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February 2, 2018

Mr. D. Scott Bennett
Leitner, Williams, Dooley, Napolitan PLLC
Tallan Building
200 W. Martin Luther King Blvd., Ste. 500
Chattanooga, TN 37402

Re: Prayer at Athletic Events

Dear Mr. Bennett:

I have the honor of serving as the Executive Director of the Congressional Prayer Caucus Foundation. The Foundation serves nearly 100 members of Congress who are part of the Congressional Prayer Caucus (the names of those members of Congress who serve on the Congressional Prayer Advisory Team are listed on the left).

In addition, the CPCF serves Legislative Prayer Caucuses in over 30 states, including Tennessee, which have nearly 1000 state senators and representatives as members. These leaders are working together to preserve the integrity of our Founding Principles and to protect First Amendment rights for all.

We understand that you represent the Bradley County Schools, and that you earlier this month received a letter from the Freedom from Religion Foundation ("FFRF"). This letter addressed a student giving a prayer before a high school football game. We also understand that the district currently has no written policy governing such prayer. That being the case, it is possible that prayer at school games might be questionable under the reasoning of the 6-3 decision of the Supreme Court in *San Antonio Independent School District v. Doe*, 530 U.S. 290 (2000). However, it is *not* the case, as FFRF asserts in its letter, that the courts have held all prayer at school football games to be unconstitutional.

Prayer has been a part of our public life since our Nation's founding, and it remains a vital part of it today. The Supreme Court has noted, however, that students can be especially impressionable and confused between voluntary and school-sponsored speech and that public institutions must be evenhanded in

making public forums available for speakers of different religions and views. It was because the San Antonio schools did not have a policy that addressed those concerns that its practice was narrowly found to be unconstitutional in its particular circumstances. However, if invocations at sporting events are undertaken consistently with a district policy that addresses these concerns, the practice would not suffer the same deficiencies that caused the San Antonio practice to be struck down.

CPCF strongly supports the efforts of your and other districts to provide an opportunity for voluntary prayer at sports events. Such prayer fosters good sportsmanship and safety. We encourage your district to draft a policy that addresses the deficiencies in the San Antonio model (e.g., adopt an evenhanded opportunity for volunteers like a drawing; set a time limit; have a short opening statement that this is the volunteer's statement, not the school's).

As you know, the Constitution does not require a government to be hostile to religion. As the U.S. Supreme Court stated well in *Zorach v. Clauson*, 343 U.S. 306, 314 (1952): "[W]e find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence." The religious community is just as much a part of your community as those who have no religious beliefs, and the religious members of a community cannot be treated as "outsiders" any more than their secular neighbors.

In closing, our nation has enjoyed a cultural heritage of freedom that rests upon Judeo-Christian ethics. Americans have generally appreciated the contributions of religious organizations toward the strengthening of our society. Our government has had a history of benevolent accommodation of religion. It was not until the 1960s that the U.S. Supreme Court gave the Establishment Clause new interpretations that portended a stricter separation from religion would be required in the public sphere. The Supreme Court has backed away from those interpretations in the decades since, but organizations like the Freedom from Religion Foundation pretend that those earlier interpretations are still binding and should be extended to ever greater degrees, causing confusion in our public institutions to this day.

If we can be of any service to you on this issue, feel free to contact us. We have First Amendment lawyers on staff who will work with you if you need their services.

Sincerely,



Lea Carawan

Executive Director, Congressional Prayer Caucus Foundation