

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 · MADISON, WI 53701 · (608) 256-8900 · WWW.FFRF.ORG

March 2, 2017

SENT VIA EMAIL AND U.S. MAIL:
fritcherb@ttown.k12.il.us

Mr. Bill Fritcher
Superintendent
Teutopolis CUSD #50
P.O. Box 607
Teutopolis, IL 62467-0607

Re: Unconstitutional school-endorsed prayer

Dear Superintendent Fritcher:

I am writing on behalf of the Freedom From Religion Foundation to alert you to a constitutional violation that occurred at a Teutopolis CUSD athletic event. We appreciate your assistance in correcting school-endorsed prayer in 2015 and hope that this issue can be quickly resolved as well.

We were recently informed that Teutopolis CUSD personnel, including basketball coach Mike Walker, prayed with student athletes after a recent basketball game against Pana High School. Pana High School's principal, Gayle McRoberts, posted a picture of the prayer on social media on February 25, which is enclosed for your review. We understand that Coach Walker is in the foreground of the image, and we are concerned that other school personnel may have participated in this student religious activity as well.

It is illegal for public school athletic coaches to lead their teams in prayer or to participate in student prayers. 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. *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 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) (holding 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 Walker'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 Wooden Shoes. 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 Teutopolis CUSD #50 commence an immediate investigation into the complaint alleged and take action to ensure that District representatives will not pray with students during District athletic programs in the future. Please inform us in writing of the steps you are taking to remedy this serious and flagrant violation of the First Amendment.

Sincerely,

A handwritten signature in blue ink that reads "Ryan D. Jayne". The signature is stylized and cursive.

Ryan D. Jayne, Esq.
Elaine & Eric Stone Legal Fellow
Freedom From Religion Foundation

Enclosure



Sallie Hanson The victory was sweet. But God's love is so much sweeter. This was my favorite part of the game. As a coaches wife it is sometimes hard giving up your husband for months. But it's not all about wins and losses. It's about helping raise up the next generation of young men. And guess what in turn happens. Those same young men are gonna help us raise up our boys. Our youngest is the circle and has his arm around one of our players and Coach Walker. That's what life's about. Love God, Love each other. Thank you for sharing Gayle McRoberts and thank you for the kind words you said after the game to our players, cheerleaders and coaches.

Like Reply 11 February 26 at 9:18am

Jenni Kemme Dittamore Sallie, Cooper is my favorite part of this picture

Like Reply 1 February 26 at 11:02am

Write a reply

Kevin Collings Great share! Class act by both schools!

Like Reply February 26 at 9:20am

Kathy Jean York Definitely first class!

Like Reply February 26 at 9:24am

Cathy Jo Brummer This was Great!!! Our priest talked about it in church this week and how good it was to end the game this way! Thanks from T-

Write a comment