

February 22, 2024

The Honorable Brian Feldman  
Chair  
Education, Energy, and the  
Environment Committee  
Maryland Senate  
2 West  
Miller Senate Office Building  
Annapolis, Maryland 21401

The Honorable Cheryl Kagan  
Vice Chair  
Education, Energy, and the  
Environment Committee  
Maryland Senate  
2 West  
Miller Senate Office Building  
Annapolis, Maryland 21401

**Re: Oppose SB 612—Chaplains in Public Schools Raise Constitutional Concerns**

Dear Chair Feldman and Vice Chair Kagan:

On behalf of the Maryland members and supporters of Americans United for Separation of Church and State, I write to urge you to oppose SB 612, which would authorize chaplains—clergy members who provide religious and spiritual care—in public schools. You should reject this bill because it will undoubtedly violate the religious freedom of students who have the right to attend school free from religious coercion and to feel welcome in their school regardless of their religious beliefs. Furthermore, students deserve to have qualified counselors.

**This Bill Would Lead to Constitutional Violations**

Both the U.S. and Maryland Constitutions forbid the government from favoring religion over nonreligion.<sup>1</sup> Allowing public schools to have chaplains as volunteers to provide services, however, and favors religion.

Public school chaplains also violate the constitutional prohibition on religious coercion. In 2022, in *Kennedy v. Bremerton School District*, the Supreme Court reaffirmed that public school employees may not coerce students to pray or engage in religious

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<sup>1</sup> *Everson v. Board of Education*, 330 U.S. 1, 8-13, 15-16 (1947); *Engel v. Vitale*, 370 U.S. 421, 425-31 (1962); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 214, 226 (1963); *McCreary County v. ACLU of Kentucky*, 545 U.S. 844, 875–81 (2005). Indeed, this is the historic, foundational principle at the heart of the Establishment Clause. Md. Const. Declaration of Rights, art. 36.

activities with them.<sup>2</sup> If public schools allow chaplains, they will inevitably violate the constitutional rights of students.

School employees have extraordinary control over students and their school experience. Students who are assigned to a chaplain instead of a qualified counselor will be aware of the chaplain's religious beliefs and their inclination to provide spiritual guidance. This may pressure students who need support services to assent to religious advice and agree to participate in religious activities in order to get the services they need. And some students may forgo seeking guidance altogether if they know that the chaplain's religious views conflict with their own or their need for help will be met with judgment and disapproval.

Some may argue that public school chaplains are permissible because the courts have upheld the constitutionality of government chaplains in a handful of other settings, such as the military, hospitals, or prisons. But these are places where those to whom the chaplains minister would otherwise be denied access to clergy. Public school students do not fit into this category. If students or their families want religious guidance, they can readily consult their pastor, their priest, their rabbi, or their imam. Furthermore, it ignores the fact that there are "heightened concerns" with protecting students from the "subtle coercive pressure in the elementary and secondary public schools" that comes from school-endorsed religious activities.<sup>3</sup>

### **Students Deserve Qualified Counselors**

School counselors are certified educators who improve success for all students by implementing a comprehensive counseling program. They help students apply academic achievement strategies, manage emotions, and plan for college or the workforce. Chaplains, in contrast, are religious leaders who are trained to provide religious services and spiritual care.

Allowing uncertified chaplains to provide services threatens the safety and education of our students. Chaplains are not given the professional training required to care for the mental health of all students. This means they would not be equipped to support students dealing with serious matters like anxiety, depression, eating disorders, self-harm, or suicidal ideation.

Chaplains themselves understand that they are not qualified to serve in schools. After a bill allowing chaplains in public schools was enacted in Texas last year, more than 100 chaplains signed a letter opposing the proposal that chaplains serve in public schools.<sup>4</sup> The signers explain that allowing chaplains to serve in public schools would be "harmful

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<sup>2</sup> 142 S. Ct. 2407, 2429-31 (2022). Justice Gorsuch explained that the government coercing someone to engage in a religious exercise "was among the foremost hallmarks of religious establishments the framers sought to prohibit when they adopted the First Amendment." *Id.* at 2429.

<sup>3</sup> *Lee v. Weisman*, 505 U.S. 577, 592 (1992).

<sup>4</sup> [Letter from Texas Chaplains to All Texas School Board Members](#).

to our public schools and the students and families they serve.”<sup>5</sup> Many Texas school boards, which are required under the law to vote on whether to adopt a policy, have rejected the idea outright.<sup>6</sup>

### **Public Schools Are Diverse, and All Students Should Be Welcome**

Families and students in Maryland practice a wide variety of religions and faiths, and many are nonreligious. All of them should all feel welcome in their school. Hiring a school chaplain from a specific religion, however, promotes a specific religious perspective and necessarily excludes members of the community whose religious views do not align with the majority. Freedom of religion means that parents—not school officials or state legislatures—have the right to direct their children’s religious education and should be able to entrust that their children will not have a particular religious perspective forced on them while attending our public schools.

### **Conclusion**

This bill will inevitably result in chaplains coercing students to participate in religious activities in violation of the student’s fundamental religious freedom rights. As a result, passage of this bill would likely result in litigation. Public school students deserve to have qualified counselors and to feel welcome in their school. Accordingly, I urge you to reject SB 612.

Thank you for your consideration on this important matter.

Sincerely,



Nikolas Nartowicz  
State Policy Counsel

cc: Members of the Senate Education, Energy, and the Environment Committee

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<sup>5</sup> *Id.*

<sup>6</sup> Jack Jenkins, [Texas’ Debate Over School Chaplains Escalates School Board Culture Wars](#), *Texas Tribune*, Dec. 15, 2023.