

FREEDOM FROM RELIGION *foundation*

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

December 28, 2021

SENT VIA U.S. MAIL AND EMAIL

chad.vanarnhem@kirtlandschools.org

Chad Van Arnhem
Superintendent
Kirtland Local Schools
9252 Chillicothe Road
Kirtland, OH 44094

Re: Unconstitutional Coach-Led Prayer

Dear Superintendent Van Arnhem:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in the Kirtland Local Schools. FFRF is a national nonprofit organization with more than 35,000 members, including more than 960 members and two chapters in Ohio. 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 parent contacted us regarding prayer in the football program at Kirtland High School. It was reported that a prayer between the Ottawa-Glandorf High School and Kirtland High football teams took place after their game. The Kirtland football players were told by their coaches to go to the middle of the field and take a knee. It also appeared that coaches were participating in the prayer with bowed heads and hands on players. A screenshot is enclosed. This was also memorialized in a November 27, 2021 re-tweet on the Kirtland sports twitter site.¹

In addition to this post-game prayer, it is our understanding that head coach Tiger LaVerde leads the team in the Lord's prayer before every game either in the locker room or the end zone.

Also, it was reported that a football prep rally and dinner, which players were expected to attend, included a priest giving a sermon and saying a prayer.

Public schools may not advance, prefer, or promote religion. *See 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). When coaches lead and participate in religious rituals with the football team, they are acting in their official capacities as school employees, leading reasonable students to perceive these actions to be endorsed by their school.

¹ <https://www.twitter.com/kirtlandsports?lang=en>.

Federal courts have held that public school athletic coaches cannot organize or participate in prayer with their teams. *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 these cases, courts struck down the school-sponsored prayer because it violated the Establishment Clause obligation to religious neutrality.

Public school coaches must refrain not only from leading prayers, but also from participating in students' prayers or organizing student-led prayer. In *Duncanville Indep. Sch. Dist.*, the Fifth Circuit held that coach involvement in prayer at practices and games is unconstitutional because the prayers "take 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." *Id.* at 406.

The court also rejected the district's arguments that prohibiting a coach from praying with students would violate the coach's rights to free speech or free exercise of religion. *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.*

The Kirtland Local School District is home to a population with diverse religious beliefs. Non-religious Americans make up the fastest growing segment of this nation's population by religious identification—35 percent of Americans are non-Christians, including more than one in four Americans who identify as religiously unaffiliated.² The district is obligated to protect religious minorities by not endorsing the Christian majority viewpoint; school-sponsored activities must be welcoming to students of *all* beliefs. *See Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309-10 (2001) ("School sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are nonadherent 'that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.'" *Id.* at 309 (quoting *Lynch v. Donnelly*, 465 U.S. 668, 699 (1984) (O'Connor, J., concurring))).

Coach LaVerde's conduct is unconstitutional because he endorses and promotes his religion when acting in his official capacity as a school district employee. He cannot lead his team in prayer and he cannot organize or advocate for students to lead team prayer either. He cannot force players to listen to sermons and prayers in exchange for being on the team. Coaches speak to a captive audience and cannot discriminate by coercing students to pray to play.

² *In U.S., Decline of Christianity Continues at Rapid Pace*, PEW RESEARCH CENTER (Oct. 17, 2019), available at <https://www.pewforum.org/2019/10/17/in-u-s-decline-of-christianity-continues-at-rapid-pace/>.

We ask that Kirtland Local Schools investigate the complaints and take immediate action to stop any and all school-sponsored prayers occurring within any athletic programs. Additionally, all employees should be educated regarding their constitutional obligations. 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 dark ink, appearing to read "Karen M. Heineman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Karen M. Heineman
Patrick O'Reiley Legal Fellow
Freedom From Religion Foundation

Enclosure



Friends of Kirtland, Ohio



Becky Radebaugh Howell · Just now ·

Kirtland Football team and Ottawa Glandorf football team, win or lose after the game this past Saturday, coming together and giving it all to God. I cannot love this enough! 🙏🏈
Praise God from whom all blessings flow. ❤️



Like



Comment



Send

