

FREEDOM FROM RELIGION *foundation*

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

March 15, 2024

SENT VIA EMAIL & U.S. MAIL: wgonsoulin@jefcoed.com

Walter B. Gonsoulin, Jr.
Superintendent
Jefferson County School District
2100 18th Street South
Birmingham, AL 35209

Re: Unconstitutional Religious Coercion in Football Program

Dear Superintendent Gonsoulin:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding another constitutional violation occurring in Jefferson County Schools. As you are aware, we have been raising constitutional issues in Jefferson County Schools for years, including three separate issues in 2022 alone. We would like to work with the District to resolve these systemic constitutional issues and protect the rights of your students.

It is our understanding that Chris Musso, Oak Grove High School's head football coach, has been using his position, and his affiliation with the Fellowship of Christian Athletes, to infuse the school's football program with religion and promote his personal religious beliefs to players. We understand that the football program has adopted the motto, "God, Team, Me" and that this religious message has been posted in the team's locker room and appears on official team shirts. We also understand that the team's official playoff hoodies in 2023 included a bible verse, "As iron sharpens iron, so a friend sharpens a friend. Proverbs 27:17." Please see the enclosed screenshots.

Jefferson County Schools must ensure that this school-sponsored religious coercion ends immediately. Coach Musso must immediately cease engaging in religious activity or otherwise promoting his personal religious beliefs in his role as football coach. The religious display in the locker room must be removed and all official school district apparel cannot include religious messages going forward. All coaches and staff should be instructed regarding their obligations as public school employees.

Students have the First Amendment right to be free from religious indoctrination in their public schools. It is well settled that public schools may not show favoritism towards or coerce belief or participation in religion. *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000); *Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Epperson v. Arkansas*, 393 U.S. 97 (1967); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962); *McCollum v Bd. of Ed.*, 333 U.S. 203 (1948). By allowing Coach Musso to promote his personal religious beliefs and display religious messages on school property, the District displays clear favoritism for religion over nonreligion, and Christianity above other faiths.

While we are not aware of whether or not Coach Musso has also been leading students in prayer, it seems likely given his conduct. We remind the District that it is unconstitutional for public school employees to direct students to partake in religious activities. *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 Musso has been using his role as a District employee to officially promote his personal religious beliefs to students, and to make those beliefs part of the football program.

"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 Musso must be directed to cease including coercive religious activities or messages in the football program. 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. Please inform us in writing of the steps the District is taking to remedy these serious violations of the First Amendment.

Sincerely,

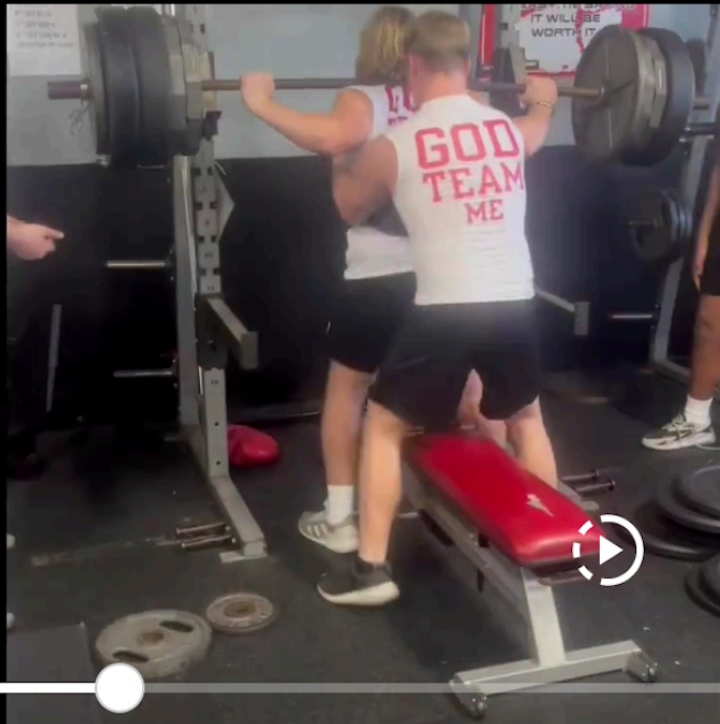


Christopher Line
Staff Attorney
Freedom From Religion Foundation

Enclosure

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>





0:17 / 1:39



Chris Musso



@musso_chris

Great day today! Our guys are working hard! #RPOE

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Chris Musso
@musso_chris

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Players received their playoff gear today! Hoodie and joggers! It was fun watching them get excited!

[#RPOE](#)

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