

FREEDOM FROM RELIGION *foundation*

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October 5, 2010

**SENT VIA MAIL AND FAX
(909) 307-5312**

COPY

Lori Rhodes
Superintendent
Redlands Unified School District
20 W Lugonia Ave
Redlands, CA 92374

Re: Unconstitutional Prayer at Redlands High School Football Practice and Games

Dear Ms. Rhodes:

I am writing on behalf of concerned Redlands Unified School District ("District") residents and members of the Freedom From Religion Foundation ("FFRF"), to alert you to a serious constitutional violation at Redlands High School. FFRF is a national nonprofit organization, with 15,500 members across the country, including more than 2,400 members in California. Our purpose is to protect the constitutional principle of separation between church and state.

It is our information and understanding that the Redlands High School Football team and coaches gather for prayers before the first practice of the season as well as before each game. Our complainant informs us this practice was even reported in *Redlands Daily Facts*. As you can see from the enclosed picture from the paper, the coaches and the players are all joined in a prayer before the first practice and the "blessing of the helmets." It is our understanding that Larry White, a pastor from Horizon Church in Victorville, was invited to participate in blessing the helmets. Coach Walker said the team regularly gathers in prayer and recites the Lord's Prayer before each game.

First and foremost, it is illegal for a public school athletic coach to be leading his team in prayer. The Supreme Court has continually struck down formal and teacher or school-led prayer in public schools. *See, e.g., Abington Township Sch. Dist. v. Schempp*, 374 U.S. 203 (1963)(declared unconstitutional devotional Bible reading and recitation of the Lord's Prayer in public schools); *Engel v. Vitale*, 370 U.S. 421 (1962)(declared prayers in public schools unconstitutional); *See also Lee v. Weisman*, 505 U.S. 577 (1992)(ruled prayers at public high school graduations an impermissible establishment of religion); *Wallace v. Jaffree*, 472 U.S. 38 (1985)(overturned law requiring daily "period of silence not to exceed one minute ... for meditation or daily prayer."); *Jager v. Douglas County Sch. Dist.*, 862 F.2d 825 (11th Cir. 1989), cert. den., 490 U.S. 1090 (1989)(holding

unconstitutional pre-game invocations at high school football games). In all of the aforementioned cases, the federal courts have struck down prayer in public schools because it constitutes a government-endorsement of religion, which violates the Establishment Clause of the First Amendment.

It is unconstitutional for public school employees to participate in religious activities with their students. *See, e.g., Bd. of Educ. of the Westside Cmty. Sch. v. Mergens*, 496 U.S. 226, 253 (1990)(indicating that public school faculty may not participate in any student-led religious meetings); As Supreme Court Justice Blackmun stated, “it is not enough that the government restrain from compelling religious practices, it must not engage in them either...” *Lee v. Weisman*, 505 U.S. 577, 604 (1992)(Blackmun, J., concurring). Federal law dictates that government employees must refrain from actively participating in religious activities while acting within their governmental role to avoid any perception of government endorsement of religion.

The Supreme Court has struck down school involvement with pre-game invocations even when they were student initiated. *See generally, Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 308 (2000)(struck down a school policy that authorized students to vote on whether to hold a prayer at high school football games). A prayer taking place at a “regularly scheduled school-sponsored function conducted on school property” would lead an objective observer to perceive it as state endorsement of religion. *Id.* at 308. The Court stated that in this context, “[r]egardless 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.” *Id.*

It appears that Coach Walker has repeatedly violated the Constitution. It is illegal for Coach Walker to lead his team in prayer and it is illegal to schedule a minister to attend practice for the purpose of praying with the team and blessing the helmets. Coach Walker is a representative of the school and the District and cannot be allowed to engage in religious ritual with students or encourage his student athletes to have particular religious beliefs. This prohibition includes his encouragement of “spirituality” and having students “put [their] faith in something.” A general call to “spiritual” beliefs is as impermissible as the recitation of the Lord’s Prayer.

Even when public school coaches do not lead prayer but participate in team prayer, federal courts have found an Establishment Clause violation. *See, e.g., Borden v. Sch. Dist. of the Township of East Brunswick*, 523 F.3d 153 (3rd Cir. 2008), *cert. denied*, 129 S.Ct. 1524 (U.S. Mar. 2, 2009)(No.08-482)(declaring the coach’s organization and participation in prayers before football games unconstitutional); *Doe v. Duncanville Indep. Sch. Dist.*, 70 F.3d 402(5th Cir. 1995)(declaring 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, who had an extensive history of organizing, leading and participating in prayers before games, would violate the Establishment Clause if he silently participated in student prayers. *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. *See 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. *See Id.*

Redlands High School Football coaches cannot legally involve themselves with team prayer or encourage religion. This conduct crosses the line because it endorses and promotes religion when acting in an official capacity as a school district employee. When a public school employee, while acting in his governmental role, organizes, advocates or even suggests that the team pray, he effectively endorses religion on the District’s behalf. Establishment Clause concerns are especially heightened given the coercive pressure for student athletes to follow the direction of their coach.

We are concerned that the prayerful practices at Redlands High School are not only occurring with the football team, but might also be a frequent practice with other athletic teams in the District. We ask the District to commence an investigation and take immediate action to stop any impermissible prayers occurring in District athletic programs. Any violation committed by athletic coaches must be documented in their personnel records. We ask that you inform us in writing of the steps the District takes to remedy this serious violation of the First Amendment.

Sincerely,



Patrick C. Elliott
Staff Attorney

Enclosure