

FREEDOM FROM RELIGION *foundation*

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April 17, 2014

**SENT VIA FAX & U.S. MAIL
(513) 420-4579**

Sam Ison
Superintendent
Middletown City Schools
One Donham Plaza, 4th Floor
Middletown, OH 45042

Re: Prayer in Middletown High School Football

Dear Superintendent Ison:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to a serious state/church violation occurring at School. FFRF is a national nonprofit organization with 20,000 members across the country, including more than 550 members in Ohio. A concerned parent contacted us about this matter. FFRF's purpose is to protect the constitutional principle of separation between state and church.

It is our information and understanding that Coach Chris Wells was hired as the new varsity football coach this year. We understand that after practices, the school provides food for the players, and that Coach Wells tells students to bow their heads and leads them in prayer. We also understand that Coach Wells has been encouraging players to attend his church, and invites players to his church and church events during football practice, offering them rides. We are informed that he encourages players to be "saved" if they attend these events.

First and foremost, it is illegal for a public school athletic coach to be leading his/her team in prayer. The Supreme Court has continually struck down formal and teacher or school-led prayer in public schools. *See, e.g., Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 308 (2000) (struck down a school policy that authorized students to vote on whether to hold a prayer at high school football games); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturned law requiring daily "period of silence not to exceed one minute ... for meditation or daily prayer."); *Abington Township Sch. Dist. v. Schempp*, 374 U.S. 203 (1963) (declared unconstitutional devotional Bible reading and recitation of the Lord's Prayer in public schools); *Engel v. Vitale*, 370 U.S. 421 (1962) (declared prayers in public schools unconstitutional); *see also Lee v. Weisman*, 505 U.S. 577 (1992) (ruled prayers at public high school graduations an impermissible establishment of religion); *Jager v. Douglas County Sch. Dist.*, 862 F.2d 825 (11th Cir. 1989), *cert. denied*, 490 U.S. 1090 (1989) (holding unconstitutional pre-game invocations at high school football games). In all of the aforementioned cases, the federal courts have struck down prayer in public schools because it constitutes a government endorsement of religion, which violates the Establishment Clause of the First Amendment.

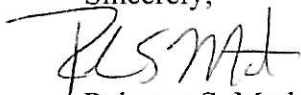
The prayers led by Coach Wells in the Middletown football program, as well as him pressuring students to attend his church and be “saved,” constitute an unconstitutional government endorsement of religion. The prayers are clearly offered as part of regularly scheduled school-sponsored activities, so a reasonable Middletown student would certainly perceive the prayer “as stamped with her school’s approval.”

Federal courts have specifically held public school coaches’ leadership of and even participation in their team’s prayer circles unconstitutional. *See, e.g., Borden v. Sch. Dist. of the Township of East Brunswick*, 523 F.3d 153 (3rd 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) (declaring 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, who had an extensive history of organizing, leading and participating in prayers before games, was unconstitutional because it violated the Establishment Clause. *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. *See 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. *See id.*

Coach Wells’s conduct with the football team crosses the line because he endorses and promotes his religion when acting in his official capacity as a school district employee. Certainly, he represents the school and the team, when he acts in his official role as head coach of the football team. Therefore, he cannot lead his team in prayer, he cannot organize or advocate for team prayer either, and he cannot invite players to attend religious activities. We ask that the school district commence an immediate investigation into the complaint alleged, and take immediate action to stop any and all prayers occurring at any school-sponsored athletic activities. We ask that you inform us in writing of the steps Middletown City Schools takes to remedy this serious and flagrant violation of the First Amendment.

Sincerely,



Rebecca S. Markert
Staff Attorney

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