

# FREEDOM FROM RELIGION *foundation*

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**SENT VIA EMAIL & U.S. MAIL: [frank.taylor@atchisonlaw.com](mailto:frank.taylor@atchisonlaw.com)**

Frank G. Taylor  
The Atchison Firm, P.C.  
3030 Knollwood Drive  
Mobile, AL 36693

Re: Unconstitutional Religious Promotion in Football Program

Dear Mr. Taylor:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a serious constitutional violation occurring in Mobile County Public Schools. It is my understanding that your firm represents the District. Please let me know if this is no longer the case.

Multiple concerned residents have reported that the Blount High School football team has become entangled with religion. We wrote to you about a similar issue at Davidson High School in 2018. It is our understanding that coaches allow a local pastor to act as the team chaplain, regularly preach to the team, and endorse his church to the team. A local news story confirms that Wesley Davis, a local pastor, regularly leads the team in religious worship and prayer, and that many of the players were baptized together “as a team.”<sup>1</sup> The article opens with Davis delivering a sermon to the team and explains that Mr. Davis has “weekly visits” with the team.<sup>2</sup>

Mobile County Public Schools must ensure that this school-sponsored religious coercion ends immediately. The team’s coaches must immediately cease infusing the football program with religion. They must immediately cease engaging in religious activities with the team, including any prayers or religious rituals, and Mr. Davis can no longer be allowed to act as team chaplain or to engage in religious activities with players as part of the football program. All coaches and staff should be instructed regarding their obligations as public school employees.

It is illegal for public school athletic coaches to lead their teams in prayer or instruct others to lead their team in prayer or religious activities. 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.

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<sup>1</sup> <https://mynbc15.com/newsletter-daily/blount-high-school-football-players-baptized-as-a-team>

<sup>2</sup> *Id.*

577 (1992) (finding prayers at public high school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985) (overturning 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).

It is unconstitutional for public school employees to direct students to partake in religious activities or to even participate in the religious activities of their students. *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 unconstitutional). The Fifth Circuit held that a coach’s attempts to engage in religious activities with players at team events 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.

You may be aware that the Supreme Court recently held in *Kennedy v. Bremerton School District* that a high school football coach’s silent, private post-game prayer was constitutional. 142 S.Ct. 2407, 2415–16 (2022). Throughout its opinion, the Court repeatedly stressed that the coach silently prayed alone. *Id.* (the coach “offered his prayers quietly while his students were otherwise occupied.”). The prayers “were not publicly broadcast or recited to a captive audience. Students were not required or expected to participate.” *Id.* at 2432. Here, rather than praying privately after games, the team’s coaches have infused religion into the football program, allowing Mr. Davis to preach to the team.

“The preservation and transmission of religious beliefs and worship is a responsibility and a choice **committed to the private sphere.**” *Santa Fe*, 530 U.S. 290 at 310 (quoting *Lee*, 505 U.S. 577 at 589 (emphasis added)). The religious coercion occurring within the District’s football program is particularly troubling for those parents and students who are not Christians or do not subscribe to any religion. This “[s]chool sponsorship of a religious message is impermissible because it sends the ancillary message to . . . nonadherents ‘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 309-310 (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)). With 32% of young Americans now being non-religious, this likely represents a significant number of students and families in the District.<sup>3</sup>

We ask that the District investigate this matter and take immediate action to protect its students. The team’s coaches must be directed to cease including coercive religious activities and practices

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<sup>3</sup> *Religious affiliation among American adolescents*, Pew Research Center (Sep. 10, 2020), available at [www.pewresearch.org/religion/2020/09/10/religious-affiliation-among-american-adolescents/](http://www.pewresearch.org/religion/2020/09/10/religious-affiliation-among-american-adolescents/).

in the football program, and the District should consider reprimanding them for their conduct. We further request that all District coaches be reminded that they may not push their personal religious beliefs onto students while acting in their official capacity, nor enlist an outside adult to do the same. Please inform us in writing of the steps the District is taking to remedy this serious 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

Cc: [derek.atchison@atchisonlaw.com](mailto:derek.atchison@atchisonlaw.com)