

FREEDOM FROM RELIGION *foundation*

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

October 31, 2024

SENT VIA FAX & U.S. MAIL: 209-523-9997

President Shawn Brunk
Hart-Ransom USD Board of Trustees
3920 Shoemake Ave
Modesto, CA 95358

Re: Unconstitutional school board prayer practice

Dear President Brunk:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding the Board's reported practice of beginning its meetings with prayer. FFRF is a national nonprofit organization with more than 40,000 members across the country, including more than 5,000 members and two chapters in California. 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 District parent reported that the Board begins each of its meetings with a prayer led by one of the members. Additionally, the Board's official agendas list an "invocation" at the beginning of meetings.¹ It's our understanding that the Board asks attendees to participate in the prayer and that the prayers are specifically and uniformly Christian. Our complainant further explains that they are nonreligious, and that the Board's opening prayer at a meeting they attended made them "extremely uncomfortable."

Out of respect for the First Amendment and the diversity of the community, we write to request the Board cease opening its meetings with prayer.

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"); *Sch. Dist. Abington Twp. 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's unconstitutionally coercive and constitutes government favoritism toward religion, which violates the Establishment Clause of the First Amendment.

¹ *See, e.g.*, October 17, 2024 Regular Board Meeting Agenda, https://simbli.eboardsolutions.com/SB_Meetings/ViewMeeting.aspx?S=36030256&MID=31845; September 12, 2024 Regular Board Meeting Agenda, https://simbli.eboardsolutions.com/SB_Meetings/ViewMeeting.aspx?S=36030256&MID=31844; August 8, 2024 Regular Board Meeting Agenda, https://simbli.eboardsolutions.com/SB_Meetings/ViewMeeting.aspx?S=36030256&MID=31713.

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. The Court reaffirmed in *Kennedy* that schools cannot “make a religious observance compulsory.” *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 537 (2022) (quoting *Zorach v. Clauson*, 343 U. S. 306, 314 (1952)). This situation differs significantly from *Kennedy*, in which the Court held that a high school football coach’s silent, private post-game prayer was constitutional. 597 U.S. 507 (2022). Throughout its opinion, the Court repeatedly stressed that the coach silently prayed alone. *Id.* at 513–14. (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 542. In contrast, here the Board is leading prayers at official meetings and requesting attendees participate in the prayer.

In the most recent case striking down a school board’s prayer practice, the Ninth Circuit Court of Appeals, which has jurisdiction over California, 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)).

If the Board continues opening its meetings with prayer it will subject the District to unnecessary liability and potential financial strain. When FFRF secured a court order in the *Chino Valley* case regarding its school board prayers, the court ordered the district to pay more than \$200,000 in the plaintiffs’ attorney fees and costs. *Freedom From Religion Found. v. Chino Valley Unified Sch. Dist.*, No. 5:14-cv-02336-JGB-DTB (C.D. Cal. Feb. 18, 2016).² After appeal, the court ordered the district to pay an additional \$75,000 for plaintiffs’ attorney fees and costs associated with the appeal for a total of more than a quarter million dollars.

Students and parents, such as our complainant, have the right—and often reason—to participate in school board meetings. It is coercive, insensitive, and intimidating to force nonreligious and minority faith citizens to choose between making a public showing of being non-Christian 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. However, the Board ought not to lend its power and prestige to religion or coerce attendees into participating in religious exercise. The Board’s actions marginalize the community members who belong to the 37 percent of the American population who are 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

² https://ffrf.org/uploads/legal/FFRFvChinoValley_FeeOrder.pdf.

³ Gregory A. Smith, *Religious ‘Nones’ in America: Who They Are and What They Believe*, Pew Research Center, Jan. 24, 2024,

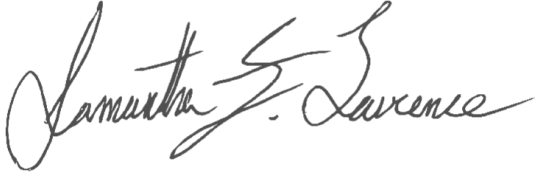
<https://www.pewresearch.org/religion/2024/01/24/religious-nones-in-america-who-they-are-and-what-they-believe/>.

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/.

It is unconstitutional for the Board to begin its meetings with prayer. We request that the Board refrain from opening its meetings with prayer going forward in order to protect the rights of students, their parents, and the local community. 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 style with a large initial "S" and "L".

Samantha F. Lawrence
Staff Attorney
Freedom From Religion Foundation