

FREEDOM FROM RELIGION *foundation*

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To: School District Administrator

From: Freedom From Religion Foundation

Re: Memorandum on coach-led prayers and prayers at athletic events

The Supreme Court recently issued a ruling in a case involving a public school football coach who was praying at the 50 yard line after games. We are concerned that this ruling may cause some confusion about the law regarding coach-led prayer and prayer at athletic events, so we are writing to educate schools on this issue. The Freedom From Religion Foundation is a national nonprofit organization with more than 38,000 members across the country, including members in your state. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

In June, the Supreme Court released its opinion in *Kennedy v. Bremerton School District* upholding the right of a public school coach to offer private, personal prayer after the conclusion of a school-sponsored athletic event. 142 S. Ct. 2407 (2022). While some bad actors may claim this ruling sanctions coach-led or school-sponsored prayer, it is critical to understand that the scope of this ruling is exceedingly narrow. The Court's decision did not "involve leading prayers with the team or before any other captive audience," but simply affirmed that a public school coach can "pray[] quietly without his players." *Id.* at 2422. The Court repeatedly stressed that the conduct in question was private. *Id.* at 2424-25 ("...it seems clear to us that Mr. Kennedy has demonstrated that his speech was private speech, not government speech...those prayers were not delivered as an address to the team, but instead in his capacity as a private citizen").

This decision does not give *carte blanche* to public school employees, including coaches, to engage in religious activity with their players or other subordinates, nor does it allow school districts to impose prayer on all students, parents, and community members gathered for school-sponsored events. Public schools have a constitutional obligation not to coerce students into participating in religious rituals like prayer. The *Bremerton* decision simply affirms that school officials may pray privately during times when they are not acting in their official capacity as district representatives. For instance, school coaches may pray privately to themselves prior to, or following, football games. They cannot, however, lead coercive team prayers, and the district cannot require those in attendance at athletic events to participate in a religious practice by holding public prayers broadcast over the loudspeaker.

The decision specifically highlighted this important distinction: "[T]his case looks very different from those in which this Court has found prayer involving public school students to be problematically coercive ... In *Santa Fe Independent School Dist. v. Doe*, the Court held that a school district violated the Establishment Clause by broadcasting a prayer 'over the public address system' before each football game. 530 U.S. 290, 294." *Bremerton*, 142 S.Ct. at 2431.

The Court also reaffirmed that school-sponsored prayer is constitutionally impermissible. It explicitly distinguished the private prayers of the coach in *Bremerton* from coercive, school-sponsored prayer:

This case looks very different from those in which this Court has found prayer involving public school students to be problematically coercive. In *Lee*, this Court held that school officials violated the Establishment Clause by [including] prayers “as part of [an] official school graduation ceremony” because the school had “in every practical sense compelled attendance and participation in” a “religious exercise.”

Id. at 2431. Coach-led prayers with student participation, and certainly prayers broadcast over the loudspeaker before athletic events, similarly compel participation in religious exercises.

The Supreme Court has clearly distinguished the private prayers at issue in *Bremerton* from coercive prayer practices like coach-led prayer with student participation and prayers broadcast over the loudspeaker before athletic events. Private prayer by coaches before or after football games is permissible, but school-sponsored prayers involving students are not.

The *Bremerton* decision has not changed the law at all regarding what school districts can and cannot do at its athletic events. It certainly has not opened the door for public school officials to coerce students into participating in religious activities by scheduling prayer at school-sponsored events, leading students in prayer, or inviting students to participate in prayer. Please ensure that your administrators, athletic directors, coaches, and staff are made aware of the important line between permissible, private religious expression and coercive religious practices, and monitor school athletic events to ensure that school employees are complying with the law.

While the *Bremerton* decision focused entirely on the rights of the coach and ignored the rights of students to be free from religious proselytizing and indoctrination in public schools, you should strive to create an inclusive and welcoming environment for *all* students regardless of their religious or nonreligious beliefs. Demographic trends suggest that as many as half of your students may be nonreligious,¹ but all of your students have the right to be free from coach or teacher prayer, to secular school events, to be free from bullying & harassment, to be free from religious coercion, and to freedom of conscience. Please ensure these important rights are not violated.

¹ Ryan P. Burge, *Gen Z and Religion in 2021* (July 19, 2022), available at <https://religioninpublic.blog/2022/06/15/gen-z-and-religion-in-2021/>.