



December 3, 2015

Colonel David Kuenzli, Inspector General
United States Air Force Academy

████████████████████
Via electronic mail

RE: Voluntary, Cadet-Led Prayer at Air Force Academy Football Games

Dear Sir:

This letter is in regard to controversy surrounding voluntary, cadet-initiated and cadet-led prayer at Air Force Academy football games. Disgruntled game attendees purportedly complained after observing Academy football players voluntarily kneeling and praying at football games. We welcome this opportunity to support cadets' constitutional right to freely exercise their religious beliefs.

By way of introduction, Alliance Defending Freedom is an alliance-building legal organization that advocates for the right of people – including service members – to freely live out their faith.

Military members do not forfeit their constitutional freedoms by virtue of their service to our country. Even at the Academy, cadets still enjoy the right to free speech and the free exercise of religion.¹ They have the freedom to express their beliefs both in the classroom and on the field.² Academy officials cannot disfavor cadets' religious views or speech,³ such as their decision to pray before a game rather than cheer or engage in some other form of secular expression. Just as cadets are clearly allowed to express their thoughts about a great victory or stunning loss, they must also be allowed to engage in voluntary prayer regarding those events.⁴

Cadet-led prayer does not violate any purported "separation of church and state." Courts have long recognized that this term is a misrepresented and tiresome platitude found nowhere

¹ See *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 511 (1969) (students "in school as well as out of school ... [have] fundamental rights which the State must respect.").

² See *id.* at 512-13.

³ See *Employment Div. v. Smith*, 494 U.S. 872, 877 (1990) (school officials cannot "impose special disabilities on the basis of [students'] religious views or religious status").

⁴ See *Good News Club v. Milford Central Sch.*, 533 U.S. 98, 112 ("[S]peech discussing otherwise permissible subjects cannot be excluded ... on the ground that the subject is discussed from a religious viewpoint.").

within the Constitution.⁵ The First Amendment does not demand that all things religious be purged from the military.

Some cadets voluntarily choose to pray at football games. The Academy does not in any way indicate that these cadets are speaking for anyone but themselves. Permitting religious expression does not violate the First Amendment, regardless of potential misinterpretation by some spectators.⁶ USAFA cadets are among the best and brightest; surely they and all in attendance at football games can appreciate the difference between religious exercise motivated by personal, sincerely held religious beliefs and government-sanctioned religion.

Even purported complaints by military members are not grounds for censoring cadet prayer. “Adults often encounter speech they find disagreeable; and an Establishment Clause violation is not made out any time a person experiences a sense of affront from the expression of contrary religious views.”⁷ When people confront speech they find offensive, the First Amendment provides a simple solution: they can avert their eyes.⁸

The Air Force Academy is a diverse organization that strives to value pluralism and promote tolerance. We urge you to maintain that atmosphere of inclusivity by affirming the right of all cadets to exercise their First Amendment freedoms. If you wish to discuss this matter further, please do not hesitate to contact us.

Respectfully submitted,



Daniel Briggs
Legal Counsel, Director of Military Affairs
Alliance Defending Freedom

⁵ See *ACLU of Ky. v. Mercer Cnty.*, 432 F.3d 624, 638 (6th Cir. 2005) (the separation of church and state is an “extra-constitutional construct [that] has grown tiresome. The First Amendment does not demand a wall of separation between church and state.”).

⁶ See *Good News Club*, 533 U.S. at 119 (“We decline to employ the Establishment Clause [as] a modified heckler’s veto, in which a group’s religious activity can be proscribed on the basis of what the youngest members of the audience might misperceive.”).

⁷ *Town of Greece v. Galloway*, 134 S.Ct. 1811, 1826 (2014).

⁸ See *Cohen v. California*, 403 U.S. 15, 21-22 (1971) (individuals “could effectively avoid further bombardment of their sensibilities simply by averting their eyes.”).