

FREEDOM FROM RELIGION *foundation*

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November 22, 2017

SENT VIA EMAIL AND U.S. MAIL:
john.mehrle@sdsc.k12.in.us

Dr. John Mehrle
Superintendent
South Dearborn CSC
6109 Squire Place
Aurora, IN 47001

Re: Unconstitutional school-endorsed prayer

Dear Superintendent Mehrle:

I am writing on behalf of the Freedom From Religion Foundation to alert you to a constitutional violation that occurred at a South Dearborn High School athletic event. We appreciated your assistance in resolving an issue we brought to your attention last year and we hope that this matter will be quickly addressed as well.

A concerned District community member contacted us to report that South Dearborn High School head football coach Rand Ballart led students in the Lord's Prayer prior to a football game on October 6. Ballart posted a video of him leading the prayer on the school's public social media fan page, "Knight Nation," the following day.¹

It is illegal for public school athletic coaches to lead their teams in prayer, participate in student prayers, or to otherwise promote religion to students. We are writing to request assurances that this constitutional violation will not recur in the future.

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

¹ See www.facebook.com/groups/540456716160225?view=permalink&id=677940502411845 (video archived by FFRF and available on request).

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).

In each of these cases, the Supreme Court struck down school-sponsored prayer because it constitutes a government advancement and endorsement of religion, which violates the Establishment Clause of the First Amendment.

Public school coaches must refrain not only from leading prayers themselves, but also from participating in students' prayers. It is unconstitutional for public school employees to participate in the religious activities of their students. *See, e.g., Bd. of Educ. of the Westside Cmty. Sch. v. Mergens*, 496 U.S. 226, 253 (1990) (noting that public school faculty may only be at student-led religious meetings in a "nonparticipatory capacity."). Federal courts have held that even a public school coach's silent participation in student prayer circles is unconstitutional. *See, e.g., Borden v. Sch. Dist. of the Twp. of E. Brunswick*, 523 F.3d 153 (3d Cir. 2008), *cert. denied*, 129 S.Ct. 1524 (2009) (declaring the coach's organization, participation, and leading of prayers before football games unconstitutional); *Doe v. Duncanville Indep. Sch. Dist.*, 70 F.3d 402 (5th Cir. 1995) (holding a basketball coach's participation in student prayer circles an unconstitutional endorsement of religion).

In *Borden*, the Third Circuit Court of Appeals held the high school football coach's history of organizing, leading, and participating in prayers before games was unconstitutional. *Borden*, 523 F.3d at 174. In that case, the court stated that the coach's involvement in the prayer by "taking a knee" and "bowing his head" during the prayers, even when student-led, "would lead a reasonable observer to conclude he was endorsing religion." *Id.* at 176. The court continued, "'if while acting in their official capacities, [school district] employees join hands in a prayer circle or otherwise manifest 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).

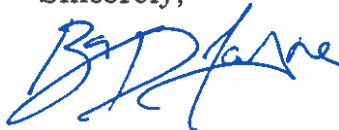
The court in *Borden* also rejected the coach's argument that the school district's policy of prohibiting its employees from engaging in prayer with

students violated the employees' right to free speech. *Id.* at 174. In fact, the court found that the school district had a right to adopt guidelines restricting this activity because of its concern about potential Establishment Clause violations. *Id.*

Coach Ballart's conduct is unconstitutional because he endorses and promotes religion when acting in his official capacity as a school district representative. Certainly, he represents the school and the team when he acts as a coach of the Knights. When public school employees acting in their official capacities organize and advocate for team prayer, they effectively endorse religion on the District's behalf.

We ask that the District commence an immediate investigation and take action to ensure that in the future South Dearborn High coaches will not pray with students during District athletic programs and will not otherwise use their position as District coaches to promote religion. Please inform us in writing of the steps taken to remedy this serious and flagrant violation of the First Amendment.

Sincerely,



Ryan D. Jayne
Staff Attorney