

## Resolution

### Motion for Leave to Intervene- 9<sup>th</sup> Circuit Court

**Whereas**, state Education Codes 1042(d) allows county boards of education to *contract with and employ any persons for the furnishing to the county board of education of special services and advice in financial, economic, accounting, engineering, legal, or administrative matters if these persons are specially trained and experienced and competent to perform the special services required*; and

**Whereas**, on August 15, 2016 via email and U.S. Mail, the Orange County Board of Education (OCBE) received a letter from the Freedom from Religion Foundation (FFRF) regarding alleged “unconstitutional prayer and religious promotions by the OCBE; and to “immediately refrain” from invocations and other alleged religious practices; and

**Whereas**, this letter argued that OCBE’s policy and practice of permitting invocations is unconstitutional, and such letter specifically cited to the Federal District Court ruling in *Freedom From Religion Foundation, Inc. v. Chino Valley Unified School District Board of Education* ((no EDCV 14-2336-JGB(DTBx) at 21 (C.D. Cal Feb.18, 2016) to support its arguments. It was also argued that certain resolutions and the motto “In God We Trust,” which is affixed to the board room, are unconstitutional; and

**Whereas**, a previous legal memo from board’s General Counsel (Ron Wenkert) reviewed the boards policy and specified the board’s invocation policy was consistent with law and legal precedence; and

**Whereas**, since receiving the August 15, 2016, letter from Freedom From Religion Foundation, the OCBE has considered the progress of Chino Valley Unified School District’s defense in federal court of its invocation policy and practice; and

**Whereas**, on January 17, 2019, after the November 2018 elections, the new Chino Valley Unified School District board member majority voted not to seek review of the negative ruling from the U.S. Ninth Circuit that held the policy and practice of allowing invocations before school board meetings was unconstitutional; and

**Whereas**, this recent ruling and decision by the Chino Valley Unified School District board members directly impacts the OCBE’s policies and practice. OCBE has a significantly protectable interest in the outcome of *Freedom From Religion Foundation, Inc. v. Chino Valley Unified School District Board of Education*; and

**Whereas**, in order to appeal to the U.S. Supreme Court, the OCBE needs to file a writ of certiorari within 90 days from December 26, 2018; and

**Therefore**, the OCBE declares to enjoin itself and desires to intervene in the litigation in order to seek review at the United States Supreme Court of the Ninth Circuit ruling since the Chino Valley Unified School District board members voted not to seek review; and

Furthermore, the OCBE calls upon the Executive Committee to establish formal relationships with the Law Firm of Tyler & Bursch, LLP, to represent the board's interest in this case.

AYES: Williams, Sparks, Barke

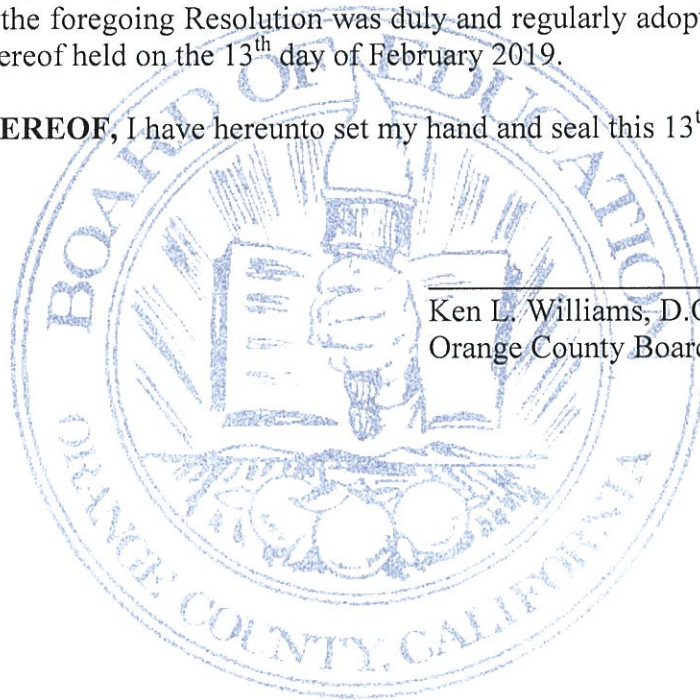
NOES: Gomez

ABSENT: Bedell

STATE OF CALIFORNIA  
COUNTY OF ORANGE

I, **Ken L. Williams, D.O.**, President of the Board of Education in Orange County, California, hereby certify that the foregoing Resolution was duly and regularly adopted by the said Board at a Special Meeting thereof held on the 13<sup>th</sup> day of February 2019.

IN WITNESS THEREOF, I have hereunto set my hand and seal this 13<sup>th</sup> day of February 2019.



Ken L. Williams, D.O., President  
Orange County Board of Education