

FREEDOM FROM RELIGION *foundation*

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SENT VIA EMAIL & U.S. MAIL: sjackson@spencerfane.com

Samuel L. Jackson
Spencer Fane LLP
511 Union St., Ste. 1000
Nashville, TN 37219

Re: Unconstitutional government-sponsored prayer

Dear Attorney Jackson:

I am again writing on behalf of the Freedom From Religion Foundation regarding another constitutional violation concerning the Robertson County School's football team. As you may recall, FFRF is a national nonprofit organization with over 41,000 members across the country, including nearly 500 members and a chapter in Tennessee. If you are no longer counsel for the district, please advise.

A concerned parent reports that the White House Heritage High School and Middle School football coaches end each practice with prayer and pray before and after each game. We understand the practice and game prayers include the Lord's Prayer led by the coaches. We also understand that Coach Murray, the high school coach, brings in Christian speakers on a weekly basis to official football team events. Finally, the parent reports that the football coaches send out regular reminders to attend Fellowship of Christian Athlete meetings.

The parent who contacted us further explained that some students fear being penalized for not reciting the Lord's Prayer, and are thus being coerced into reciting it against their will.

We ask that Robertson County Schools investigate this situation and ensure that coaches immediately stop proselytizing and leading football players in prayer.

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. *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, 40 n.2 (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). Here, the football coaches allegedly crossed the constitutional line by leading students in the Lord's Prayer while acting in their official capacities as school

employees, bringing in outside adults to proselytize players, and promoting attendance at a Christian club.

Student-athletes are especially susceptible to coercion, and the relationship between student athletes and their coaches is inherently coercive. Students know that their coaches control their positions on the team, including who plays in each game. When coaches lead students in prayer and direct or encourage them to pray or engage in other religious activities, 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. Students are unlikely to speak up against coach-led prayer and proselytizing even if they do not feel comfortable. It is unrealistic and unconstitutional to make student-athletes choose between 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.

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 assistant football coach’s quiet, private post-game prayer was constitutional. 597 U.S. 507, 512–14 (2022). Throughout its opinion, the Court repeatedly stressed that the coach quietly 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 542. In contrast, these coaches are reportedly leading students in the Lord’s Prayer before and after games and after practices, and bringing in third parties to proselytize directly to students.

“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. at 310 (quoting *Lee*, 505 U.S. at 589). The coaches’ actions are particularly troubling for those parents and students who are not Christians or those who 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)). By allowing coaches to lead students in prayer and foist their personal religious beliefs onto student-athletes, the District needlessly marginalizes students who are among the thirty-eight percent of Americans who are non-Christian,¹ including the 43 percent of Generation Z who are nonreligious.²

It doesn’t matter how many players on the team want prayer or wouldn’t be offended by prayer. As the Supreme Court has said, “fundamental rights may not be submitted to vote; they depend on the outcome of no elections.” *Santa Fe*, 530 U.S. at 304–05 (quoting *W. Va. Bd. of Educ. v. Barnette*, 319 U.S. 624, 638 (1943)). “The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts.” *Barnette*, 319 U.S. at 638. Courts have summarily rejected arguments that voluntariness excuses

¹ Pew Research Center (2024), <http://bit.ly/3W6Cl3m>.

² Pew Research Center (2024), <http://bit.ly/48Drzce>.

a constitutional violation. *See Lee v. Weisman*, 505 U.S. 577, 596 (1992) (“It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice.”); *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 288 (1963) (Brennan, J., concurring) (“... the availability of excusal or exemption simply has no relevance to the establishment question”); *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003) (“VMI cannot avoid Establishment Clause problems by simply asserting that a cadet’s attendance at supper or his or her participation in the supper prayer are ‘voluntary.’”).

In order to protect students’ First Amendment rights, we urge Robertson County Schools to investigate and ensure that the football coaches refrain from leading students in prayer or otherwise pushing their personal religion onto students going forward. Please respond in writing with the steps the District is taking to address this constitutional violation. Thank you for your time and attention.

Sincerely,

A handwritten signature in cursive script, reading "Charlotte R. Gude".

Charlotte R. Gude
Patrick O'Reiley Legal Fellow
Freedom From Religion Foundation