



TEXAS FUNERAL SERVICE COMMISSION

Policy on Opening Meetings with an Invocation

Purpose

The Commissioners of the Texas Funeral Service Commission (the “Agency”) are a deliberative public body of Texas. They desire to solemnize their official meetings with an invocation for the benefit of the Commissioners.

The Agency adopts this formal policy to clarify and codify its invocation practices and to ensure its compliance with applicable law. The United States Supreme Court has twice confirmed the right of the Agency, as a deliberative public body, under the U.S. Constitution, to use solemnizing invocations.¹ Opening sessions of deliberative public bodies, like the Agency, with prayer is deeply embedded in the history and tradition of this country and coexists with the principles of disestablishment and religious freedom.²

Invocations by deliberative public bodies lend gravity to public business, remind lawmakers to transcend petty differences in pursuit of a higher purpose, and express a common aspiration to a just and peaceful society.³ While invocations reflect values long part of the Nation’s and Texas’s heritage, the invocations should not denigrate nonbelievers or religious minorities, threaten damnation, or preach conversion.⁴ At the same time, however, government officials may not act as censors of religious speech by requiring that invocations be generic or nonsectarian.⁵

The Agency seeks to adopt an invocation practice that uses a neutral system to invite licensed funeral directors and embalmers to provide an invocation before its meetings, a practice recognized as constitutional.⁶ The Agency does not intend to preach conversion, advance any particular religious faith, or show any purposeful preference of one religious view over another.

The Agency believes that licensed funeral directors and embalmers who serve the local community are suited through their training and public service to petition for divine guidance on the deliberations of this Agency, and to accomplish the Agency’s objective to solemnize public occasions, express confidence in the future, and to encourage the recognition of what is worthy of appreciation in society.

¹ *Town of Greece v. Galloway*, 134 S. Ct. 1811 (2014); *Marsh v. Chambers*, 463 U.S. 783 (1983).

² *Marsh*, 463 U.S. at 786.

³ *Galloway*, 134 S. Ct. at 1818.

⁴ *Id.* at 1823.

⁵ *Id.* at 1820.

⁶ *See, e.g., Am. Humanists Ass’n v. McCarty*, 851 F.3d 521 (5th Cir. 2017); *Simpson v. Chesterfield Cty. Bd. of Supervisors*, 404 F.3d 276 (4th Cir. 2005); *Pelphrey v. Cobb Cty.*, 547 F.3d 1263 (11th Cir. 2008); *Rubin v. City of Lancaster*, 710 F.3d 1087 (9th Cir. 2013).

Policy

1. It is the intent of the Agency to allow a private citizen to solemnize the proceedings of the Agency. It is the policy of the Agency to allow for an invocation, which may include a prayer, a reflective moment of silence, or a short solemnizing message, to be offered before quorum is established at its meetings to lend gravity to the Agency's work and remind Commissioners to transcend petty differences.
2. No commissioner, employee of the Agency, or any other person in attendance at the meeting shall be required to participate in any invocation and such decision shall have no impact on the ability of the person to actively participate in the business of the Agency.
3. No commissioner or employee of the agency will direct the public to stand, bow, or in any way participate in the prayers; make public note of a person's presence or absence, attention or inattention during the invocation; or indicate that decisions of the Agency will in any way be influenced by a person's acquiescence in the prayer opportunity.
4. The invocation shall be voluntarily delivered by an appointed representative of the Licensed Funeral Directors and Licensed Embalmers List. To ensure that such person (the "member") is selected from among a wide pool of representatives, on a rotating basis, the invocation speaker shall be selected according the following procedure:
 - a. The Agency shall compile and maintain a database (the "Licensed Funeral Directors and Licensed Embalmers Invocation List") of individuals the Agency licenses in Texas.
 - b. All licensees with an established presence in Texas are eligible to be included in the Licensed Funeral Directors and Licensed Embalmers Invocation List, and any such licensee may confirm his or her inclusion by specific written request to the Executive Director.
 - c. The policy is intended to be and shall be applied in a way that is inclusive of diverse licensees serving the citizens of Texas. The Funeral Directors and Licensed Embalmers Invocation List is compiled and used for purposes of logistics, efficiency, and equal opportunity for Texas's funeral directors and licensed embalmers, who may themselves choose whether to respond to the commission's invitation and participate.
 - d. The Licensed Funeral Directors and Licensed Embalmers Invocation List shall be updated in August of each calendar year.
 - e. An invitation to present an invocation at an Agency meeting will be posted on the Agency's website. The invitation shall read as follows:

Dear Licensee,

The Texas Funeral Service Commission makes it a policy to invite licensed Funeral Directors and licensed Embalmers throughout Texas to voluntarily offer an invocation before the beginning of its meetings, for the benefit of the Commission. In your capacity as a licensee, you are eligible to offer this important service at an upcoming meeting of the Commission.

If you are willing to assist the Texas Funeral Service Commission in this regard, please send a written reply at your earliest convenience to the Executive Director at the address included on this letterhead. Representatives are scheduled on a first-come, first-serve basis. The dates of the Commission's scheduled meetings for the upcoming year are listed on the agency's website. If you have a preference among the dates, please state that request in your written reply.

This opportunity is voluntary, and you are free to offer the invocation according to the dictates of your own conscience. To maintain a spirit of respect and avoid discrimination, the Commission requires only that the opportunity not be exploited as an effort to convert others to the particular faith of the invocation speaker or to disparage any faith or belief different than that of the invocation speaker.

*On behalf of the Commission, I thank you in advance for considering this invitation.
Sincerely,*

Executive Director - Texas Funeral Service Commission

- f. The respondents to the invitation shall be scheduled on a first-come, first-serve basis to deliver the invocation.
5. In the event an eligible person believes that the Agency has not complied with the terms of this policy, the person has the right to have the matter reviewed by the Commission.
6. No invocation speaker shall receive compensation for his or her service.
7. No guidelines or limitations shall be issued regarding an invocation's content, except that the Commission shall request by the language of this policy that no invocation should preach conversion or advance any faith, or disparage the religious faith or non-religious views of others.
8. The Agency shall make every reasonable effort to ensure that a variety of eligible invocation speakers are scheduled for the Commission's meetings. In any event, absent compelling circumstances, invocation speakers should not be scheduled to offer an invocation at consecutive meetings of the Commission, or at more than three (3) Commission meetings in any calendar year.
9. The Agency shall not engage in any prior inquiry, review of, or involvement in, the content of any invocation to be offered by an invocation speaker.
10. To clarify the Commission's intentions, as stated herein above, the following disclaimer shall be included in at least ten (10) point font at the bottom of all agendas posted by the Commission:

“Any invocation shall be the voluntary offering of private citizen, to and for the benefit of the Commission. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Commission and do not necessarily represent the religious beliefs or views of the Commission in part or as a whole. No member of the community is required to attend or participate in the invocation and such decision will have no impact on their right to participate actively in the business of the commission. Copies of the policy governing invocations and setting forth the procedure to have a volunteer deliver an invocation are available upon written request submitted to the Commission.”
11. This policy is not intended, and shall not be implemented or construed in any way, to affiliate the Commission with, nor express the Commission's preference for, any faith or religious denomination. Rather, this policy is intended to acknowledge and express the Commission's respect for the diversity of religious denominations and faiths represented and practiced among the citizens of Texas.

Adopted: September 11, 2018