

FREEDOM FROM RELIGION *foundation*

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September 10, 2021

SENT VIA EMAIL & U.S. MAIL: Barbara.Jenkins@ocps.net

Dr. Barbara M. Jenkins
Superintendent
Orange County Public Schools
445 W. Amelia St.
Orlando, FL 32801

Re: Unconstitutional Religious Promotion in Football Program

Dear Superintendent Jenkins:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a serious constitutional violation occurring in Orange County Public Schools. FFRF is a national nonprofit organization with more than 35,000 members across the country, including more than 1,700 members and a local chapter in Florida, the Central Florida Freethought Community. 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 reported that Edgewater High School allows Josh Plant to act as its football team chaplain and to proselytize and promote religion to students. It is our understanding that Plant's official title is "character coach," but we understand that he is a pastor from Church on the Drive who acts as the team's official chaplain.

It is our understanding that Plant and his church led a mission trip to Guatemala for students. We understand that Coaches Mark Duke and Cameron Duke and Athletic Director Josh Vandergrift also participated in this school-sponsored religious trip that was hosted in partnership with Clubhouse Guatemala, "a Christ centered ministry that desires to reach the lost of Guatemala."¹ Please see the enclosed screenshots. The ministry's goal "is to love people into a true relationship with Jesus Christ."²

On August 27, 2021, Coach Mark Duke appeared with Plant on a Christian radio show where they discussed this school-sponsored religious trip in detail and Plant's work as the team's chaplain spreading Christianity through the school's football program.³ On the show, it was revealed that Plant has baptized several members of the football team and regularly leads players in bible studies. Coach Duke states that his goal is to help students "be the men or women that

¹ <https://clubhouseg.com/>

² <https://clubhouseg.com/about/>

³ <https://www.theshepherdradio.com/podcasts/afternoons-with-mike/episode/s3e162-pastor-josh-plant-leads-church-on-the-drive-and-with-him-is-head-football-coach-cameron-duke-from-edgewater-high-school/>

God has called them to be”, and that’s the “number 1 priority” of the football program with the team’s coaches and the “team’s chaplain.” Coach Duke even states that the administration understands this to be the goal of the program. Coach Duke explains:⁴

It’s not just winning games. Yes, we are going to be judged by that by the world, but at the end of the day we know we are called to answer to Our Heavenly Father and what He’s given us the opportunity to do. And we get the chance to use the platform of football to help develop and grow our young people into exactly who God’s called them to be and we are going to do everything we can to do that, and that’s the calling on our life and that’s the calling on the people who are supportive of our program...

Plant admits that the football program is designed to proselytize players, and admits he tries to convert non-religious students to follow Christianity:⁵

One of the founding things in our program is that following Jesus is the best way to live. Right, like, I say that some of the guys sometimes, cause I know some of them don’t believe, and I say look, man, I know, but can I just tell you this? If you’ll do it Jesus’ way, whether you believe or not, if you’ll do it Jesus’ way. You’ll ultimately be better... You’ll ultimately be better in every facet of your life.

Orange County Public Schools must ensure that this school-sponsored religious endorsement by coaches and staff ends immediately. Plant cannot be the team’s chaplain and given his conduct, can no longer be part of the team. Coach Duke should be reprimanded, and if he is not willing to immediately cease infusing the football program with religion, he should be terminated. All coaches and staff should be instructed regarding their obligations as public school employees.

Public school football teams cannot appoint or employ a chaplain, seek out a spiritual leader for the team, agree to allow someone to act as chaplain, or otherwise infuse the team with religion because public schools may not promote religion. *See generally, Borden v. Sch. Dist. of the Twp. of East Brunswick*, 523 F.3d 153 (3rd Cir. 2008), *cert. denied*, 129 S. Ct. 1524 (2009); *Santa Fe Indep. Sch. Dist.*, 530 U.S. 290 (2000); *Doe v. Duncanville Indep. Sch. Dist.*, 70 F.3d 402 (5th Cir. 1995); *Lee v. Weisman*, 505 U.S. 577 (1992). It is therefore inappropriate and illegal for the Edgewater High School football team to have a team chaplain and for coaches to allow and participate in religious activities with students, as this signals a blatant promotion of religion over nonreligion generally, and in this case, Christianity in particular.

