

FREEDOM FROM RELIGION *foundation*

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

August 4, 2022

SENT VIA EMAIL & U.S. MAIL: msale@swainmail.org

Mark Sale
Superintendent
Swain County Schools
50 Main Street
Bryson City, NC 28713

Re: Unconstitutional Religious Coercion in Football Program and Open Records Request

Dear Superintendent Sale:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in Swain County Schools. FFRF is a national nonprofit organization with more than 38,000 members across the country, including more than 800 members and a local chapter in North Carolina. 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 Sherman Holt, Swain High School's new head football coach, has been using his position to proselytize, promote his religion to players, and to coerce students into participating in religious rituals. Our complainant reports that Coach Holt has stated his desire to see his players "become followers of Christ," organized an official team trip to a Fellowship of Christian Athletes camp, and has brought in a "team chaplain" who he allows to proselytize to players at each team practice.

A post on Coach Holt's personal Twitter account confirms that he took students to an FCA camp where the team "grew spiritually, physically, and mentally." He explains that 16 of the players "gave thier[sic] heart to Jesus as their Lord and Savior," which was "just what our team needed." Please see the enclosed screenshot.

It is our understanding that Coach Holt is currently holding a football camp for players that not only includes a daily church service during dinner, but even a baptism for players to be held at Memorial Stadium. Please see an enclosed portion of the itinerary. It is our understanding that the baptism event took place last night, and that 4 players were baptized as part of this official team event on the school's football field with coaches, players, and a large crowd in attendance. Please see the enclosed screenshot, which shows the team baptism and explains, "Several players from the football team were baptized on the field after attending an FCA camp a few weeks ago. What an amazing God we serve."

Swain County Schools must ensure that this school-sponsored religious coercion ends immediately. Coach Holt should be reprimanded, and if he is not willing to immediately cease infusing the football program with religion, he should be terminated. He must immediately cease engaging in religious activities with the team, including prayers, church services, or baptisms. 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 team 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 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, including church services and baptism, 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, Coach Holt has transformed his football program into a religious ministry, including a “team chaplain,” religious team events, team church services, and team baptisms on school property.

“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 46% of young Americans now being non-Christian, this likely represents a significant number of students and families in

the District.¹

We ask that the District investigate this matter and take immediate action to protect its students. Coach Holt must be directed to cease including coercive religious activities and practices in the football program, and the District should consider reprimanding him for his egregious 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.

Open Records Request

Pursuant to the North Carolina Open Records Act, (N.C.G.S. § 132-6) and Swain County Schools Policy 4700, Section H3, designating student directory information, I request a copy of the following records:

- 1) A directory of all current football players at Swain County High School which lists their names, addresses, and email addresses, preferably in an electronic format;
- 2) If item 1 does not exist, alternatively, we request a directory of all current students at Swain County High School which lists their names, any official sports they participate in, addresses, and email addresses, preferably in an electronic format;
- 3) Any communications sent to or from Coach Holt regarding prayer, religion, the Fellowship of Christian Athletes, a team chaplain or religious leaders meeting with the team, team baptisms, or church services.

If you choose to deny this request, please respond with a written explanation of the denial, including any references to applicable statutory exemptions relied upon.

If any of these records are available through electronic media, they may be e-mailed to at **chris@ffrf.org**. If I can provide any clarification that will help expedite your attention to my request, please contact me at 608-256-8900. I appreciate your time and attention to this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Line", with a stylized flourish at the end.

Christopher Line
Staff Attorney
Freedom From Religion Foundation

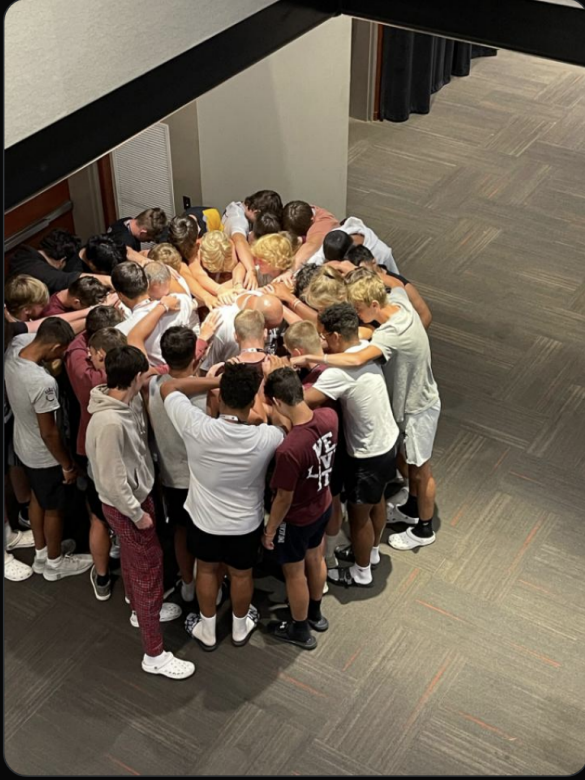
Enclosures

¹ Robert P. Jones & Daniel Cox, *America's Changing Religious Identity*, PUBLIC RELIGION RESEARCH INSTITUTE (2017), available at: <https://www.ppri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf>



Sherman Holt @ShermanHolt51 · Jun 25

What a great time at FCA team camp. Our team grew spiritually, physically and mentally. 16 young men gave thier heart to Jesus as their Lord and Savior. It was just what our team needed. Thank you to all the FCA staff for an awesome team camp. We will definitely be back next year



Bus Departs for HS - 4:30

Bus Departs for church - 5:40 pm

Dinner and Church Service - 6:00 pm

Baptism @ Memorial Stadium - 8:30 pm

Team Time - 10:00 pm

Lights Out - 11:00 pm

I've seen a lot of really good games on this field, but nothing compares to what we witnessed tonight. Several players from the football team were baptized on the field after attending an FCA camp a few weeks ago. What an amazing God we serve.

