

FREEDOM FROM RELIGION *foundation*

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December 22, 2017

SENT VIA EMAIL AND U.S. MAIL:
Mike.lindy@unit11.org

Mr. Michael Lindy
Superintendent
El Paso Gridley CUSD #11 District Office
97 W. Fifth St.
El Paso, IL 61738

Re: Unconstitutional School Involvement in "See You at the Pole"

Dear Superintendent Lindy:

I am writing again on behalf of the Freedom From Religion Foundation. We appreciate your assistance in resolving an issue that we brought to your attention last year. We are writing again to alert you to a constitutional violation that occurred earlier this school year at El Paso Gridley Jr. High School.

A concerned District community member contacted us to report that EPGJH Principal Robby Tomlinson sent the following email to District parents this September:

Dear Parents,

I received information from Jordan Mckinsey that I wanted to share with all of you. Next Wednesday the 27th will be the annual "See You At The Pole" at EPG Jr. High. We will meet at the flag pole at 7:15 to get started. After There will be donuts and milk provided at Dave and Alisa Ihlenfeldt's house across the street from the school. While this is mainly for the students I'd like to personally invite any parent that would like to attend.

Looking forward to seeing you all at the pole.

Thanks,

Robby Tomlinson
EPGJH Principal

This email raises several serious concerns. See *You at the Pole* (SYATP) is a Christian-oriented prayer rally organized each year around a bible verse. This year's theme and verse was Hebrews 12:2, "Fix our eyes on Jesus."¹ At the national level, event organizers explicitly distinguish between Christian and non-Christian students, calling for non-Christian students to be "reached" through the event while Christian students "strengthen their unity."²

This religious event must be student-initiated and student-led. District staff, especially administrators, may not use their position as District representatives to promote the event and may not participate in their students' religious events. Tomlinson's email is especially troubling because he failed to disclose the religious nature of the event.

As you know, public school employees have a constitutional obligation not to promote their personal religious beliefs while acting in their official capacity as District representatives. It is well settled that public school employees may not lead, direct, or encourage students to engage in prayer. The Supreme Court has continually struck down formal and teacher- or school-led prayer in public schools. *See, e.g., Engel v. Vitale*, 370 U.S. 421 (1962) (holding teacher-led prayer in public schools unconstitutional); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963) (holding devotional bible reading and recitation of the Lord's Prayer in public schools unconstitutional); *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.").

It is also unconstitutional for public school employees to participate in the religious activities of their students. *See, e.g., Borden v. Sch. Dist. of the Twp. of E. Brunswick*, 523 F.3d 153 (3rd Cir. 2008), *cert. denied*, 129 S.Ct. 1524 (2009) (declaring a coach's organization of, participation in, and leading of prayers before games unconstitutional); *Doe v. Duncanville Indep. Sch. Dist.*, 70 F.3d 402 (5th Cir. 1995) (declaring coach's participation in student prayer circles an unconstitutional endorsement of religion).

In *Borden*, the court stated that even a school employee's involvement in the prayer by "taking a knee" and "bowing his head" during student-led prayers "would lead a reasonable observer to conclude he was endorsing religion." 523 F.3d at 176. The court continued, "if while acting in their official capacities, [school district] employees join hands in a prayer circle or otherwise manifest

¹ See *You at the Pole*, syatp.com/files/PLANNING_SHEET.pdf.

² See *You at the Pole*, syatp.com, click "Adults."

approval and solidarity with the student religious exercises, they cross the line between respect for religion and the endorsement of religion.” *Id.* at 178 (quoting *Duncanville*, 70 F.3d at 406). Government employees must refrain from actively participating in religious activities while acting within their governmental role to avoid any perception of government endorsement of religion and/or excessive entanglement with religion.


Even See You at the Pole’s official website recognizes that adults should not be involved in their events:

See You at the Pole™ is a student-led event. Strong student leadership is crucial. Adult volunteers and parents should not lead the See You at the Pole™ gathering. Many well-meaning adults take over and take away from the students by trying to lead out in the prayers at the flagpole. This is not the intention for See You at the Pole™, nor is it legal for adults to lead. Please step back or stay away and let the students grow and learn in their faith by leading.

The best place for an adult to pray on the day of See You at the Pole™ is not on campus with the students, but at alternate locations.³

District staff must not plan, promote, or participate in any future “See You at the Pole” events, nor may they encourage students to put on such events. Any religious events must be truly student-initiated and student-run. Please commence an immediate investigation into these concerns and inform us in writing of the steps taken to ensure this constitutional violation does not reoccur.

Sincerely,



Ryan D. Jayne
Staff Attorney

³ <http://syatp.com/>.