

# FREEDOM FROM RELIGION *foundation*

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September 24, 2014

**SENT VIA U.S. MAIL & ELECTRONIC MAIL**

**tallen@fbtlaw.com**

Thomas B. Allen  
Attorney  
Frost Brown Todd LLC  
9277 Centre Pointe Dr Ste 300  
West Chester, OH 45069-4866

Re: Prayer in Middletown High School Football

Dear Attorney Allen:

Earlier this year, we corresponded about Middletown High School varsity football coach Chris Wells leading his team in prayer. On April 25, 2014, you wrote to FFRF that Coach Wells had been “expressly informed [] that his actions had crossed the line, and were impermissible.” Coach Wells “agreed to refrain from this or any similar conduct in the future.” Unfortunately, I write again because FFRF received multiple reports that Coach Wells continues to engage in this unconstitutional and inappropriate behavior.

It is our information and understanding that Coach Wells has not changed any behaviors FFRF reported last spring. In fact, our complainants report that Coach Wells continues to lead his team in prayer before and after each game. Our complainants report that this past Friday, September 19<sup>th</sup>, after suffering a defeat, Coach Wells gathered the team in the locker room and told the players they needed to re-dedicate themselves to God and to put their faith in God. Our complainants report that after this religious lecture, Coach Wells instructed the players to take a knee and pray. We understand one player refused and Coach Wells told him to gather his stuff and get out. Our complainants report that student was kicked off the football team.


Coach Wells is purposefully and willfully ignoring the law and the District’s explicit directive. The District cannot allow Coach Wells to continue to serve as the varsity football coach. We remind you that 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).

Furthermore, Coach Wells’ actions are imputed onto Middletown City Schools. The District has an obligation under the law to make certain that “subsidized [employees] do not inculcate

religion.” *Lemon v. Kurtzman*, 403 U.S. 602, 619 (1971). Coach Wells cannot pray with his team. Courts have upheld the termination of public school employees who do. *See, e.g., Grossman v. South Shore Public Sch. Dist.*, 507 F.3d 1097 (7th Cir. 2007); *Webster v. New Lenox Sch. Dist.*, 917 F.2d 1004 (7th Cir. 1990).

These allegations are incredibly alarming and upsetting. There is no way Coach Wells can continue to serve as varsity football coach when it is clear his intentions are to proselytize a captive group of high school students and punish those who do not comply with his religious demands. While FFRF has not been contacted by the student who was directly affected by Coach Wells’ actions, we are gravely concerned that students’ rights are being grossly and egregiously violated. Middletown City Schools must terminate Coach Wells from this position immediately. I request a response in writing outlining the corrective action the District intends to take.

Sincerely,



Rebecca S. Markert  
Staff Attorney