



# CONGRESSIONAL PRAYER CAUCUS FOUNDATION

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October 19, 2018

Dr. Jennifer Fischer-Mueller  
Superintendent, Canton Public Schools  
960 Washington Street  
Canton, MA 02021

Re: Prayer at Graduation and School Sponsored Events

Dear Superintendent Fischer-Mueller:

I have the honor of serving as the Executive Director of the Congressional Prayer Caucus Foundation. The Foundation serves nearly 100 members of Congress who are part of the Congressional Prayer Caucus (the names of those members of Congress who serve on the Congressional Prayer Advisory Team are listed on the left).

In addition, the Foundation serves Legislative Prayer Caucuses in over 32 states, which have over 1,000 state senators and state representatives as members. These leaders are working together to preserve the integrity of our Founding Principles and to protect First Amendment rights for all.

We understand that last June, you received a letter from the Freedom From Religion Foundation ("FFRF") that complained of an invocation at your school's spring graduation that allegedly violated the Constitution. In your September 5, 2018 response to FFRF's letter, you stated that "steps have been taken to ensure that there will be no prayers or religious rituals as a part of any school ceremony (e.g., graduation) or any other school-sponsored event." We respectfully ask that you reconsider this position, since prayer is permissible at school events if done right.

### Prayer Before School Events

Prayer has been a part of our public life since our Nation's founding, and it remains a vital part of it today. The Supreme Court has noted, however, that students can be especially impressionable and confused between voluntary and school-sponsored speech and that public institutions must be evenhanded in making public forums available for speakers of different religions and views. . In *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000), a case cited by FFRF, the

school district's pre-football game invocation practice was narrowly (5-4) found to be unconstitutional because the San Antonio schools did not have a policy that addressed this evenhandedness. However, if invocations at sporting events are undertaken consistently with a district policy that addresses these concerns, the practice would not suffer the same deficiencies that caused the San Antonio practice to be struck down.

CPCF strongly supports the efforts of school districts to provide an opportunity for voluntary prayer at school events, particularly those involving inter-school competition. Such prayer fosters good sportsmanship and safety. We encourage your district to draft a policy that addresses the deficiencies in the San Antonio model (e.g., adopt an evenhanded opportunity for volunteers like a drawing; set a time limit; have a short opening statement that this is the volunteer's statement, not the school's). **CPCF has prepared such a model policy and it is attached to the conclusion of this letter.**

The Constitution does not require a government to be hostile to religion. As the U.S. Supreme Court stated well in *Zorach v. Clauson*, 343 U.S. 306, 314 (1952): "[W]e find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence." The religious community is just as much a part of your community as those who have no religious beliefs, and the religious members of a community cannot be treated as "outsiders" any more than their secular neighbors. Neutrality is the key.

We hope that you will reconsider your position and not yield to threats to rob you, your students, and your community of your rights and heritage. We have First Amendment lawyers on staff who will work with you, without charge, if you need their services. To protect our freedom, we must exercise that freedom.

May God bless you and your students,



Lea Carawan  
Executive Director  
Congressional Prayer Caucus Foundation

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ADMINISTRATIVE GUIDELINE ON PROVIDING LIMITED OPEN FORUM  
FOR INVOCATIONS AT SCHOOL EVENTS

Purpose

This policy sets administrative guidelines for providing a limited open forum for invocations at school events. It balances three important interests.

First, many in our school community, including students, teachers, administrators, parents, and other community attendees at school sporting events, believe it is beneficial to remind participants and spectators (a) of the need for good sportsmanship, (b) that winning at all costs is not an appropriate goal, and (c) that there is an overriding concern for the safety of all the participants in the event. We agree that these are suitable purposes, consistent with the traditions of our schools and community. Such reminders may be done by a welcoming statement, followed by moment of silence; a student-led prayer; or some other means of reinforcing the reminder by means of an invocation.

