

FREEDOM FROM RELIGION *foundation*

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October 6, 2020

SENT VIA EMAIL AND U.S. MAIL:

christina.hess@jasper.k12.mo.us

Christina Hess
Superintendent
Jasper R-5 School District
201 W. Mercer St.
Jasper, MO 64755

Re: Unconstitutional Coach-Led Prayer

Dear Ms. Hess:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring at Jasper High School within the Jasper R-5 School District. We were contacted by a concerned parent of a player. FFRF is a national nonprofit organization with more than 33,000 members across the country, including more than 400 members in Missouri. 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 has come to our attention that Joey Ballard, head coach for Jasper High School's boys football team, regularly leads team prayer. See enclosed screenshots depicting prayers from September 6¹ and September 13, 2020.² During these prayers, student-players gathered around Coach Ballard on bended knee with additional coaching staff surrounding the students as he gave a Christian prayer and then led the students in reciting the Lord's Prayer.

School officials seem to condone the endorsement of religion as the video recording of the September 13th prayer is hosted on the Jasper Eagles Football Facebook page with the caption "Head Coach Joey Ballard pregame prayer. 🙏🏠"³

It is illegal for public school athletic coaches to lead their teams in prayer. The Supreme Court has continually struck down school-sponsored prayer in public schools. See, e.g., *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 308 (2000) (holding student-led prayer over the loudspeaker before football games unconstitutional. "Regardless 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" because it occurred at a "regularly scheduled school-sponsored function conducted on school property."); *Lee v. Weisman*, 505 U.S. 577 (1992) (finding prayers at public high school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturning

¹ <https://www.youtube.com/watch?v=K8m0jHTiw1E>

² <https://www.facebook.com/watch/?v=2862597283840444>

³*Id.*

law requiring daily “period of silence not to exceed one minute . . . for meditation or daily prayer”); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963) (holding school-sponsored devotional Bible reading and recitation of the Lord’s Prayer unconstitutional); *Engel v. Vitale*, 370 U.S. 421 (1962) (declaring school-sponsored prayers in public schools unconstitutional).

In each of these cases, the Supreme Court struck down school-sponsored prayer because it constitutes a government advancement and endorsement of religion, which violates the Establishment Clause of the First Amendment.

Public school coaches must refrain not only from leading prayers themselves, but also from participating in students’ prayers. 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) (finding that public school faculty may only be at student-led religious meetings in a “nonparticipatory capacity”). Federal courts have held that even a public school coach’s silent participation in student prayer circles is unconstitutional. *See, e.g., Borden v. Sch. Dist. of the Twp. of East Brunswick*, 523 F.3d 153 (3d 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) (holding a basketball coach’s participation in student prayer circles an unconstitutional endorsement of religion).

In *Borden*, the Third Circuit Court of Appeals held the high school football coach’s history of organizing, leading and participating in prayers before games was unconstitutional because it violated the Establishment Clause. *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. *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. *Id.*

Head Coach Joey Ballard’s conduct is unconstitutional because he endorses and promotes his religion when acting in his official capacity as a school district employee, as do the other coaches when they participate in these prayers. Certainly, they represent the school and the team when acting in their official roles as coaches of the Jasper High School boys football team. Therefore, they cannot lead the team in prayer, participate in prayers with students, or organize or advocate for students to lead team prayer. When a public school employee acting in an official capacity organizes and advocates for team prayer, he effectively endorses religion on the District’s behalf.

We ask that Jasper R-5 School District commence an investigation into the complaint alleged and take immediate action to stop any and all school-sponsored prayers occurring within any District athletic programs. Please inform us in writing of the steps you are 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



Jasper Eagles Head Coach Joey Ballard III Gives Pre Game Prayer. His 1st Game as a Head Coach. 🏈

