

FREEDOM FROM RELIGION *foundation*

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

September 9, 2021

SENT VIA EMAIL & U.S. MAIL: nmeraz@elginps.net

Nathaniel Meraz
Superintendent
Elgin Public Schools
501 K Street
Elgin, Oklahoma 73538

Re: Unconstitutional Religious Promotion in District Athletic Programs

Dear Superintendent Meraz:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a serious constitutional violation occurring in Elgin Public Schools. FFRF is a national nonprofit organization with more than 35,000 members across the country, including members in Oklahoma. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

A concerned District community member has raised concerns regarding promotion of religion in Elgin Public Schools' athletic programs. Our complainant reports that coaches in Elgin Public Schools have been allowing outside adults to proselytize to District students, and that the District promotes this proselytizing on its official social media pages. Please see the enclosed screenshot from the official Elgin Public Schools Athletics Facebook page, which shows religious leaders proselytizing to students during a school-sponsored football event. The post praises these religious leaders for spreading their religious beliefs to District students:

Thank You! SWOK FCA - Richy Large and FBC Marlow Pastor Jordy McKaskle on sharing two of the greatest things in the world...watermelon and the Love and Grace of the Lord Jesus Christ

This conduct raises serious concerns that Elgin Public School coaches are proselytizing and promoting their religion to students, both through outside religious leaders and directly to students. The District must immediately investigate and ensure that its coaches and teachers are not promoting or endorsing their personal religious beliefs to students either directly or by allowing outside religious leaders to proselytize to students. While the District may allow a Fellowship of Student Athletes club at the school, the law requires student religious clubs to be entirely student-initiated and student-run. Allowing outside religious leaders to attend school events, proselytize to students, and then promoting that proselytization through official District communication channels is a clear advancement and endorsement of Christianity.

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 include religious content in school events, including events taking place outside of the regular school day. 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. 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).

Allowing representatives of religious groups regular, or even one-time, access during a school activity to proselytize and recruit students for religious activities is a violation of the Establishment Clause. The courts have protected public school students from overreaching outsiders in similar situations. See, e.g., *Berger v. Rensselaer School District*, 982 F.2d 1160 (7th Cir. 1993) (holding that distribution of bibles by Gideons in school violated Establishment Clause). Courts have granted injunctions against schools for their complacency in such situations. See, e.g., *Roark v. South Iron R-1 Sch. Dist.* 540 F. Supp.2d 1047, 1059 (E.D. Mo., 2008); *upheld in relevant part by* 573 F.3d 556, (8th Cir. 2009) (holding that school policy allowing evangelical Christian organization to distribute bibles in school violated Establishment Clause). This active, in-person contact with students is different from cases in which religious groups have been allowed to passively distribute literature to students or to send flyers to parents. See, e.g., *Peck v. Upshur Cty. Bd. of Ed.*, 155 F.3d 274, 281 (4th Cir. 1998) (upholding school board's allowance of passive distribution of religious materials in part because the school board "preclude[d] religious speakers from delivering their messages to Upshur County students face-to-face.").

Federal courts have specifically held that it is unconstitutional for public school coaches to participate in team religious activity. 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).

Elgin Public schools cannot allow non-school persons to treat school football events as a recruiting ground for their religious mission. It demonstrates an unlawful preference not only for religion over non-religion, but also Christianity over all other faiths. Public schools have a constitutional obligation to remain neutral toward religion. When a school allows an adult FCA representative to preach to its students on the field during a school-sponsored event, it has unconstitutionally entangled itself with a religious message—in this case, a Christian message. Given the approval by coaches of the speakers, players will absolutely perceive that this is a school-sponsored activity. This alienates those non-Christian students and parents whose religious beliefs are inconsistent with the message being disseminated by the school.

Public schools have an obligation to remain separate from religion because "the preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere." *Santa Fe Indep. Sch. Dist.* at 310 (quoting *Lee*, 505 U.S. 577, 589 (1992)).

Students are young, impressionable, and vulnerable to social pressure, particularly pressure exerted from an adult.

We ask that the District commence an investigation into the alleged complaint and take immediate action to ensure that its athletic programs are not being used to proselytize and promote religion in violation of students' constitutional rights. The Facebook post should be removed, and the District should refrain from endorsing religion on its official social media pages in the future. Please inform us in writing of the steps the District is taking to remedy this serious and flagrant violation of the First Amendment.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Line", with a long horizontal flourish extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation

Enclosure



Elgin Public Schools Athletics

August 20 at 9:18 PM · 🌐

Thank You! SWOK FCA - Richy Large and FBC Marlow Pastor Jordy McKaskle on sharing two of the greatest things in the world...watermelon and the Love and Grace of the Lord Jesus Christ 😊.

