

# FREEDOM FROM RELIGION *foundation*

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**SENT VIA EMAIL AND U.S. MAIL:  
kopatichtp@mvschool.org**

Dr. Thomas Kopatich  
Superintendent  
MSD of Mt. Vernon  
1000 W. Fourth St.  
Mt. Vernon, IN 47620

Re: Coach prayers with students

Dear Superintendent Kopatich:

I am writing on behalf of the Freedom From Religion Foundation regarding comments you recently made to local media. FFRF is a national nonprofit organization with about 30,000 members across the country, including more than 450 in Indiana. FFRF's purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

You recently made comments to media regarding FFRF's complaint to Evansville Vanderburgh School Corporation about high school football coaches participating in prayers with their students. You were reported as saying:

It's sad that it's coming to that place that we're trying to eliminate that. People have to realize, if you don't want to be there or you don't want to participate in something of that nature, you don't have to. It's a choice.<sup>1</sup>

You also admitted to leading students in prayers yourself when you were a public school coach:

In the mid-90s, when Kopatich was named Mount Vernon High School's basketball coach, he recalled reciting the "Our Father," also known as "The Lord's Prayer," with his team before and after games.

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<sup>1</sup> Zach Evans and Megan Erbacher, *Reitz coach prayer with team unconstitutional claims atheist group* (Nov. 28, 2017), *COURIER & PRESS*, available at [courierpress.com/story/news/local/2017/11/28/reitz-coach-prayer-team-unconstitutional-claims-atheist-group/900143001/](http://courierpress.com/story/news/local/2017/11/28/reitz-coach-prayer-team-unconstitutional-claims-atheist-group/900143001/).

Most of the time, he said, players led prayer.

Kopatich said he was reminded then that coaches aren't supposed to lead prayer.

"The only thing I had was my athletic director came to me and said, 'You need to be careful if you're leading prayer. Just be very careful with that.' ... That was my very first year, and I coached several years, and we did it all the way through," he said.

These statements raise several serious concerns. First, voluntariness does not excuse a constitutional violation. *See Lee v. Weisman*, 505 U.S. at 596 ("It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice."); *Schempp*, 374 U.S. at 288 (Brennan, J., concurring) ("Thus, the short, and to me sufficient, answer is that the availability of excusal or exemption simply has no relevance to the establishment question"); *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003) ("VMI cannot avoid Establishment Clause problems by simply asserting that a cadet's attendance at supper or his or her participation in the supper prayer are 'voluntary.'"); *Jager v. Douglas County Sch. Dist.*, 862 F.2d 825, 832 (11th Cir. 1989), *cert. denied*, 490 U.S. 1090 (1989) ("... whether the complaining individual's presence was voluntary is not relevant to the Establishment Clause analysis . . . The Establishment Clause focuses on the constitutionality of the state action, not on the choices made by the complaining individual.").

As a superintendent you must understand that allowing students the choice to opt-out of a religious activity with their coach does not make it permissible.


Second, leading students in prayer is illegal, not something to "be careful with." As we explained to the EVSC, the Supreme Court has continually struck down school-sponsored prayer in public schools, including the Lord's Prayer specifically. *See, e.g., Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (holding student-led prayer over the loudspeaker before football games unconstitutional. "Regardless of the listener's support for, or objection to, the message, an objective Santa Fe High School student will unquestionably perceive the inevitable pregame prayer as stamped with her school's seal of approval" because it occurred at a "regularly scheduled school-sponsored function conducted on school property."); *Lee v. Weisman*, 505 U.S. 577 (1992) (finding prayers at public high school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturning law requiring daily "period of silence not to exceed one minute . . . for meditation or daily prayer"); *Sch. Dist. of Abington Twp. v. Schempp*, 374

U.S. 203 (1963) (holding school-sponsored devotional bible reading and recitation of the Lord's Prayer unconstitutional); *Engel v. Vitale*, 370 U.S. 421 (1962) (declaring school-sponsored prayers in public schools unconstitutional).

Your statements encourage your employees to violate these students' rights by endorsing religion at school-sponsored events. This is especially concerning because you are now tasked with enforcing constitutional compliance in your school district in order to protect your students' right to a secular public school. About 44% of young Americans are non-Christian, including about 35% who are not religious at all.<sup>2</sup>

In short, for years you used your government position to impose your personal religion on other people's children and recently you encouraged your staff to do the same. We urge you to schedule a District-wide training on constitutional boundaries regarding religious endorsement, in light of current federal caselaw. If District counsel is unable to provide such a training, FFRF would be happy to offer more guidance and education on these issues. Our top priority is to educate school districts so that constitutional violations can be avoided, rather than intervening after a student informs us that a violation has already occurred.

Sincerely,



Ryan D. Jayne  
Staff Attorney

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<sup>2</sup> *America's Changing Religious Landscape*, PEW RESEARCH CENTER (May 12, 2015), available at [www.pewforum.org/2015/05/12/americas-changing-religious-landscape/](http://www.pewforum.org/2015/05/12/americas-changing-religious-landscape/).