

FREEDOM FROM RELIGION *foundation*

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April 2, 2015

SENT BY MAIL AND EMAIL TO: jpollan@pittsburgisd.net

Ms. Judy Pollan
Superintendent
Pittsburg Independent School District
402 Broach St.
Pittsburg, TX 75686

Re: Illegal coach proselytization

Dear Superintendent Pollan:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to serious constitutional violations involving coach-led proselytization within Pittsburg ISD (District). As you may be aware, FFRF is a national nonprofit organization with 22,000 members across the country, including over 900 members in Texas. Our purpose is to protect the constitutional principle of separation between state and church.

A concerned District community member contacted us to report that Pittsburg High School head baseball coach Tommy Stewart conducts bible study with his players after practice each Wednesday and students who do not attend are punished with 20 minutes of running. We further understand that Coach Stewart shows religious videos to his players, including the movie *God's Not Dead* and videos from the Kingdom Man ministry series. Additionally, we understand that the team's official practice uniforms have the bible quote "With GOD all things are possible" printed on them, from Matthew 19:26. A picture of one such uniform is enclosed.

We write to ask that Stewart be instructed not to proselytize to his players, in accordance with his constitutional obligation to remain neutral toward religion.

It is a violation of the Constitution for Stewart or any other coach to organize a bible study or religious movie viewing and discussion with students. It is illegal for any public school employee to endorse a religious message to a captive student audience. *See, e.g., Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963) (finding school-sponsored bible readings unconstitutional); *Engel v. Vitale*, 370 U.S. 421 (1962) (holding unconstitutional daily school-sponsored prayer); *Pelozo v. Capistrano Unified Sch. Dist.*, 37 F.3d 517 (9th Cir. 1994) (upholding school's prohibition on teaching creationism because permitting a teacher "to discuss his religious beliefs with students during school time on school grounds would violate the Establishment Clause"). Any government endorsement of religion violates the Establishment Clause of the First Amendment.

The Supreme Court has also specifically struck down religious endorsement taking place before athletic events. *See Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (striking down a school policy that authorized school prayer at high school football games). Federal courts have also held public school coaches' participation in their team's prayer circles unconstitutional. *See, e.g., Borden v. Sch. Dist. of the Twp. of East Brunswick*, 523 F.3d 153 (3rd Cir. 2008), *cert. denied*, 129 S. Ct. 1524 (2009) (declaring

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 at games and practices an unconstitutional endorsement of religion).

The Fifth Circuit, the controlling Court of Appeals in Texas, has held that coach involvement in prayer at practices and games is unconstitutional because the prayers "take place during school-controlled, curriculum-related activities that members of the [athletic] team are required to attend. During these activities [district] coaches and other school employees are present as representatives of the school and their actions are representative of [district] policies." *Duncanville*, 70 F.3d at 406. Coach Stewart's alleged conduct goes well beyond the religious endorsement held illegal in *Duncanville*. He's actively indoctrinating his players into his personal religion.

Similarly, by including a religious message on its team uniforms, Pittsburg High School sends a message to non-Christian and nonreligious students that they are outsiders in their own school community and on their own sports teams. Simply put, religion is a divisive force in public schools. Even among Christians, using a bible quote can create controversy depending on which translation of the bible is used. Our complainant noted similar problems with Stewart's bible study, "Most of the sermons they watch and the bible studies are Baptist in nature and they are forcing a Catholic student to sit through them." This is precisely why the "preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere." *Lee v. Weisman*, 505 U.S. 577, 589 (1992).

Please note that it does not matter whether some players asked Stewart to lead a bible study during practice or whether participation in the religious indoctrination is optional. Courts have summarily rejected arguments that voluntariness excuses a constitutional violation. *See, generally, Lee*, 505 U.S. at 596 ("It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice."); *Abington Sch. Dist.*, 374 U.S. at 288 (Brennan, J., concurring) ("Thus, the short, and to me sufficient, answer is that the availability of excusal or exemption simply has no relevance to the establishment question . . ."); *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003) (" . . . VMI cannot avoid Establishment Clause problems by simply asserting that a cadet's attendance at supper or his or her participation in the supper prayer are 'voluntary.'").

Coach Stewart's organization of and participating in bible study and religious discussions with his students directly violates the Constitution. We request that the District inform Stewart that the bible study sessions must end immediately and that he may not otherwise endorse religion to his players. The bible quotes on the team's uniforms must also be removed. Please inform us in writing of the steps that the District is taking to remedy this violation so that we may inform our complainant.

Sincerely,



Sam Grover
Staff Attorney

Enclosure

cc: Principal Jonathan Hill, Pittsburg High School via jehill@pittsburgisd.net

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