



Education Law Alert—Special Edition

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U.S. Supreme Court Holds that Prayer Before Public Board Meeting is Constitutional

On Monday, the Supreme Court issued a ruling in the case of Town of Greece v. Galloway (Case No. 12-696) which has major implications for public boards. The case concerned whether the Town of Greece violated the Establishment Clause of the Constitution when it permitted Christian prayers to open its city council meetings. The Court held in a 5-4 decision that the Town of Greece did not violate the Constitution even though the prayers favored Christianity.

The Court based its decision on the longstanding tradition of such ceremonial prayers which reflect that “since this Nation was founded and until the present day, many Americans deem that their own existence must be understood by precepts far beyond the authority of government.” The Court further held that such prayers do not have to be religion neutral or comport with any type of government restriction concerning the content of such prayers. While the Court did conclude that there are Constitutional limits on the use of such prayers, mainly when the prayer would be deemed to coerce non-believers of the religion subject of the prayer, the justices in the majority differed on the proper way to determine whether and when coercion occurs.

Town of Greece follows an earlier Supreme Court case decided thirty years ago in which the Court held that similar prayers used to open the day at legislative sessions were also constitutional. In that case, Marsh v. Chambers (463 U.S. 783), the Court held that Nebraska’s use of a Presbyterian minister to lead the legislature in prayer at the opening of each day did not violate the Constitution. The Supreme Court’s decision on Monday expands the holding in Marsh to public meetings in which citizens are present to petition the local government for redress.

The Supreme Court’s opinion is available at the following link: [Town of Greece](#).

US DOE Issues Important Press Release Highlighting Title IX Investigations in Higher Education and Publishes New Title IX Policy Guidance

The magnitude of Title IX investigations in higher education just became clearer. On May 1, 2014, the United States Department of Education (“US DOE”) issued a press release announcing that 55 higher education institutions are under investigation for possible violations of federal law over the handling of sexual violence and harassment complaints. According to the press release, “[r]eleasing this list advances a key goal of President Obama’s White House Task Force to Protect Students from Sexual Assault to bring more transparency to the federal government’s enforcement activities around this issue.”

Of critical importance, the press release also includes a link to new Title IX policy guidance issued by the US DOE last week. [“Questions and Answers on Title IX and Sexual Violence”](#) is an attempt by the US DOE to respond to continued requests for technical assistance regarding obligations under Title IX to address sexual violence as a form of sexual harassment. The intent of the new document is to “further clarify the legal requirements and guidance articulated in the DCL and the 2001 Guidance and include examples of proactive efforts schools can take to prevent sexual violence and remedies schools may use to end such conduct, prevent its recurrence, and address its effects.”

Source: [Press Release](#).

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