

FREEDOM FROM RELIGION *foundation*

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September 15, 2011

SENT VIA U.S. MAIL & FAX
606-337-1412

George Thompson
Superintendent
Bell County Board of Education
PO Box 340
211 Virginia Avenue
Pineville, KY 40977

Re: Proposed Moment of Silence at Bell County High School Home Football Games

Dear Mr. Thompson:

Our national organization, which works to protect the constitutional principle of separation between state and church, contacted you on August 9th regarding minister-led prayer before athletic events at Bell County High School. We appreciate your prompt action to cease these illegal prayers. We write again, however, because our local complainant informs us of new developments in Bell County that raise continuing constitutional concerns.

We understand the Board of Education is considering instituting a “moment of silence” in place of the pre-game prayer. Your statement on the district’s homepage states that the moment of silence may be the “best pregame option.” It is our further information and understanding that the next Bell County High School home football game is scheduled for September 30th.

Our complainant informs us that a group of Bell County Schools’ teachers, students and fans are organizing and planning an event called “The Lord’s Prayer During the ‘Moment of Silence.’” The details of this event can be found on the group’s Facebook page. Our complainant informs us that district employees are openly commenting, helping to organize and planning to attend this event. For example, Ms. Sylvia Cornelius, the Media Specialist and Fourth Grade Writing, Art and Music teacher at Lone Jack School Center has indicated her support for prayer on multiple public pages and intends on attending the Lord’s Prayer event on September 30th (she rsvp’d yes and wrote “I will be there. Do I need to bring anything?”).

Upon further research, we discovered that Ms. Cornelius is also organizing a protest for the home game on September 30th. According to her Facebook page, she is asking other teachers, students and Bobcat fans to make signs to carry onto the field or elsewhere near the game. She

notes that “The signs will just say ‘I prayed at our football games in 19--... and I will pray in 2011 at the Bell County Football Games! Glory to His Name.’” She also noted, “...the law states that it must be student initiated so we can work on that.” Even more disturbing is her “majority rules” stance on the prayer issue. She wrote, “We need to fight this!!!! One child can sit in his car while the preacher has his prayer.”

We understand that Mindy Graves is a 6th and 7th grade history teacher at Bell Central School Center. Ms. Graves has also been vocal about her support for the pregame prayer. She notes on the Prayer Supporters!!!! Facebook page that she “will be praying anyway and whoever wants to join in can. [She] will be in the middle of the stands and [will] pray to the top of [her] lungs...” She also agreed to carry a sign as part of Ms. Cornelius’ efforts.

Substitution of a Moment of Silence

In this instance to substitute a “moment of silence” for the pregame prayer does not alleviate constitutional concerns. As you noted in your statement on the District website, “the pregame prayer has been a long standing Bell County tradition...” Implementing a moment of silence at the next home game only provides a forum for prayer to continue, as evidenced by efforts to shout the Lord’s Prayer during the moment of silence. The history of the pre-game prayer, and District statements about the “hard held Christian belief in Bell County,” demonstrate an intention to provide a forum for prayer under the auspices that it is “student-led” or “spontaneous.” Thus, the proposed moment of silence seems to lack the secular purpose required for it to be a permissible option. *See Wallace v. Jaffree*, 472 U.S. 38 (1985).

It is certainly not surprising that the community (of students, teachers, and fans) would push for prayer during this time, for they have been educated by a school system that has itself chosen to flout constitutional requirements. You openly admitted on the District’s website that you were “aware of various court cases that ruled a prayer (even a student led prayer) before a school sponsored event was an unconstitutional endorsement of religion...” yet you chose to “continue the prayer until someone makes us stop.” The school system’s longstanding disregard for constitutional norms has bred a culture of noncompliance.

Public School Employee Participation in Prayer Protests and Circles

We are concerned and troubled by reports that District employees are organizing protests, and planning on participating in the “student-led” prayer during the moment of silence at the next home game. The District should commence an immediate investigation into these efforts and take the appropriate action to stop teachers, faculty and other public school employees from inappropriately and illegally participating in their official capacities in this prayer protest.

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)(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 fact, Supreme

Court Justice Blackmun has stated, "it is not enough that the government restrain from compelling religious practices, it must not engage in them either..." *Lee v. Weisman*, 505 U.S. 577, 604 (1992)(Blackmun, J., concurring). It is clear that federal law dictates government employees should refrain from actively participating in religious activities while acting within their governmental role to avoid any perception of government endorsement of religion and/or excessive entanglement with religion.

Given the history of illegal prayer in your District and efforts not just by students, but also by District employees, to insert prayer into the proposed moment of silence, we strongly urge you to drop any considerations of a "moment of silence" at the next Bell County home game on September 30th and future home games. Students and fans are free to pray individually before the game, but Bell County Schools does not, and should not, provide a forum to do so. We again ask for a written reply to our concerns.

Sincerely,

Handwritten signature in blue ink that reads "Rebecca S. Markert /sas".

Rebecca S. Markert
Staff Attorney

cc: Richard Gambrel, Principal, Bell County High School