



DISTRICT OF COLUMBIA

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

TENNESSEE

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

VIRGINIA

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

March 6, 2024

[REDACTED]
Superintendent

[REDACTED]
[REDACTED]

[REDACTED]
Director of Athletics

[REDACTED]

VIA E-MAIL

Dear Superintendent [REDACTED] and Director [REDACTED]:

The American Center for Law and Justice (“ACLJ”)¹ represents [REDACTED], parents of [REDACTED], regarding [REDACTED] High School’s egregious infringements on their daughters’ First Amendment rights.

¹ The ACLJ is an organization dedicated to the defense of constitutional liberties secured by law. ACLJ attorneys have argued before the Supreme Court of the United States in a number of significant cases involving the First Amendment *See, e.g., Pleasant Grove City v. Sumnum*, 555 U.S. 460 (2009) (unanimously holding that a monument erected and maintained by the government on its own property constitutes government speech and does not create a right for private individuals to demand that the government erect other monuments); *McConnell v. FEC*, 540 U.S. 93 (2003) (unanimously holding that minors enjoy the protection of the First Amendment); *Lamb’s Chapel v. Center Moriches Sch. Dist.*, 508 U.S. 384 (1993) (unanimously holding that denying a church access to public school premises to show a film series on parenting violated the First Amendment); *Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990) (holding by an 8-1 vote that allowing a student Bible club to meet on a public school’s campus did not violate the Establishment Clause);

The purpose of this letter is to bring this matter to your attention so that you may take immediate steps to ensure that the [REDACTED] does not engage in further violations of their rights pursuant to constitutional and federal law.

STATEMENT OF FACTS

[REDACTED] are students at [REDACTED] High School. Both students are on the high school track team. [REDACTED] have been instructed by their track coach, [REDACTED], not to gather with other students and pray before track meets. Specifically, and following the [REDACTED] and other teammates' student-led prayer together before a track meet, Coach [REDACTED] threatened them and instructed, "Don't let me see you do that again."

The [REDACTED] have been told that these events have been brought to the attention of Administration. Mr. [REDACTED] reported the incident via email to Director [REDACTED]. Unfortunately, no adequate corrective action has been taken. Following the incident described above, Coach [REDACTED] instructed the [REDACTED] and other teammates that they must not be seen praying together as a group, and that they could only engage in a moment of reflection, alone or in small groups of 2-3. The girls have been instructed not to give the appearance that they are praying at any time before, during or after track meets.

STATEMENT OF LAW

Coach [REDACTED]'s instruction to [REDACTED] and [REDACTED] not to pray is a clear violation of their First Amendment rights. The First Amendment undisputedly protects their right to pray or engage in other religious speech or activities before, during, or after school and at sporting events.

It is a fundamental proposition of constitutional law that the government may not suppress a private citizen's speech solely because that speech is religious. *See Good News Club v. Milford Central School*, 533 U.S. 98 (2001); *Rosenberger v. Rector and Visitors of the Univ. of Virginia*, 515 U.S. 819 (1995); *Capitol Square Review & Advisory Bd. v. Pinette*, 515 U.S. 753, 753 (1995); *Lamb's Chapel v. Center Moriches School District*, 508 U.S. 384 (1993); *Widmar v. Vincent*, 454 U.S. 263 (1981). As the Supreme Court has explained:

private religious speech, far from being a First Amendment orphan, is as fully protected under the Free Speech Clause as secular private expression. . . . Indeed, in Anglo-American history, at least, government

Bd. of Airport Comm'rs v. Jews for Jesus, 482 U.S. 569 (1987) (unanimously striking down a public airport's ban on First Amendment activities).

suppression of speech has so commonly been directed precisely at religious speech that a free-speech clause without religion would be Hamlet without the prince.

Pinette, 515 U.S. at 760 (plurality opinion) (internal citations omitted).

These protections extend to student speech on public school campuses. *Tinker v. Des Moines Independent School District*, 393 U.S. 503, 506 (1969) (holding that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate”). School officials may not censor student speech because of the religious content of that speech. *Widmar*, 454 U.S. at 269. As the Supreme Court elaborated in *Tinker*, “[w]hen [a student] is in the cafeteria, or on the playing field, or on the campus during the authorized hours, he may express his opinions” 393 U.S. at 512-13. Students have the right to pray, discuss religious beliefs, and even share religious materials with their peers between classes, at break, at lunch, and before and after school. School interference with these rights is not appropriate unless such actions would cause a material and substantial disruption of school discipline.² *Id.* at 509, 513.

The First Amendment also prohibits any retaliation against ██████████ ██████████ and their teammates for bringing the conduct to ██████████’s attention. Any retaliation – *i.e.* any action to discourage the girls from continuing to engage in protected speech, or any action taken to punish the girls for bringing this matter to ██████████’s attention - would constitute yet another violation of the First Amendment.

CONCLUSION

“The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.” *Tinker*, 393 U.S. at 512 (quotation omitted). ██████████ ██████████ and their other teammates have already suffered irreparable injury, and the injury is ongoing until ██████████ puts a halt to the unconstitutional ban and/or restrictions on student prayer. See *Elrod v. Burns*, 427 U.S. 347, 373-74 (1976) (“The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.”).

² Material and substantial disruption sufficient to curb student religious speech must be supported by evidence. It is not enough for school officials to fear that allowing religious speech will offend some members of the community. *Tinker*, 393 U.S. at 505 (noting that where a student wishes to peacefully distribute free literature on school grounds during non-instructional time, there simply is nothing which “might reasonably [lead] school authorities to forecast substantial disruption or material interference with school activities”).

The next track meet is scheduled for this Thursday, March 7, 2024. To resolve this matter sufficiently and to avoid further legal action, we request that you provide in writing the following assurances immediately before Thursday, March 7, 2024, at 3:00 pm:

(1) [REDACTED] does not support or endorse the actions taken by Coach [REDACTED] and described above to restrict [REDACTED] [REDACTED] and their teammates' private, religious speech and prayer at track meets;

(2) An [REDACTED] school official with authority over Coach [REDACTED] will attend the track meet on March 7, 2024, to ensure that [REDACTED] [REDACTED] and their other teammates are permitted to engage in private, religious speech including student-led prayer;

(3) [REDACTED] will take adequate measures to ensure that teachers, staff and students all understand that students are able to freely engage in protected, religious speech and prayer in compliance with the First Amendment, including before, during or after track meets and other sporting events. Such measures may include an amendment to school handbooks and policies to provide a clear statement on students' First Amendment rights; and

(4) [REDACTED] will ensure that [REDACTED] [REDACTED] and their teammates are not retaliated against by any [REDACTED] official, employee or staff for bringing this to [REDACTED]'s attention.

Thank you for your attention to this matter. Should you have any questions regarding the contents of this letter, please do not hesitate to contact me at [REDACTED].

Sincerely,

**AMERICAN CENTER FOR
LAW AND JUSTICE**



Abigail A. Southerland*
Senior Litigation Counsel

[REDACTED]

*Admitted to practice in Tennessee