

FREEDOM FROM RELIGION *foundation*

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SENT VIA EMAIL & U.S. MAIL

Joseph.taylor@wcsdschools.com

Mr. Joseph Taylor
Superintendent
Washington County School District
652 3rd Street
Chipley, FL 32428

Re: Unconstitutional coach-led prayer

Dear Superintendent Taylor:

I am writing on behalf of the Freedom From Religion Foundation regarding a series of constitutional violations occurring in the Washington County School District. As you may recall, FFRF is a national nonprofit organization with more than 29,000 members across the country, including more than 1,400 members in Florida and a state chapter, the Central Florida Freethought Community. Our purposes are to protect the constitutional principle of separation between state and church, and to represent the views of freethinkers (atheists, agnostics, and nonbelievers).

We write to inform you of new, serious constitutional violations occurring in your district. As you will recall, FFRF notified you of past constitutional violations occurring in Washington County public schools, including:

1. A teacher promoting the sale of religious tee shirts containing a bible verse, Philippians 4:13.
2. Displaying a banner with a bible verse, Corinthians 15:57, through which student athletes enter the football field.
3. Using a school Facebook page to promote the religious views of the Vernon High School Fellowship of Christian Athletes, including posting bible verses such as Proverbs 3:5-6 and Romans 12:1-2.
4. Teachers requiring students transcribe bible chapters from the Book of John.
5. Failures to address bullying and death threats targeted at non-religious students. (Though you did not respond to our letter, our complainant did explain that you subsequently addressed the issue.)

We have been informed of more violations. On multiple occasions last school year, team coaches and a team chaplain conducted prayers for the VHS football team. Further, we understand that banners advertising religious organizations, with prominent bible quotes, are displayed at VHS football games and can be seen in the photo gallery on the school's official athletic website. Finally, we are aware that VHS's 2017 commencement ceremony included a student-led Christian prayer to God "in Jesus's precious name."

Coach-led prayer is unconstitutional.

It is illegal for public school athletic coaches to lead their teams in prayer. 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 (2000) (holding student-led prayer over the loudspeaker before football games unconstitutional. “Regardless 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” because it occurred at a “regularly scheduled school-sponsored function conducted on school property.”); *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”); *Abington Twp. Sch. Dist. 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).

In each of these cases, the Supreme Court struck down school-sponsored prayer because it constitutes a government advancement and endorsement of religion, which violates the Establishment Clause of the First Amendment.

Public school coaches must refrain not only from leading prayers themselves, but also from participating in students’ prayers. It is unconstitutional for public school employees to participate in the religious activities of their students. *See, e.g., Bd. of Educ. of the Westside Cmty. Sch. v. Mergens*, 496 U.S. 226, 253 (1990) (holding that public school faculty may only be at student-led religious meetings in a “nonparticipatory capacity.”). Federal courts have held that even a public school coach’s silent participation in student prayer circles is unconstitutional. *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 an unconstitutional endorsement of religion).

In *Borden*, the Third Circuit Court of Appeals held the high school football coach’s extensive history of organizing, leading and participating in prayers before games was unconstitutional because it violated the Establishment Clause. *Borden*, 523 F.3d at 174. In that case, the court stated that the coach’s involvement in the prayer by “taking a knee” and “bowing his head” during the prayers, even when student-led, “would lead a reasonable observer to conclude he was endorsing religion.” *Id.* at 176. The court continued, “ ‘if while acting in their official capacities, [school district] employees join hands in a prayer circle or otherwise manifest approval and solidarity with the student religious exercises, they cross the line between respect for religion and the endorsement of religion.’ ” *Id.* at 178 (quoting *Duncanville*, 70 F.3d at 406).

The court in *Borden* also rejected the coach’s argument that the school district’s policy of prohibiting its employees from engaging in prayer with students violated the employees’ right to free speech. *Id.* at 174. In fact, the court found that the school district had a right to adopt

guidelines restricting this activity because of its concern about potential Establishment Clause violations. *Id.* The recent passage of the Florida Student and Personnel Religious Liberties Act does not affect the holding of the court; neither state, nor federal law can override the Constitution. *Everson v. Bd. of Ed. of Ewing Twp.*, 330 U.S. 1, 16 (1947)

Schools cannot have chaplains for students.

For the same reasons, it is inappropriate and unconstitutional for public schools to offer a Christian minister unique access to befriend and proselytize student athletes. Accordingly, public high school sports teams cannot appoint or employ a chaplain, seek out a spiritual leader for the team, or agree to have a volunteer team chaplain, because public schools may not advance or promote religion.

Non-school persons cannot be allowed to treat the school as a recruiting ground for their religious mission. The relationship between Vernon High School and John Gibson demonstrates an unlawful endorsement not only of religion over non-religion, but also of Christianity over all other faiths. The relationship must cease immediately.

Permanent church banners in public schools are unconstitutional.

The WCSD may not allow its schools to display religious messages on School property, including athletic fields. Courts have continually held that school districts may not display religious messages or iconography in public schools. *See, generally, Stone v. Graham*, 449 U.S. 39 (1980) (ruling that the Ten Commandments may not be displayed on classroom walls); *Lee v. York County*, 484 F.3d 689 (4th Cir. 2007) (ruling that a teacher may be barred from displaying religious messages on classroom bulletin boards); *Washegesic v. Bloomington Public Schools*, 813 F. Supp. 559 (W.D. Mich. 1993), *aff'd*, 33 F. 3d 679 (6th Cir. 1994) (ruling that a picture of Jesus may not be displayed in a public school). Recently in a similar case, FFRF and the ACLU of Ohio filed a lawsuit on behalf of a Jackson Middle School student that resulted in a settlement for the permanent removal of the portrait of Jesus and a \$95,000 check, including attorney's fees, against Jackson City School District. If the District had not settled when it did, its costs would almost certainly have been several times higher.

Graduation Prayers are unconstitutional.

VHS's 2017 graduation ceremony included a student lead prayer. Such prayers are unconstitutional. Graduations are viewed as special and once-in-a-lifetime moments for graduating students. *See Lee*, 505 U.S. at 595 ("[G]raduation is one of life's most significant occasions . . ."). Graduates will want to attend. Therefore, it is all the more important that these events are secular in nature to respect the freedom of conscience of all students. Even when student-initiated, the Supreme Court has found prayers taking place at school-sponsored events unconstitutional. *See Santa Fe*, 530 U.S. at 308 (striking down a school policy that authorized students to vote on whether to hold a prayer at high school football games).

WCSD is obligated to keep graduation ceremonies religiously neutral; the district must omit prayers and religious speeches at future graduation ceremonies. Doing so respects the diversity of beliefs held by its students and families. A graduation should be a celebration for all students, not an exercise in alienating nonreligious students with a Christian message.

The WCSD's conduct is unconstitutional because it endorses and promotes Christianity over non-religion and over all other faiths. We ask that the WCSD commence an immediate investigation into the complaint alleged and take immediate action to stop any and all Constitutional violations including:

1. Ending all organizing, leading, and participating in prayers and religious speeches by district employees on school time and during school sponsored activities.
2. Ending all school chaplaincies, and access of chaplains or religious leaders to students.
3. Removing all religious advertising and displays on school property and social media.
4. Ending prayer and religious speeches, including those led by students, at future school events, including graduation ceremonies.

Please inform us in writing of the steps you are taking to remedy this serious and flagrant violation of the First Amendment.

Sincerely,



Andrew Seidel
Staff Attorney

AS:dchh

[Enclosure]

