]he school system is designed to strengthen and encourage local responsibility for control of public education, with the maximum public autonomy and responsibility remaining at the local level.” *Id.* ¶ 38 (quoting *Ritter v. State*, 2022 OK 73, ¶ 17, 520 P.3d 370). School districts are thus not legally bound to comply with the requests in Walters’s prayer-video email.

We urge you to follow the law and your constitutional obligations and refrain from playing or sending the Walters prayer video to students and parents.

Sincerely,

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