

# FREEDOM FROM RELIGION *foundation*

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September 1, 2015

**SENT VIA EMAIL & U.S. MAIL**  
**scott.cowart@carrollcountyschools.com**

Scott Cowart  
Superintendent  
Carroll County Schools  
164 Independence Dr.  
Carrollton, GA 30116

Re: Unconstitutional Baptism of Villa Rica Football Players and Coach

Dear Superintendent Cowart:

The Freedom From Religion Foundation (FFRF) recently wrote to your school district about a school-sponsored baccalaureate service at Mount Zion High School. We appreciate your attention and prompt action correcting those issues. Unfortunately, we must write again regarding an egregious constitutional violation that occurred at Villa Rica High School.

We have received reports that recently a coach and several football players were baptized on the Villa Rica High School football field before practice. A video posted on August 17, 2015 by Villa Rica First Baptist Church shows the baptisms taking place<sup>1</sup>. The video was posted with the caption:

“We had the privilege of baptizing a bunch of football players and a coach on the field of Villa Rica High School! We did this right before practice! Take a look and see how God is STILL in our schools!”

The video shows several players and a coach being baptized, presumably by a church representative, before football practice on school property. This video also features a bible verse (Luke 3:21) and describes the baptism as “a step of obedience” and “being set free.” It goes on to show what appear to be coaches and players in a team prayer circle.

As you are already aware, it is well settled that public schools may not advance or promote religion. Courts have consistently held that it is illegal for a public school to organize, sponsor, or lead religious activity at public high school athletic events, such as football practice. *See Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2001); *Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Epperson v.*

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<sup>1</sup> Available at: [https://www.youtube.com/watch?v=5-Ty5vy\\_S1A](https://www.youtube.com/watch?v=5-Ty5vy_S1A)

*Arkansas*, 393 U.S. 97 (1967); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962).

It is illegal for coaches to participate in religious activities with students, including prayer and baptisms. Nor can coaches allow religious leaders to gain unique access to students during school-sponsored activities. When baptisms and prayer take place directly before a team football practice, on school property, with coaches' participation, any reasonable student would perceive these activities to be unequivocally endorsed by their school.

Federal courts have specifically held public school coaches' participation in their team's religious activity 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 (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) (declaring basketball coach's participation in student prayer circles an unconstitutional endorsement of religion). In *Borden*, the Third Circuit Court of Appeals stated that the coach's involvement 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." *Borden*, 523 F.3d at 174. 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). Organization of and/or participation in a team baptism and team prayer are clearly prohibited.

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. *See id.*

Neither can the Constitution's prohibition against school-sponsored religious exercise be overcome by claiming such activities are "voluntary." As the Supreme Court said in *Engel*, "Neither the fact that the prayer may be denominationally neutral nor the fact that its observance on the part of students is voluntary can serve to free it from the limitations of the Establishment Clause ...." 370 U.S. at 430. In *Schempp*, the Court said the offending religious practices were not "mitigated by the fact that individual students may absent themselves upon parental request, for that fact furnishes no defense to a claim of unconstitutionality under the Establishment Clause." 374 U.S. at 224-25. It makes no difference if the school requires parents to opt-in to religious practices. *See Karen B. v. Treen*, 653 F.2d 897 (5<sup>th</sup> Cir. 1981)(Finding required express written permission by parents for students to participate in prayer did not cure Establishment Clause violations). Even if coaches and staff aren't forcing players to get baptized, "[a] school risks violation of the Establishment Clause if any of its teachers' activities gives the impression that the school endorses religion." *Marchi v. Bd. of Cooperative Educ. Services*, 173 F. 3d 469, 477 (2d Cir. 1999).

Such “[s]chool sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are nonadherents ‘that they are outsiders, not full members of the political community and accompanying message to adherents that they are insiders, favored members of the political community.’” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309-10 (2001)(quoting *Lynch v. Donnelly*, 465 U.S. at 668)(O’Connor, J., concurring). The promotion of religion by school staff undeniably turns any non-believing and non Christian Villa Rica High School student into an outsider. This is especially problematic in the context of athletics, given the pressure players feel to conform to coaches’ expectations so as not lose favor with coaches or hurt their playing time.

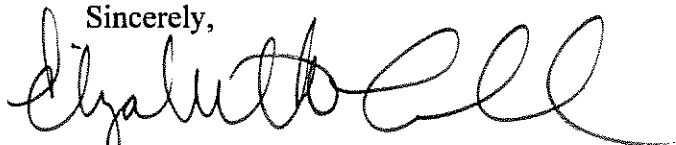
Finally, under *Santa Fe*, even student-organized or student-led prayers cross the line because adolescents are susceptible to peer pressure. *See id.* Team religious activity in schools inevitably compels the teammates to participate in the religious activity because they are conducted in a manner that calls attention to nonparticipation. Furthermore, the team staff participates in the events, demonstrating their approval and endorsement of these activities. Student athletes are inclined to mirror the actions of team leaders to garner their favor. The participation in these events by coaches sends a clear message that the athletic staff approves of these activities.

We request that the District immediately investigate and take action to ensure there will be no further illegal religious events, including team baptisms and prayer, during school-sponsored activities. Coaches and school staff should be instructed that they cannot participate in religious activities with students while acting in their official capacity.

We recently sued Emanuel County School District in Georgia for similarly promoting religion in defiance of the law and are seeking punitive damages and personal liability from the teachers, principal, and superintendent involved. We prefer to settle these matters cooperatively, as we did with you regarding school-sponsored baccalaureate services in April 2015.

Please reply detailing the steps being taken to bring Carroll County Schools into compliance with the First Amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Cavell". The signature is fluid and cursive, with a large initial "E" and a long, sweeping tail.

Elizabeth Cavell  
Staff Attorney