Second, it is important that our schools do not sponsor or endorse any particular religion or show favoritism to any religious belief or non-belief. We are conversant with the Supreme Court's decisions in this regard, including *Santa Fe Independent School District v. Doe*, 530 U.S. 290 (2000), as well as other applicable court decisions, and have prepared this policy with the intent to act consistently with those court decisions. We do not read those decisions as prohibiting all prayer at school sporting events, but as requiring that it be conducted with appropriate safeguards, which this policy puts in place. We do not accept the notion that permitting an opportunity for voluntary public prayer by individuals and groups at school athletic events always amounts to an unconstitutional endorsement of whatever the speaker

says or that members of our community cannot distinguish between voluntary speech and school-endorsed messages.

Third, the U.S. Congress has required the U.S. Secretary of Education to issue guidance on constitutionally protected prayer in public elementary and secondary schools pursuant to § 9524 of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001. The U.S. Secretary of Education issued such guidance in 2003. A “local education agency” (LEA), which \_\_\_\_\_ is, risks losing funding if it is not able to certify that it has no policy that prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary and secondary schools. This current policy is designed to ensure that \_\_\_\_\_ is able to make such certification.

#### Limited Public Forum for Invocations

A school in this district is permitted to provide an opportunity at the beginning of a school or sporting event for an invocation to be given using the public-address loud speaker system otherwise provided at the event, provided the following guidelines are satisfied.

1. A school may, but is not required to, restrict those allowed to lead in an invocation to students. However, it must give all members of whatever group is selected equal opportunity to participate. Selecting the individuals by vote is not permissible, as this may restrict the selection to the majority of the group. The approved method of selection is a blind drawing of all individuals who have volunteered. Any other method of selection must be approved in advance by the school district’s SUPERINTENDENT OR HIS/HER DESIGNEE.

2. A school may publicize the opportunity for an individual to provide an invocation before a school sporting event, but must select such individual on content-neutral grounds and must not require participation by anyone.
3. A school may limit the timing and place of the invocation and should monitor the public proceeding to assure that its guidelines are not being violated. For example, the school may turn off the public-address system if a speaker exceeds the time limit.
4. Speakers of invocations are to be informed of the purposes as stated in the “Purpose” section of this policy and provided a time limit not to exceed one minute. The school will not provide a text to be used by any speaker.
5. At the beginning of any invocation, the following statement will be read by a school representative: “[Name of school] is pleased to have [name and position] lead us in a short invocation today. S/he is doing so as a volunteer and is not sponsored by the school. We request your civility, but do not require your participation.”

#### Group Prayer by Students

6. Some students desire to lead their team in prayer consistent with the interests stated in the “Purpose” section of this policy. Sometimes members of both teams gather after a game for community-building, often including prayer. Such practices are not prohibited, but they should be conducted consistently with this policy.
7. Coaches must clearly inform all students that they are not required to engage in communal prayer led by teammates.

8. Coaches must not discriminate in any way against a student based on whether that student decides to participate in communal prayer, including by making negative or sarcastic comments about any such decision.
9. Coaches must take prompt and appropriate action against any student who exhibits negative behavior against another student based on whether that other student decides to participate in communal prayer, including by making negative or sarcastic comments about any such decision.
10. Coaches may attend and monitor student-led gatherings, but they may not organize, sponsor, or verbally participate in them.

#### Reporting Potential Violations

11. Potential violations of this policy may be reported to any teacher or administrator. When a teacher or administrator is so informed or otherwise becomes aware of a potential violation, the potential violation must be reported to the school district's SUPERINTENDENT OR HIS/HER DESIGNEE.
12. The school district's SUPERINTENDENT OR HIS/HER DESIGNEE will review every report of a potential violation to determine (a) if there has been a violation, (b) if remedial action is appropriate, and (c) if additional training or instruction is appropriate to minimize the potential for future violations of this policy.

#### In-person Training

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13. Within 30 days of the adoption of this policy, or prior to the beginning of the school year, whichever is earlier, the school district's SUPERINTENDENT OR HIS/HER DESIGNEE will be responsible for providing in-person training on this policy to all school administrators and coaches.

#### Proactive Amendment of This Policy

14. The school district's SUPERINTENDENT OR HIS/HER DESIGNEE and counsel will keep apprised of any legal developments in this area and revise this policy as appropriate to be consistent with controlling law.
15. Any amendment of this policy will be transmitted promptly to all school administrators and coaches. Consideration will be given to whether in-person training would be desirable to discuss any such amendment.