

FREEDOM FROM RELIGION *foundation*

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April 15, 2015

Sent via U.S. Mail and Fax: Scott.Pruitt@oag.ok.gov

E. Scott Pruitt
Attorney General
313 N.E. 21st Street
Oklahoma City, OK 73105

Re: Bible distributions in Oklahoma public schools

Dear Attorney General Pruitt:

I write this letter to in response to your April 14, 2015 letter to superintendents. The letter stated “that several school districts in Oklahoma have been threatened by outside groups seeking to limit religious freedoms.” You note that my organization, the Freedom From Religion Foundation, wrote those districts with “threats” that “revolve around whether Oklahomans have the right to distribute religious literature in a school.” FFRF is concerned about this misleading if not irresponsible advice.

The Law

As you must be aware courts have held that the distribution of bibles to students at public schools during instructional time 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 First Amendment); *see also Tudor v. Bd. of Educ. 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). Even when distribution of religious material to students in school is done passively—from a table or some other fixed location—courts have ruled that that distribution may be unconstitutional. *See Roark v. South Iron R-1 Sch. Dist.*, 573 F.3d 556 (8th Cir. 2009).

The Facts

Given the clarity of the law on this point and the tone of your letter, we can only assume that you were misinformed. The facts are these: An Oklahoma resident contacted FFRF, a national state-church watchdog with more than 22,000 members including members in Oklahoma, to report that Gideons International were passing out bibles in public schools and bragging about it on social media. Jamison Faught (son of Oklahoma State Representative George Faught) wrote that he was “spending the morning with fellow Gideons passing out Bibles to 5th grade students in Checotah, Eufaula and Stidham.” *See enclosed screenshot*. He noted that “the Checotah principal not only personally took us to each classroom, but he helped us hand them out.” Faught concluded, “We handed out New Testaments to 194 5th graders in three different schools.”

Gideons International is self-described as an interdenominational association of Christian business and professional men who are members of Protestant/evangelical churches. Their website states that they are “dedicated to telling people about Jesus through sharing personally and by providing Bibles and New Testaments.” The Gideon website openly refers to community schools as a prime target. They traditionally distribute New Testament bibles.¹ (Incidentally, the April 14 letter’s rhetoric about “out-of-state organizations” rings a bit hollow given that both FFRF and the Gideons are headquartered outside Oklahoma.)

The Gideons operate by deliberately avoiding superintendents and school boards. They advise their members to seek permission at the lowest level of authority. Usually, they target teachers and principals. Under no circumstances are the local Gideon groups permitted to ask for a legal opinion from the state or school district—and with good reason, because the law clearly prohibits bible distributions in public schools. In fact, several superintendents responded to our letters stating that they did not know such a violation was occurring in their schools.

FFRF is well aware of the Gideons’ tactics. That is why we send *educational* letters to school districts. If you had taken the time to read our letters to the superintendent, you would notice that we say, “We understand that [superintendents] probably had no prior knowledge of this distribution.” We seek to educate first. And only if that fails do we look to the courts to resolve these issues. Which, in this case, would be particularly unfortunate because the law is so clear.

As to your bullying claim, who is doing the bullying? The group that sneaks into schools to convert other people’s children to their particular religion or FFRF, who seeks to educate public school administrators about their constitutional responsibilities? This ought to be your goal. You ought to defend the vulnerable 5th graders from the predatory adults, not stand aside and hold the door open for those predators.

“Open forums” for literature distributions in public schools must be open to all.

You might be interested to know that several of the schools we wrote did have policies like those you mention in your letter—policies that allow private organizations to use the public schools to disseminate their messages to other people’s children. As you know, when a school opens a forum like this, they cannot limit it to bibles, but must allow all literature distributions, including by atheists, Muslims, and Satanists.

FFRF did not dispute the legality of these open forums—though their legality and wisdom is questionable—it simply asked to distribute literature in the forums as well. At that point, the school districts revisited the wisdom of these forums and decided to close them altogether.

FFRF made a similar request in Orange County Public Schools in Florida when bible distributors took advantage of that open forum. OCPS tried to prohibit FFRF materials and ultimately changed course when it was clear they were on the losing end of a federal lawsuit. Then when other groups, including the Satanic Temple, sought to capitalize on the open forum, OCPS decided to close the forum to everyone. See <http://ffrf.org/legal/challenges/ongoing-lawsuits#id-17970>.

¹ See, generally, The Gideons International, <http://www.gideons.org> (last visited February 11, 2015).

It is obviously far easier for an Oklahoma student to get a bible than literature criticizing the bible, which FFRF will seek to pass out in every public school forum that is opened under your offer. If the goal of the Oklahoma Attorney General's office is to allow public schools to be used to distribute atheist messages, then this is a brilliant idea. FFRF prefers that public schools focus on education rather than serve as a venue for divisive religious debates.

Your letter was either grossly misinformed on both the facts and law—indeed recklessly misinformed given that school districts might heed your advice and open themselves up to serious legal and financial liability—or it was a transparent attempt to pander to people's religious sensibilities for political gain.

No doubt you'll want to correct your misstatements to Oklahoma superintendents. We look forward to seeing that letter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrew L. Seidel". The signature is fluid and cursive, with the first name "Andrew" and last name "Seidel" clearly distinguishable.

Andrew L. Seidel
Staff Attorney

enclosure



Jamison Faught with Justin Knight

2 hrs ·

Spending the morning with fellow Gideons passing out Bibles to 5th grade students in Checotah, Eufaula and Stidham.

Like · Comment · Share



21 people like this.



Scott An Kristen Price I'm surprised you're allowed to do that.

2 hrs · Like



Jamison Faught Last several years, we've been able to do it at every school in McIntosh, Okmulgee and Okfuskee counties except one or two. Last year, the Checotah principal not only personally took us to each classroom, but he helped us hand them out!

1 hr · Like · 1



Twyla Bullock Awesome thing you're doing there Jamison!

1 hr · Like



Kirstyn Brown I wish we were allowed to do it.

1 hr · Like



Jamison Faught We handed out New Testaments to 194 5th graders in three different schools.

36 mins · Like