

FREEDOM FROM RELIGION *foundation*

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

November 20, 2020

SENT VIA EMAIL & U.S. MAIL: cwoods@isd221.net

Craig Woods
Superintendent
Emmett Independent School District
400 S. Pine Ave.
Emmett, ID 83617

Re: Unconstitutional Religious Promotion in Football Program

Dear Superintendent Woods:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in the Emmett Independent School District. FFRF is a national nonprofit organization with more than 33,000 members across the country, including members in Idaho. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

It is our understanding that Emmett High School's football coach, Rich Hargitt, regularly promotes his personal religious beliefs to his football team. Please see the enclosed screenshots. One of these screenshots is a Facebook post that describes Coach Hargitt telling his team that "the glory of the victory belongs to God." The post also implies that he is using his position to preach to the players on his team. Some of Coach Hargitt's Twitter posts also show he is promoting religion to his team.

Coach Hargitt's use of his public school position to promote his personal religion to students is a violation of the Establishment Clause of the First Amendment. We write to ask that you investigate this concern and ensure that Coach Hargitt will no longer promote or endorse religion to players going forward.

It is well settled that public schools may not advance or promote religion. Courts have continually held that public school teachers and coaches may not promote their personal religious beliefs to students. Federal courts have held public school coaches' organization and participation in team prayer and religious activities unconstitutional. *See, e.g., Borden v. Sch. Dist. of the Twp. of East Brunswick*, 523 F.3d 153 (3rd Cir. 2008), *cert. denied*, 129 S. Ct. 1524 (2009) (declaring 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 at games and practices an unconstitutional endorsement of religion).

In *Duncanville*, the Fifth Circuit held that a coach's attempts to engage in religious activities with players at practices and games were unconstitutional because the religious promotion took place "during school-controlled, curriculum-related activities that members of the [athletic] team are required to attend. During these activities [district] coaches and other school employees are present as representatives of the school and their actions are representative of [district] policies." *Duncanville*, 70 F.3d at 406.

The court also rejected the district's argument that prohibiting a coach from praying with students would violate the coach's right to free speech. *Id.* The court recognized that "the principle that government may accommodate the free exercise of religion does not supersede the fundamental limitations imposed by the Establishment Clause" and that the district therefore had an obligation to prohibit its coaches from endorsing prayer. *Id.* For this same reason, prohibiting Coach Hargitt from promoting religion to his players does not violate his free exercise rights. Further, Hargitt's proclamation that the "glory belongs to God" sends the message to his nonreligious players that they are disfavored outsiders.

While Coach Hargitt is free to hold and express his personal religious beliefs outside of his position as a football coach, teachers and coaches have access to a captive audience of students due to their position as public educators. The District has a duty to regulate religious proselytizing during school-sponsored activities. "Because the speech at issue owes its existence to [his] position as a teacher, [a School District] acted well within constitutional limits in ordering [a teacher] not to speak in a manner it did not desire." *Johnson v. Poway Unified Sch. Dist.*, 658 F.3d 954, 970 (9th Cir. 2011), *cert. denied*, 132 S. Ct. 1807 (2012) (upholding decision of school board to require a math teacher to remove two banners with historical quotes referencing "God"); *see also Garcetti v. Ceballos*, 547 U.S. 410, 421 (2006) ("We hold that when public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline.").

We respectfully request that the District commence an immediate investigation and provide written assurances that Coach Hargitt will no longer promote religious faith, belief in a god, or any other religious concepts to his players. We look forward to a response at your earliest convenience so that we may notify our complainant that this flagrant First Amendment violation will not continue.

Sincerely,

A handwritten signature in blue ink that reads "Chris Line". The signature is written in a cursive, flowing style with a long horizontal line extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation

Enclosures



Emmett Huskies - Bruce BPhotography Sports Page

November 13 at 11:50 PM · 🌐

Post game team huddle Coach Hargitt told the players the glory of the victory belongs to God. So awesome to know he is teaching them more than just football.



Coach Hargitt @coachhargitt · Nov 13

Tonight we play Century HS in @EHSuskie's 1st ever 4A Semi-Final. Century is better coached, faster, & more athletic...but this journey has always been for the Glory of God..win our lose we play for something higher than ourselves and we are blessed to be here...





Coach Hargitt @coachhargitt · Nov 12



I am not sure if God's plan is for us to achieve victory or finally taste defeat but I know this...we are doing God's work in Emmett and whether we finish 3rd, 2nd, or 1st my conscience is clear that @EHS Huskies are better men for having been in this program ! #allglorytoGod

