

FREEDOM FROM RELIGION *foundation*

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

May 22, 2024

SENT VIA EMAIL & U.S. MAIL: wendell_roberts@ccpsnet.net

Wendell Roberts
Legal Counsel
Chesterfield County Public Schools
P.O. Box 10
Chesterfield, VA 23832

Re: Unconstitutional religious coercion in lacrosse program (Chesterfield County Public Schools)

Dear Mr. Roberts:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in Chesterfield County Public Schools. We are still awaiting a substantive response to our June 16, 2023 letter regarding Superintendent Daughtery leading prayer at all of the District's graduation ceremonies. We look forward to a response to that letter and this new one as well.

A concerned District community member has reported that Jason Kunkel, head lacrosse coach at Matoaca High School, has been directing and encouraging students to pray after games, including players from opposing teams. Our complainant reports that they have heard Coach Kunkel asking students to gather around in prayer before directing a student to lead the prayer. On May 9, 2023, Coach Kunkel even posted a photo of one of these prayers on his personal Facebook page along with the caption:

This is why as a coach I could care less about the scores of our games. And thank you to Manchester High School for joining us.

Please see the enclosed screenshot.

We ask that the District immediately investigate this situation and ensure that Coach Kunkel ceases abusing his position to direct or encourage student athletes to participate in prayers. Coaches are free to express their religious beliefs however they wish outside of their roles as public school coaches, but they cannot use their position to foist their personal religious beliefs onto students. Likewise, students are free to gather in prayer, but cannot be coerced or encouraged to do so by their coach.

Student athletes have the First Amendment right to be free from religious indoctrination when participating in their public school's athletics program. The Supreme Court has continually

struck down school-sponsored prayer in public schools, even if the prayer is led by a student. *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.); *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). Coaches cannot circumvent the Constitution by encouraging a student to lead the prayer and pretending that it is student-initiated. Here, Coach Kunkel has clearly crossed the constitutional line by directing and encouraging student athletes to engage in prayer while acting in his official capacity as a District employee.

Student athletes are especially susceptible to coercion. Students know that their coaches control their playing time and positions, directly affecting students’ opportunities for college scholarships and recruitment. When a coach directs students to participate in a prayer, the student athletes will no doubt feel that participating in that prayer is essential to pleasing their coach and being viewed as a team player. It is unrealistic and unconstitutional to put student athletes to the choice of allowing their constitutional rights to be violated in order to maintain good standing in the eyes of their coach and peers or openly dissenting at the risk of retaliation from their coach and teammates.

The Supreme Court’s 2022 decision in *Kennedy v. Bremerton School District* did not alter the state of the law nor overturn the above referenced cases. In *Kennedy*, the Court held 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. In contrast, Coach Kunkel has directed students to gather in prayer.

“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)). Coach Kunkel’s actions are 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 309–10 (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)). Nearly half of Gen Z (those born after 1996) are nonreligious, so this likely represents a significant number of students in the District.¹

¹ 2022 Cooperative Election Study of 60,000 respondents, analyzed by Ryan P. Burge www.religioninpublic.blog/2023/04/03/gen-z-and-religion-in-2022/.

In order to protect students' First Amendment rights, we ask that the District investigate this matter and take immediate action. Coach Kunkel must cease directing or encouraging students to participate in prayer or any other religious activities as part of the lacrosse program. We further request that the District remind all coaches that they may not push their personal religious beliefs onto students while acting in their official capacity as school employees. Please inform us in writing of the steps the District is taking to remedy this serious violation of the First Amendment so that we may inform our complainant. Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Line", with a long horizontal flourish extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation

Enclosure



Jason Kunkel

May 9, 2023 · 🌐



This is why as a coach I could care less about the scores of our games. And thank you to Manchester High School for joining us.

We need more of this. [#prayer](#) [#mhslacrosse](#)

