

FREEDOM FROM RELIGION *foundation*

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SENT VIA U.S. MAIL & E-MAIL

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Dr. Clark Ogilvie
Superintendent of Schools
Owasso Public Schools
1501 N. Ash
Owasso, OK 74055

Re: Pre-Game Prayers with High School Baseball Team

Dear Dr. Ogilvie:

I am writing on behalf of a concerned citizen, and Oklahoma members of the Freedom From Religion Foundation ("FFRF"), to inform you of a serious constitutional violation occurring at Owasso High School. FFRF is a national nonprofit organization with over 20,000 members across the country, including members in Oklahoma. Our purpose is to protect the constitutional principle of separation between state and church.

It is our information and understanding that the baseball team at Owasso High School has – in the past – engaged in pre-game prayers. It is our further understanding that the team has been led in group prayers by the team's head coach, Larry Turner, and other assistant coaches.¹ We are concerned that this prayerful practice continues at Owasso High School.

It is illegal for a public school to organize, sponsor, and lead prayers at public school events. The Supreme Court has continually struck down formal teacher- or school-led prayer in public schools. *See, e.g., 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); *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."). 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.

¹ See Terrell Lester, "Owasso Baseball Coach Creates Champions," *Greater Tulsa Reporter*, April 28, 2014, available at <http://www.gtnews.com/greater-tulsa-reporter/12755/owasso-baseball-coach-creates-champions> ("Turner and his coaching staff lead the players in prayer before games.").

The Supreme Court has struck down pre-game invocations at school football games. *See generally 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). A prayer taking place at a “regularly scheduled school-sponsored function conducted on school property” would lead an objective observer to perceive it as a state endorsement of religion. *Id.* at 308. The Court stated that in this context, “[r]egardless 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.” *Id.*

More notably, federal courts have specifically held public school coaches’ 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 (U.S. Mar. 2, 2009) (No.08-482) (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). *See also Bd. of Educ. of the Westside Cmty. Sch. v. Mergens*, 496 U.S. 226, 253 (1990) (indicating that public school faculty may not participate in any student-led religious meetings); *Culbertson v. Oakridge Sch. Dist.*, 258 F.3d 1061 (10th Cir. 2001) (held a school district policy allowing teachers to distribute religious literature violated the Establishment Clause because it creates an impression of school 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, had violated the Establishment Clause by “bow[ing] his head and tak[ing] a knee while his team pray[ed].” *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.* The Fifth Circuit in *Doe* also rejected the argument that a school district could not “prevent its employees from participating in student prayers without violating their employees’ rights to the free exercise of religion, to association, and to free speech and academic freedom.” *Doe v. Duncanville Indep. Sch. Dist.*, 70 F.3d 402, 406 (5th Cir. 1995). It noted that “the principle that government may accommodate the free exercise of religion does not supersede the fundamental limitations imposed by the establishment clause.” *Id.* (quoting *Lee*, 505 U.S. at 586-87).

Owasso Public Schools must take immediate action to ensure that coaches do not lead, organize, encourage, or participate in prayers with their teams. The coaches apparent organizing and obvious participation in a team prayer constitutes an unconstitutional government endorsement of religion. A reasonable member of the Owasso High School baseball team would certainly perceive such a prayer "as stamped with [his or] her school's approval." *See Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 308.

We ask that the school district commence an immediate investigation into the complaints alleged and take immediate action to stop all school-sponsored prayers occurring at any district events. We ask that you inform us promptly in writing of the steps the district takes to remedy this serious violation of the First Amendment.

Sincerely,



Andrew Seidel
Staff Attorney

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