

FREEDOM FROM RELIGION *foundation*

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SENT VIA U.S. MAIL & EMAIL
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Kelly Sprinkles
Superintendent
Knox County Public Schools
200 Daniel Boone Dr.
Barbourville, KY 40906

Re: Unconstitutional Bible Classes

Dear Superintendent Sprinkles:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) to alert you to constitutional violations occurring within Knox County Public Schools. We were contacted by a concerned parent. FFRF is a national nonprofit organization with more than 29,000 members across the country, including members within Kentucky. FFRF's purpose is to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

It is our understanding that the District teaches elementary students bible classes. We understand that the school sends letters to parents at the start of each school year promoting the Bible Based Character Education classes and a permission form for parents to opt out of the classes. A parent informs us that these classes are given in place of physical education or library two days a month. We understand that students who do not participate sit in the library.

These classes are flagrantly unconstitutional. Public schools may not provide religious instruction. In the seminal Supreme Court case on this issue, *Illinois ex rel. McCollum v. Bd. of Educ.*, 333 U.S. 203 (1948), the Court held that that bible classes in public school were unconstitutional. The school district in *McCollum* allowed religious teachers, employed by private religious groups, to teach students a weekly bible class. The Court held, "Here not only are the state's tax-supported public school buildings used for the dissemination of religious doctrines. The State also affords sectarian groups an invaluable aid in that it helps to provide pupils for their religious classes through use of the state's compulsory public school machinery. This is not separation of Church and State." *Id.* at 212. The Court did not find it relevant that parents had to opt their children in to the religious instruction, because the classes themselves still constituted an illegal use of the school system for a religious purpose: "Pupils compelled by law to go to school for secular education are released in part from their legal duty upon the condition that they attend the religious classes. This is beyond all question a utilization of the tax-established and tax-supported public school system to aid religious groups to spread their faith." *Id.* at 209-10. The facts here could hardly be more similar.

While a bona fide history or literature course may teach critically and objectively about the bible to more mature students, the course content here constitutes illegal religious instruction and is geared towards the District's youngest, most impressionable students. The classes appear to be nothing more than a Sunday school course.

The Supreme Court has continually affirmed that religious bible instruction inserted into public school curriculum is unconstitutional. *See Edwards v. Aguillard*, 482 U.S. 578 (1987) (striking down requirement that schools give equal time to "scientific creationism"); *Stone v. Graham*, 449 U.S. 39 (1980) (striking down postings of the Ten Commandments in schools); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963) (ruling, in part, that readings from the King James Bible to begin the school day violated the Establishment Clause).

Other federal courts have ruled that similar courses are unconstitutional. In FFRF's lawsuit against religious instruction in Rhea County, Tennessee, the Court said, "This is not a close case. Since 1948, it has been very clear that the First Amendment does not permit the State to use its public school system to 'aid any or all religious faiths or sects in the dissemination of their doctrines.'" *Doe v. Porter*, 188 F. Supp. 2d 904, 914 (E.D. Tenn 2002) (quoting *McCullum*, 333 U.S. at 211), *affirmed* 370 F.3d 558 (6th Cir. 2004). The Fifth Circuit Court of Appeals struck down a "Bible Literature" course, finding that the content of the course, which included "rote memorization of the bible," was unconstitutional. *Hall v. Bd. of Sch. Comm'rs of Conecuh Cnty.*, 656 F.2d 999, 1003 (5th Cir. 1981). In a Mississippi case, the Court found that "A Biblical History of the Middle East" class violated the Establishment Clause. *Herdahl v. Pontotoc Cnty. Sch. Dist.*, 933 F.Supp. 582 (N.D. Miss. 1996). The Court found it significant that the bible was the only text used in the course and that tests were given based solely on the bible text. *Id.* at 594.

We have never heard of, and seriously doubt there could be, a class objectively teaching about the bible to young, impressionable elementary school students. In any case, these classes do not even maintain the pretense of objectivity, and are utterly unlike legitimate high school and college-level history courses that focus on critical review of the Hebrew bible and early Christian literature.

We understand there are other bible classes in District schools. Given the blatantly unconstitutional nature of the elementary classes, these classes are also suspect.

It is irrelevant that parents may excuse students from the elementary bible classes. Courts have summarily rejected arguments that voluntariness excuses a constitutional violation. *See Lee v. Weisman*, 505 U.S. at 596 ("It is a tenet of the First Amendment that the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice."); *Schempp*, 374 U.S. at 288 (Brennan, J., concurring) ("Thus, the short, and to me sufficient, answer is that the availability of excusal or exemption simply has no relevance to the establishment question"); *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003) ("VMI cannot avoid Establishment Clause problems by simply asserting that a cadet's attendance at supper or his or her participation in the supper prayer are 'voluntary.'"); *Jager v. Douglas County Sch. Dist.*, 862 F.2d 825, 832 (11th Cir. 1989), *cert. denied*, 490 U.S. 1090 (1989) ("... whether the complaining individual's presence was voluntary is not relevant to the

Establishment Clause analysis . . . The Establishment Clause focuses on the constitutionality of the state action, not on the choices made by the complaining individual.”).

Suggesting that children who do not wish to be subjected to religious activity at their school should be segregated from their classmates is reprehensible. It shames students into either outing themselves as different or showing deference to a religion they do not believe in and to which their parents do not want them subjected. Parents should not be required to excuse students from constitutional violations, and segregating students based on religious beliefs, or lack thereof, is not a way to get around prohibitions on religious activity in public schools. It makes no difference if some parents would like the school system to teach the bible as fact to its students. The law is clear: the teaching of religious doctrine is prohibited in public schools under the Constitution.

These classes are also a usurpation of parental authority—parents have the right to direct the religious, or non-religious, upbringing of their children, not public schools. These bible classes alienate those students, parents, and teachers, and members of the public whose religious beliefs are inconsistent with the religious messages being promoted by the school, even other Christians whose beliefs do not endorse the biblical interpretation that the school teaches. “[T]he preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere.” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 310 (2000) (quoting *Lee v. Weisman*, 505 U.S. at 589).

The District must make certain that its schools will no longer, under any circumstances, unlawfully and inappropriately indoctrinate students in religious matters. Parents and taxpayers expect and desire a secular education. Not only is this constitutionally required, it reflects the increasingly pluralistic world we live in.

Elementary school bible classes cannot constitutionally continue in any capacity. FFRF filed suit earlier this year challenging similar bible instruction in elementary schools. See *FFRF v. Mercer County Bd. of Education*, Case No. 1:17-cv-00642 (S.D. W.V.).

It is appalling that the District would take away from instructional time to provide for religious indoctrination. You must put an immediate moratorium on elementary school bible classes. Given the patently unconstitutional elementary school classes, you should investigate the District’s bible classes at all grade levels. Elementary school bible classes cannot constitutionally continue in any capacity. We expect a written response about what steps you are taking to remedy this egregious First Amendment violation.

Sincerely,



Patrick Elliott

Senior Counsel

Freedom From Religion Foundation