

FREEDOM FROM RELIGION *foundation*

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August 26, 2026

SENT VIA EMAIL & U.S. MAIL: jarod.mendenhall@roughers.net

Superintendent Jarod Mendenhall
Muskogee Public Schools
202 W. Broadway St.
Muskogee, OK 74401

Re: Refuting Attorney General's statement regarding prayer walk

Dear Superintendent Mendenhall:

I am again writing on behalf of the Freedom From Religion Foundation (FFRF) regarding the school-sponsored prayer walk which was originally scheduled for August 12th at Muskogee 6th and 7th Grade Academy. We appreciate the District's prompt response to our August 11th letter informing us that the prayer walk was cancelled. It has come to our attention that on August 21st Oklahoma Attorney General Gentner Drummond issued a press release claiming that the District was not legally required to cancel the school-sponsored prayer walk. We write to correct the incorrect statements made within the Attorney General's letter.

Attorney General Drummond [claimed](#) that the First Amendment did not require the District to cancel the school-sponsored prayer walk for several reasons.¹ The Attorney General argues that because students were not forced to attend the prayer walk, it was therefore constitutional. Attorney General Drummond erroneously states that the 2022 Supreme Court case *Kennedy v. Bremerton School District* ruled that coercion is always necessary for an Establishment Clause violation. Finally, Attorney General Drummond's assertion that "[t]aken literally," FFRF's argument "would bar a district from allowing a religious group to use its facilities on the same terms as a scout troop or civic group" is incorrect and misconstrues our arguments.

Voluntary attendance does not authorize violating the First Amendment

Voluntariness is not a safeguard against violating students' First Amendment rights. Courts have summarily rejected arguments that voluntariness excuses a constitutional violation. *See, generally, Lee v. Weisman*, 505 U.S. 577, 596 (1992) ("It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice."); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 288 (1963) (Brennan, J., concurring) ("Thus, the short, and to me sufficient, answer is that the availability of excusal or exemption simply has no relevance to the establishment question"); *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003) ("VMI cannot

¹ *Drummond tells Muskogee schools the First Amendment did not require canceling prayer walk, offers future support*, <https://www.forth.news/lists/okoag/CeGaZqB8dxTVEA1So9r7B>.

avoid Establishment Clause problems by simply asserting that a cadet’s attendance at supper or his or her participation in the supper prayer are ‘voluntary.’”); *Jager v. Douglas Cnty. Sch. Dist.*, 862 F.2d 825, 832 (11th Cir. 1989) (“ . . . whether the complaining individual’s presence was voluntary is not relevant to the Establishment Clause analysis . . . The Establishment Clause focuses on the constitutionality of the state action, not on the choices made by the complaining individual.”). The District may not avoid constitutional liability simply because students were not forced to attend the school-sponsored prayer walk.

The *Kennedy* case did not overturn all Establishment Clause precedent

The claim that the Supreme Court’s 2022 decision in *Kennedy v. Bremerton School District* drastically altered the state of the law is incorrect. In *Kennedy*, the Court held that a high school football coach’s quiet, private post-game prayer was constitutional. 597 U.S. 507, 512–14 (2022). The coach’s claims were based on the Free Speech and Free Exercise Clauses, not the Establishment Clause, *Id.* at 520, and after completing a lengthy analysis, the Court determined that the coach’s quiet, private prayers were private, not government speech. *Id.* at 529–30. Throughout its opinion, the Court repeatedly stressed that the coach quietly 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 542. The Court noted that while government coercion is a red flag that often signals an Establishment Clause violation, coercion is not *required*. *Id.* at 537 (noting that coercion is one of many hallmarks of religious establishment).

In contrast to *Kennedy*, a school-sponsored prayer walk — a religious event organized, promoted, and hosted by the school itself — is government, not private action. This is distinct from the private, quiet prayers that the coach gave after games while acting in his personal capacity. Here, the prayer walk was undeniably school-sponsored. The school itself encouraged students and families to attend and make a public showing of praying and participating in a school-sponsored religious exercise in violation of the First Amendment.

Public schools cannot constitutionally organize, sponsor, or favor any kind of religious events. As the Supreme Court recently affirmed in a post-*Kennedy* opinion, the government must maintain neutrality between religions, and between religion and nonreligion. *Cath. Charities Bureau, Inc. v. Wis. Lab. & Indus. Rev. Comm’n*, 605 U.S. 238, 254 (2025) (citing *Epperson v. State of Ark.*, 393 U.S. 97, 103–04 (1968) (“The First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion.”). “Government actions that favor certain religions, the Court has warned, convey to members of other faiths that ‘they are outsiders, not full members of the political community.’” *Cath. Charities Bureau, Inc.*, 605 U.S. at 248 (quoting approvingly *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309 (2000)).

Schools may rent facilities to third parties on an equal basis

Public schools may legally rent facilities to third parties on an equal basis. Our original letter did not argue otherwise. So long as schools follow neutral, generally applicable guidelines that are

applied evenly to all groups, schools are free to allow third parties to rent school facilities. *See generally Good News Club v. Milford Cent. Sch.*, 533 U.S. 98 (2001). In this case, the prayer walk was organized, promoted and sponsored by the school itself, not a third party renting school property.

We therefore urge the District not to rely on the Attorney General's erroneous guidance and to continue adhering to its commitment that district schools will not organize or promote religious activities. Muskogee Public Schools acted correctly in cancelling the prayer walk, and we appreciate the District's continued commitment to protecting the constitutional rights of all students and families.

Sincerely,

A handwritten signature in cursive script that reads "Samantha F. Lawrence". The signature is fluid and stylized, with the first and last names being more prominent than the middle initial.

Samantha F. Lawrence
Staff Attorney
Freedom From Religion Foundation