

FREEDOM FROM RELIGION *foundation*

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March 31, 2020

SENT VIA EMAIL: rdduncan@k12.wv.us

Dr. Richard Duncan
813 Capitol Street
Spencer, WV 25276-1924

Re: West Virginia's new elective high school bible class law

Dear Superintendent Duncan :

I am writing on behalf of the Freedom From Religion Foundation to alert you to several serious issues with a new West Virginia law that allows school districts to develop bible classes. FFRF is a national nonprofit organization with 31,000 members across the country, including members in West Virginia. FFRF protects the constitutional separation between state and church, and educates the public on nontheism.

The West Virginia Legislature just passed H.B. 4780, which allows public high schools to teach bible classes as an elective course. This law was lifted straight from the Project Blitz playbook. Project Blitz is a three-pronged Christian Nationalist strategy designed to flood legislatures with bills that use the machinery of the state to promote Christianity. Project Blitz's goal is to make Christians a favored class and all non-Christians second-class citizens. The West Virginia law is based on the Project Blitz model legislation called the "Bible Literacy Act." The new law requires that the courses comply with both the state and the U.S. Constitution. That is not so simple.

Employees may teach, but not preach. The classes must educate, but not indoctrinate. In theory, such a class may be permissible, but courts have ruled that similar courses are unconstitutional. Our organization has extensive experience, and much success, challenging bible classes that have violated these basic rules. We are currently litigating a case in West Virginia against the Mercer County Board of Education, forcing it to suspend a 75-year-old bible class that violated these clear rules. *See Deal v. Mercer Cty. Bd. of Educ.*, 911 F.3d 183 (4th Cir. 2018), *reh'g denied* (Jan. 28, 2019), *cert. denied*, 140 S. Ct. 111 (2019).

In FFRF's challenge to religious instruction in Rhea County, TN, 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), *affirmed*, 370 F.3d 558 (6th Cir. 2004) (quoting *Illinois ex rel. McCollum v. Bd. of Educ.*, 333 U.S. 203, 211 (1948)). In a Mississippi case, the court found that “A Biblical History of the Middle East” class violated the Establishment Clause. *Herdahl v. Pontotoc Cty. 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 the tests were given based solely on the bible text.

It is difficult to teach the bible objectively and critically, as the First Amendment requires. For instance, few Christian parents want their public schools teaching that some bible translations claim that Jesus was born of a “virgin” because they mistranslated the Hebrew word for “young woman.” This simple fact would have to be taught in unbiased classes and is recognized in more accurate bible translations.¹⁸¹ Classes would have to include objective lessons like this—they cannot omit facts that contradict a pro-Christian narrative.

The larger problem is that time and again we see well-meaning courses—and given that this is part of Project Blitz, a Christian Nationalist push to invade our public schools, it cannot be called well-meaning—corrupted by teachers. In practice, bible classes are rarely taught in a legal manner. In 2007, Texas passed a law mandating bible classes. In 2013, Dr. Mark A. Chancey, a professor of religious studies at Southern Methodist University,¹⁸² conducted a study of these classes and found that many “are blatantly and thoroughly sectarian, presenting religious views as fact and implicitly or explicitly encourage students to adopt those views.”¹⁸³ The study surveyed 57 public school districts with bible courses and found that course materials were of low academic quality, and that “many of [these materials] are written specifically for Christian audiences for the purpose of strengthening their faith.”¹⁸⁴

The few course materials that were acceptable still posed serious problems, including possible legal problems. In one instance: “[T]he overall thrust of the book is that religion is largely a source of social progress, with correspondingly less attention to cases in which biblical passages have been used to justify oppression. Indeed, difficult

¹⁸¹ The Hebrew word *almah*, meaning “young woman,” not virgin, was mistranslated into Greek as *parthenos*, “virgin,” even though there is a different Hebrew word for virgin. For instance, the New Revised Standard Version. See, e.g., Isaiah 7:14 (NRSV translation). For more, see Bart Ehrman, *How Jesus Became God: the Exaltation of a Jewish Preacher from Galilee* (2014, paperback ed.), 243; and Ehrman, *Jesus, Interrupted: Revealing the Hidden Contradictions in the Bible* (2009, paperback ed.), 74.

¹⁸² Dr. Chancey has a Ph.D. from Duke in the New Testament and Early Judaism. He authored *The Myth of a Gentile Galilee and Greco-Roman Culture and the Galilee of Jesus*, and co-authored *Alexander to Constantine: Archaeology of the Land of the Bible with Yale University Press*. He’s been published in *Religion & Education*, *Journal of Church and State*, *Religion and American Culture*, and *Journal of the American Academy of Religion*. Chancey now serves on the editorial boards of *Religion & Education* and *Teaching the Bible*.

¹⁸³ Mark A. Chancey, Texas Freedom Network, *Reading, Writing & Religion II: Texas Public School Bible Courses in 2011–12* (2013), § viii–ix, available at <https://bit.ly/3boeti9>.

¹⁸⁴ *Id.* at 13.

and troubling biblical texts are often (though definitely not always) ignored, with the likely result that students encounter a somewhat sanitized Bible.”¹⁸⁵ This one-sided teaching is not objective and is unconstitutional.

The fact that a bible class is taught as an elective cannot save it from constitutional scrutiny. Courts have summarily rejected arguments that voluntariness excuses a constitutional violation. *See generally 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.”); *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 288 (1963) (Brennan, J., concurring); *Mellen v. Bunting*, 327 F.3d 355, 372 (4th Cir. 2003).

Bible courses must be carefully created to comport with constitutional standards. However, if your district is not careful in drafting course curricula and guidelines, teachers may cross the constitutional threshold and expose the school district to legal liability. Even if a course were taught within constitutional limitations, teachers would still risk imposing their religious beliefs on students. To avoid legal liability, and to respect students’ pluralistic beliefs, both the student’s and district’s best interest are served by not offering any elective bible classes.

The state must make certain that its schools will not under any circumstances unlawfully and inappropriately use a bible class to 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. Thank you for your attention to this matter.

Sincerely,



Andrew L. Seidel
Constitutional Attorney
Director of Strategic Response
Freedom From Religion Foundation

¹⁸⁵ *Id.* at 13–14.