



As a government-run university, Auburn University is bound by the Establishment Clause of the First Amendment, which “mandates governmental neutrality between religion and religion, and between religion and nonreligion.” *McCreary Cnty., Ky. v. ACLU of Ky.*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Everson v. Board of Ed. of Ewing*, 330 U.S. 1, 15–16 (1947). As the University is aware, courts have routinely enforced the strictures of the Establishment Clause in the context of public colleges and universities. *See, e.g., Piggee v. Carl Sandberg College*, 464 F.3d 667 (7th Cir. 2006) (holding that a community college had the right to insist that an instructor refrain from engaging in speech related to her religious beliefs); *Mellen v. Bunting*, 327 F.3d 355, 371 (4th Cir. 2003) (holding supper prayer at a state-run military college unconstitutional); *Bishop v. Aronov*, 926 F.2d 1066 (11th Cir. 1991) (upholding a university’s restriction prohibiting a professor from referring to his religious beliefs during instructional time).

Here, the University has placed the cross and “Jesus” on the men’s baseball team’s uniforms, and the team’s coach appears to lead student-athletes in prayer during official events. These actions amount to official University favoritism toward religion over nonreligion, and Christianity over all other faiths. The religious uniforms and coach-led prayer also run the risk of unconstitutionally coercing players to wear religious symbols and participate in prayer. Men’s baseball team players who wish to maintain their standing on the team, and continue to have access to scholarships and other benefits of playing college sports, will no doubt feel that going along with what coaching staff want is essential to being viewed favorably by their coaches and team. Players will not feel free to refuse to wear religious uniforms or to refuse to participate in prayer at the risk of retaliation or potentially losing their place on the team.

It is important to note that this situation is readily distinguishable from the Supreme Court’s ruling in *Kennedy v. Bremerton School District*. In *Bremerton*, the Court held that a high school football coach’s quiet, private post-game prayer was constitutional. 597 U.S. 507 (2022). Throughout its opinion, the Court repeatedly stressed that the coach quietly prayed alone. *Id.* (stating that 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 542. Additionally, the Court concluded the coach’s quiet private prayer was private speech. *Id.* at 529–30 (finding that the coach’s prayer was not given while he was performing official duties such as instructing players, discussing strategy, or encouraging better performance). In contrast, the baseball team’s coach is allegedly imposing prayer on players during official team activities.

The “[s]chool sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are nonadherents ‘that they are outsiders, not full members of the political community and accompanying message to adherents that they are insiders, favored members of the political community.’” *Santa Fe*, 530 U.S. at 309–10 (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)). University employees are free to pray privately or to worship on their own time in their own way. Entangling the university’s sports teams with Christianity needlessly marginalizes students and players who are part of the nearly one in three Americans who now identify as religiously unaffiliated.<sup>4</sup> In

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<sup>4</sup> Pew Research Center (2024), <https://www.pewresearch.org/religious-landscape-study/>.

addition, more than half of Generation Z (those born after 1996) are not Christian,<sup>5</sup> with a recent survey revealing almost half of Gen Z identify as religiously unaffiliated.<sup>6</sup>

We again urge Auburn University to take action to ensure that its coaching staff and sports programs cease violating students' First Amendment rights. Please respond in writing with the steps the University is taking to address these matters so that we may inform the family member who contacted us. Thank you once again for your time and attention.

Sincerely,

A handwritten signature in black ink that reads "Samantha F. Lawrence". The signature is written in a cursive, flowing style.

Samantha F. Lawrence  
*Staff Attorney*  
*Freedom From Religion Foundation*

SFL:trm

Enclosure

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<sup>5</sup> Pew Research Center (2024), <http://bit.ly/48Drzce>.

<sup>6</sup> *Id.*

# Tigers Fans 's Post



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