

FREEDOM FROM RELIGION *foundation*

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December 8, 2011

SENT VIA FAX AND U.S. MAIL

(585) 948-9632

Mr. Christopher Todd
Superintendent
Oakfield-Alabama Central School District
7001 Lewiston Road
Oakfield, NY 14125

Re: Bible Distribution in Schools

Dear Superintendent Todd:

I am writing on behalf of a concerned District parent and New York members of the Freedom From Religion Foundation (FFRF) to object to the distribution of bibles in Oakfield-Alabama Schools. We urge you to immediately put a stop to these constitutional violations. FFRF is a national nonprofit organization, which works to protect the constitutional principle of separation between state and church. We represent over 17,000 members across the country, including nearly 1,000 in New York State.

It is our information and understanding that Oakfield-Alabama Central School District will allow members of Gideons International to distribute bibles to fifth-grade students at Oakfield-Alabama Elementary School on Friday, December 16. According to our complainant, fifth-grade students were given a letter dated December 2 that stated:

Dear Fifth Grade Families:

On Friday, December 16th, members of the Gideon's International Organization will be offering New Testament Bibles to any fifth grade student who wishes to take one. The participation of our students is strictly voluntary. The Bibles will be free of charge. If you would prefer that your child does not take a Bible, please complete and return the form below.

Sincerely,

Mark Alexander
Elementary Principal

At the bottom of the letter was a denial slip a parent could sign to opt their child out of receiving a bible.

First and foremost, it is unconstitutional for public school districts to allow the distribution of bibles on school grounds to a captive audience of students. Courts have held that the distribution of bibles to students at public schools is prohibited. *See Berger v. Rensselaer Central Sch. Corp.*, 982 F.2d 1160 (7th Cir. 1993)(held that classroom distribution of Gideon bibles to fifth-graders violated the Establishment Clause of the First Amendment to the United States Constitution); *see also Roark v. South Iron R-1 Sch. Dist.*, 573 F.3d 556 (8th Cir. 2009) (striking down policy that continued a school’s practice of bible distribution by allowing distribution of bibles in front of administrative offices or at table in the cafeteria); *Tudor v. Board of Education of Rutherford*, 14 N.J. 31 (1953), *cert. denied*, 348 U.S. 816 (1954)(finding unconstitutional a school board resolution permitting the distribution of bibles by Gideons). In striking down a school district's policy permitting Gideons to distribute bibles at the schools, the Seventh Circuit stated, “... the Gideon Bible is unabashedly Christian. In permitting distribution of ‘The New Testament of Our Lord and Savior Jesus Christ’ along with limited excerpts from the Old Testament, the schools affront not only non-religious people but all those whose faiths, or lack of faith, does not encompass the New Testament.” *Berger*, 982 F.2d at 1170.

Furthermore allowing students to “opt-out” through the use of a denial slip, does not make the practice constitutional. The Supreme Court has held that offending religious practices in schools were not “mitigated by the fact that individual students may absent themselves upon parental request, for that fact furnishes no defense to a claim of unconstitutionality under the Establishment Clause.” *Sch. Dist. of Abington Twshp. v. Schempp*, 374 U.S. 203, 224–25 (1963). It makes no difference if the school requires students to opt-out or opt-in to religious programming. *See Karen B. v. Treen*, 653 F.2d 897 (5th Cir. 1981)(Finding required express written permission by parents for students to participate in prayer did not cure Establishment Clause violations). The Supreme Court has clearly stated that “[n]either a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups.” *McCullum v. Board of Education*, 333 U.S. 203, 210–11 (1948).

Public schools have a constitutional obligation to remain neutral toward religion. When a school permits the distribution of religious literature to its students, it has unconstitutionally entangled itself with a religious message, in this case a Christian message. Such a practice alienates those non-Christian students, teachers, and members of the public whose religious beliefs are inconsistent with the message being promoted by the school. It also alienates the 15% of the U.S. population who identify as non-religious (American Religious Identification Survey, 2008).

The District cannot legally allow its schools to be utilized by overreaching proselytizers. By permitting the distribution of bibles on school grounds—regardless of whether a student may opt out of receiving a bible—the district is placing its “stamp of approval” on the religious messages contained in the Gideon bible. And by accommodating the distribution of bibles, the school is misusing its authority to compel students to be at school and is infringing on parents’ right to instruct their child on religion as they see fit.

It is unfortunate that the Gideons view public schools, particularly elementary schools, as ripe territory for recruitment. Parents carefully instruct their children not to accept any gifts from strangers. The Gideon practice of distributing bibles to a captive audience of school children teaches them to ignore parental guidance.

Oakfield-Alabama School District must immediately put a stop to the scheduled Gideon bible distribution on Friday, December 16. We ask that you investigate this matter and promptly inform us, in writing, of the steps you are taking to remedy these constitutional concerns, and ensure that this violation will not occur in the future.

Sincerely,



Stephanie Schmitt
Staff Attorney