Orange County Schools cannot give a non-school affiliated adult access to the children in its charge, and it certainly cannot grant that access to a minister to advance his faith. The Supreme Court has repeatedly held that public schools may not be co-opted, either by staff or outside adults, to proselytize students. *McCullum v. Bd. of Educ.*, 333 U.S. 203, 210 (1948) (holding that the Constitution forbids the “utilization of the tax-established and tax-supported public school

⁴ *Id.*

⁵ *Id.*

system to aid religious groups to spread their faith”). Federal courts have accordingly enforced injunctions against school districts who, by action or inaction, grant outside adults access to other peoples’ children to evangelize. *See, e.g., Roark v. South Iron R-I 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).

It is beyond the scope of a public school system to officially endorse a position whose responsibilities include advocating Christianity to students. “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. at 310 (quoting *Weisman*, 505 U.S. at 589) (emphasis added). Endorsement of Christianity within the District’s athletic programs is particularly troubling for those parents and students who are not Christians or do not subscribe to any religion. The “[s]chool sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are 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.* (quoting *Lynch v. Donnelly*, 465 U.S. at 668) (O’Connor, J., concurring). Non-religious Americans make up the fastest growing segment of the U.S. population by religious identification—35 percent of Americans are non-Christians, and this includes the 25 percent of Orange County residents who identify as religiously unaffiliated.⁶

Furthermore, public school districts have a constitutional obligation to ensure that staff members do not use their positions to proselytize. Federal courts have consistently rejected the promotion of religious viewpoints in the classroom and like settings. *See, e.g., Pelozo v. Capistrano Unified Sch. Dist.*, 37 F.3d 517 (9th Cir. 1994) (holding that a school could prohibit a teacher from teaching creationism, finding that “to permit him to discuss his religious beliefs with students during school time on school grounds would violate the Establishment Clause”); *Webster v. New Lenox Sch. Dist. No. 122*, 917 F.2d 1004 (7th Cir. 1990) (ruling that a school board could limit a teacher’s comments on creationism because the board had the responsibility to ensure that the teacher was not “injecting religious advocacy into the classroom”). Courts have upheld the termination of teachers who refuse to remain neutral on matters of religion while acting in their official capacities as government employees. *See, e.g., Grossman v. S. Shore Pub. Sch. Dist.*, 507 F.3d 1097 (7th Cir. 2007) (upholding termination of guidance counselor who prayed with students).

Please note that it is not a violation of the free speech rights of school staff to regulate what they teach to students during school-sponsored activities, like football and other athletic programs. Teachers and coaches have access to a captive audience of students due to their position as public educators. The District has a duty to prohibit religious proselytizing. In the context of coach-led prayer, the Fifth Circuit recognized that “the principle that government may accommodate the free exercise of religion does not supersede the fundamental limitations imposed by the

⁶ *The 2020 Census of American Religion*, Public Religion Research Institute (July 8, 2021), available at <https://www.prrri.org/research/2020-census-of-american-religion>.

Establishment Clause” and that the district therefore had an obligation to prohibit its coaches from endorsing prayer. *Duncanville Indep. Sch. Dist.*, 70 F.3d at 406. As for teachers and counselors, “Because the speech at issue owes its existence to [his or her] 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”).

We ask that the District investigate this matter and take immediate action to protect its students. Plant cannot be the team’s chaplain and should not be involved with the team going forward. Coach Duke must be directed to cease including religion in his football program, and the District should consider terminating him for his egregious conduct. We further request that all District coaches be reminded that they may not promote religion 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 violation of the First Amendment so that we may notify our complainant.

Sincerely,



Christopher Line
Staff Attorney
Freedom From Religion Foundation

Enclosures



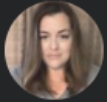
Church on the Drive

July 8 · 🌐



Say an extra prayer today for Pastor [Josh Plant](#) and this group from the [Edgewater High School](#) football team who left for Guatemala today to work with [Clubhouse Guatemala](#)!





Heather Haas Kreider

July 14 · 🌐



Eagle update! Last week, the Edgewater Football program participated in a service based leadership trip led by Josh Plant and Church on the Drive. They partnered with an organization called Clubhouse Guatemala. 11 football players, 2 coaches (Coach Mark Duke and Coach Cameron Duke), Athletic Director, Josh Vandergrift and his wife Jessica plus parent Arden Magee went on the leadership trip. They built a home, passed out food to a local village, participated in their food ministry, and put on local sports camps for the youth in the area. The boys averaged 40 kids per camp they ran. [#EaglePride](#) [#ProudPrincipal](#)

