

## Legal line of prayer unclear - Atheists challenge Fresno council custom.

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Whether an atheist group succeeds in challenging invocations at Fresno City Council meetings may come down to a legal distinction between "sectarian" and "nonsectarian" prayer.

Nonsectarian prayer -- promoting or endorsing no specific religion -- is allowed under a 1983 U.S. Supreme Court decision. But more recent court decisions have barred prayer that invokes the name of Jesus or otherwise crosses the sectarian line.

Where exactly is that line? That's not entirely clear.

The Madison, Wis.-based Freedom From Religion Foundation, which sent Mayor Ashley Swearengin a letter Monday complaining about the City Council's invocations, says it has written similar letters to six other California cities and is looking for a test case.

"We are contemplating the possibility of litigation in California," said the foundation's co-president, Annie Laurie Gaylor.

The letter said a review of archived recordings of last year's council meetings showed that the invocations were "rarely, if ever, nondenominational or nonsectarian. Of the prayers reviewed, all ended with specific references to Jesus Christ, 'in Jesus' name,' or 'in the name of Christ,' " the letter stated.

The foundation quoted from prayers at two City Council meetings in December. Both contained references to Christ, which the foundation said made them unconstitutionally sectarian.

City Attorney Jim Sanchez said his office will review those recordings before deciding how to respond.

"We will attempt to ensure that we have extended an opportunity for all faiths to come forward and give an invocation," he said.

Challenges to prayer in government settings are based in part on the First Amendment, which states the government cannot make any law that would "establish" an official religion or favor one religion over another, or over nonreligion.

A municipal law handbook from the League of California Cities notes that the Supreme Court's 1983 decision allows a nondenominational invocation or moment of silence. But a state appeals court in 2002 ruled that a prayer mentioning Christ was still unconstitutional. That led some California cities to stop invocations or issue guidelines on their content.

Government bodies in the central San Joaquin Valley vary in how they handle the issue.

Recent agendas of the Madera County Board of Supervisors, the Madera City Council and the Visalia City Council all provide for invocations at the start of the meeting. Those of the Fresno County Board of Supervisors and the Clovis City Council do not.

"I've worked here for 10 years and we've never done it," said John Holt, Clovis' assistant city manager and city clerk. "The issue has not surfaced."

In Madera, City Clerk Sonia Alvarez said prayers are organized by the Madera Ministerial Association. There are no formal content rules, although Alvarez said, "they try to keep it neutral."

Visalia Deputy City Manager Leslie Caviglia said her city does not police the content of invocations but accepts representatives of any faith and sometimes has just a moment of silence to represent the nonreligious.

Gaylor said her organization hopes that, in the end, the Fresno council will opt to do without invocations, rather than trying to navigate the channel between sectarian and nonsectarian versions. But she said she's not confident that will happen.

"We're atheists," she said. "We don't believe in miracles."

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