

FREEDOM FROM RELIGION *foundation*

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SENT BY MAIL AND FAX
(423) 942-5931

Marshall A. Raines, Jr.
Swafford, Jenkins, & Raines
32 Courthouse Square
P.O. Box 457
Jasper, TN 37347

Dear Mr. Raines:

Thank you for your response from August 26, 2013 regarding prayer before football games. Despite your contention that no action will be taken unless and until FFRF reveals the identity of our complainant, we understand that prayer over the loudspeaker has been discontinued. It is our information and understanding that the District has replaced the intercom prayer with an event called "Meet Me at the 50."

According to a recent news story by WTVC News Channel 9, Director of Schools Mark Griffith has "made the decision to allow 10-minutes before each game for student led prayer." Jerry Askin, *Friday Football Prayers Cause Controversy in Marion Co.*, WTVC NewsChannel 9, Aug. 29, 2013, <http://www.newschannel9.com/news/top-stories/stories/friday-football-prayers-cause-controversy-marion-co-6836.shtml>. He's quoted in the article staying "We're going to call it 'Meet me at the 50.' That way both sides, the home and the opposing side, can come together and conduct prayer." *Id.* We received reports that the 50-yard line prayer occurred at the most recent home game.

We write again because the "remedy" devised by Marion County Schools does not alleviate the constitutional violation. As the District was informed in April 2012, it is illegal for a public school to organize, sponsor, and lead prayers at public high school athletic events. Here, Marion County Schools has devised a scheme to allow "student-led" prayers before football games on school property by setting aside ten minutes prior to each home game for "student-led" prayer to occur on the football field.

Once again, we bring to your attention the case *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 308 (2000), which held that permitting student-led prayer at football games violates the Establishment Clause of the First Amendment. In *Santa Fe Indep. Sch. Dist. v. Doe*, the Supreme Court found the school district policy of allowing student-initiated prayer at football

games to be unconstitutional. *See* 530 U.S. at 320. The Court reasoned that because the football game was still a school-sponsored event, the fact that a student was leading the prayer did not cure the constitutional violation. *Id.* at 307. A prayer taking place at a “regularly scheduled school-sponsored function conducted on school property” would lead an objective observer to perceive it as state endorsement of religion. *Id.* at 308. The Court stated that in this context, “[r]egardless 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.” *Id.* The “degree of school involvement” in the prayer practice also was determinative. The Court stated, “the ‘degree of school involvement’ makes it clear the pregame prayers bear ‘the imprint of the State’...” *Id.* at 306.

The change from prayers over the loudspeaker to “student-led” prayers at the 50-yard line before the games is no different than the prayer policy at issue in *Santa Fe*. The event organized and coordinated by the District does not adequately divorce Marion County Schools from the religious activity. *See id.* at 291. It simply continues the practice of school-sponsored prayer.

“Meet Me at the 50” is a District-authorized religious event taking place on school-property devised by the District for the sole purpose of continuing Marion County Schools’ tradition of prayer before football games. *See, gen., Wallace v. Jaffree*, 472 U.S. 38 (1985). The Supreme Court recognized and rejected this tactic in *Santa Fe*:

“The District, nevertheless, asks us to pretend that we do not recognize what every Santa Fe High School student understands clearly—that this policy is about prayer. The District further asks us to accept what is obviously untrue: that these messages are necessary to “solemnize” a football game and that this single-student, year-long position is essential to the protection of student speech. We refuse to turn a blind eye to the context in which this policy arose, and that context quells any doubt that this policy was implemented with the purpose of endorsing school prayer.” 530 U.S. at 315.

“Meet Me at the 50” continues an unconstitutional practice that must be discontinued immediately. Thus, we renew our request that the Marion County Schools take immediate action to stop school-sponsored prayers from occurring before any school-sponsored athletic event. We further ask that you inform us promptly, in writing, of the steps the district is taking to remedy this serious and flagrant violation of the First Amendment.

Sincerely,



Rebecca S. Markert
Staff Attorney