

FREEDOM FROM RELIGION *foundation*

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January 11, 2017

SENT VIA EMAIL AND U.S. MAIL:
rwell@vandals203.org

Mr. Rich Well
Superintendent
Vandalia CUSD #203
1109 N. Eighth Street
Vandalia, IL 62471

Re: Unconstitutional Coach-Led Prayer

Dear Superintendent Well:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring at Vandalia Community High School (VCHS). FFRF is a national nonprofit organization with more than 26,000 members across the country, including more than 800 members in Illinois. FFRF's purpose is to protect the constitutional principle of separation between state and church.

It was reported to us that at VCHS on December 26, 2016, after a basketball game between VCHS and Pana High School, Coach Brian Buscher participated in a prayer circle with all of the student athletes on both teams. Our complainant reported that Buscher regularly participates in prayers with student athletes. While investigating this complaint, we found several images of District coaches, at VCHS and Vandalia Junior High, praying with student athletes posted by the local Fellowship of Christian Athletes.¹ Two of these images are enclosed for your review.

It is illegal for public school athletic coaches to lead, organize, or participate in prayer with their students. We write to request assurances that all District coaches will not do so in the future.

Prayers may not be a scheduled part of any school-sponsored activity. 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

¹ See twitter.com/FCAVandalia; twitter.com/scilfca.

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"); *Abington Twp. Sch. Dist. 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 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. *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.*

We ask that the District commence an immediate investigation into the complaint alleged and take immediate action to stop any and all District coaches from praying with their team or otherwise promoting religious exercises as part of a District athletic program. Please inform us in writing of the steps taken to remedy this serious and flagrant violation of the First Amendment.

Sincerely,



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

Enclosure



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Great game by both teams tonight!
#PannavsVandalia #PlayforGod



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Several games ending with prayer these days.
Making an impact #influence #greenville #pana
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