

FREEDOM FROM RELIGION *foundation*

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August 20, 2015

SENT BY MAIL AND FAX TO (606) 337-1412

Bell County Board of Education
c/o Ms. Yvonne W. Gilliam, Superintendent
PO Box 340
Pineville, KY 40977

Re: Unconstitutional Prayer at Athletic Events

Dear Superintendent Gilliam and Members of the Board of Education:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to object to the Bell County Board of Education's recent decision to reinstate prayer at district football games. FFRF has been contacted by several concerned citizens about this decision. We ask that the Board rescind this unconstitutional decision and refrain from injecting illegal prayer at school-sponsored events.

As you may be aware, FFRF contacted Superintendent George Thompson in 2011 about this same practice. After consulting with the school district's attorney and an attorney with the Kentucky Department of Education, the Board correctly made the decision to halt prayers over the loudspeaker before athletic events.

It is our understanding that at the August 18th meeting, after receiving a petition from teachers and students, the Board voted to reinstate prayers before the games on the condition that they are "student-led."

Given the clear legal precedent on this issue, it is surprising—not to mention baffling—that the school board would knowingly violate the law and bring back prayer before athletic games.

To reiterate, it is illegal for a public school to sponsor religious messages at school athletic events. The Supreme Court has continually struck down school-sponsored prayer in public schools. *See, e.g., Lee v. Weisman*, 505 U.S. 577 (1992) (ruling prayers at public 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."); *Abington Twp. Sch. Dist. v. Schempp*, 374 U.S. 203 (1963) (declaring unconstitutional devotional Bible reading and recitation of the Lord's Prayer in public schools); *Engel v. Vitale*, 370 U.S. 421 (1962) (finding prayers in public schools unconstitutional).

Moreover, the Supreme Court has specifically struck down invocations given over the loudspeaker at public school athletic events, *even when student-led*. *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 320 (2000) (striking down a school policy that authorized students to vote on

whether to have a prayer at high school football games). The Court reasoned that because the football game was a school-sponsored event, hosting prayer was a constitutional violation. *Id.* at 307. Even if student-led, the Court said prayers at a “regularly scheduled school-sponsored function conducted on school property” would lead an objective observer to perceive it as state endorsement of religion. *Id.* at 308.


Like the prayer practices in *Santa Fe*, the prayers at Bell County Schools’ football games are also inappropriate and unconstitutional. Not only is the District endorsing these prayers by allotting time for them at the start of games, but it is also providing the prayer-giver with the public address system needed to impose these prayers on all students and community members at games. Public school events must be secular to protect the freedom of conscience of all students. A reasonable District student would certainly perceive the prayers “as stamped with her school’s seal of approval.” *Id.*

Additionally, courts have continually reaffirmed that the rights of minorities are protected by the Constitution. It makes no difference how many people want prayer or wouldn’t be offended by prayer at school events, because “fundamental rights may not be submitted to vote; they depend on the outcome of no elections.” *Id.* at 304-05 (quoting *W. Va. Bd. of Educ. v. Barnette*, 319 U.S. 624, 638 (1943)). “The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts.” *Barnette*, 319 U.S. at 638. The District has a duty to remain neutral toward religion.

Scheduling prayer at a school-sponsored event is a flagrant violation of the law. The District must take immediate action to ensure prayers are not scheduled at athletic events, including the first football game tomorrow night. The Board must immediately rescind its decision to host prayers before the games, even under the condition that they are “student-led.”

The law is clear. We expect a written response ensuring that constitutional dictates are followed so we may notify our complainants.

Sincerely,


Rebecca S. Markert
Staff Attorney