

ACLU of Virginia

530 East Main Street, Suite 310 Richmond, Virginia 23219 (804) 644-8022

September 15, 2009

**Via Facsimile (276-386-2695) and
E-mail (greg.ervin@scott.k12.va.us)**

Greg Ervin
Principal
Gate City High School
178 Harry Fry Drive
Gate City, VA 24251

Dear Mr. Ervin:

A concerned parent has advised us that Gate City High School football games are regularly opened with a Christian prayer. I write to inform you that such a practice is unconstitutional, and to ask that it cease immediately.

It is my understanding that at a recent game, prior to the National Anthem, a student came over the public address system and said that she was a member of the "Fellowship of Christian Athletes." After a moment of silence to honor a deceased football player (to which we have no objection), the student delivered a prayer which concluded, "in Jesus' name, Amen." It is my understanding that a similar prayer was delivered at many or all of the home football games last year.

Certainly, students, parents and others have a right to pray, individually or in groups, before, during or after a football game. However, when the prayer is delivered over the PA system, as part of the official opening of the game, it violates the First Amendment, which mandates that government refrain from any endorsement of religion.

In a case directly on point, the United States Supreme Court held that it is unconstitutional to open public high school football games with a prayer. *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000). The Court noted that "[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 an accompanying message to adherents that they are insiders, favored members of the political community." *Id.* at 309-10 (citation omitted).

The Court held that the football prayer was a "school-sponsored religious message" even though the student body had voted on whether to have a prayer and who would give the prayer, and even though the school was not involved in writing the prayer:

[T]he invocation is . . . delivered to a large audience assembled as part of a regularly scheduled, school-sponsored function conducted on school property. The message is broadcast over the school's public address system, which remains subject to the control of

school officials. It is fair to assume that the pregame ceremony is clothed in the traditional indicia of school sporting events, which generally include not just the team, but also cheerleaders and band members dressed in uniforms sporting the school name and mascot.

Id. at 307-08.

Besides impermissibly conveying a message of school sponsorship of religion, the Supreme Court also held that the football prayers unconstitutionally coerced students to participate in a religious activity. This was the case even though attendance at football games was an optional, extracurricular activity. The Court noted that some students, such as cheerleaders and band members, were actually required to attend the football games. For other students “immense social pressure” compelled attendance. *Id.* at 311-12. “Even if we regard every high school student’s decision to attend a home football game as purely voluntary, we are nevertheless persuaded that the delivery of a pregame prayer has the improper effect of coercing those present in an act of religious worship.” *Id.* at 312.

Based on my understanding of the facts, the *Santa Fe* case directly prohibits the opening prayers that have been delivered at Gate City High School football games. I therefore ask for your written assurances that such prayers will immediately cease.

If the facts are other than as I have described them, or if you wish to discuss the matter further, please do not hesitate to contact me at (804) 644-8022. Thank you for your assistance in this matter.

Sincerely,

Rebecca K. Glenberg
Legal Director

cc: James Scott, Superintendent (jim.scott@scott.k12.va.us)