

FREEDOM FROM RELIGION *foundation*

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October 22, 2021

SENT VIA EMAIL & U.S. MAIL: ayuengert@bradley.com

Anne R. Yuengert
Bradley, Arant, Boult, Cummings LLP
One Federal Place
1819 Fifth Avenue North
Birmingham, AL 35203

Re: Multiple Constitutional Violations (Blount County Schools)

Dear Ms. Yuengert:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding multiple constitutional violations occurring in Blount County Schools. We never received a response to our February 25, 2021 letter regarding religious displays in Appalachian Elementary School, but our complainant informed us that these displays were removed shortly after we sent our letter.

A concerned Blount County Schools parent has reported that on October 14, 2021, their child came home with a Gideon bible that had been given to them by a man during one of their classes at Susan Moore Elementary School. Our complainant reports that the man told students that all their answers to all their problems could be found in that book, that it would help solve their problems with bullying, and if they read it they would be wiser.

Our complainant also reports that Susan Moore High School has Latin crosses and bible verses displayed all over its main office and hallway, including "Love the Lord with all your heart, and with all your soul and with all your mind - Matthew 22:37," and "Faith does not make things easy, it makes them possible - Luke 1:37." Please see the attached photos. We also understand that the high school has weekly Fellowship of Christian Athletes meetings during school hours that are led by teachers.

Our complainant informs us that despite all of the complaints we have raised with the District in the past few years, the District is actually promoting and endorsing religion even more now.

We write to ensure that the District and its employees cease promoting and endorsing religion in its schools. The District cannot allow the Gideons to enter school classrooms during the day to proselytize to students and hand out bibles. It cannot display bible verses or crosses in its buildings, and any religious clubs must be entirely student-organized and student-led with no participation from District employees. District employees can only attend religious meetings in a supervisory capacity.

Gideon Bible Distribution

It is unconstitutional for public school districts to permit the Gideon Society to distribute bibles as part of the public school day. Courts have uniformly 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) (holding that classroom distribution of Gideon bibles to fifth-graders violated the

Establishment Clause of the First Amendment to the United States Constitution); *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 Gideons to distribute bibles). In striking down a school district's policy permitting Gideons to distribute bibles in classrooms, 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.

The District may not allow Gideons, or any other religious groups, to enter school property to distribute religious literature. In allowing Gideons to distribute bibles to Susan Moore Elementary School students, the District is impermissibly endorsing religion by placing its "stamp of approval" on the religious messages contained in the bible.

Parents carefully instruct children not to accept gifts from strangers. The Gideon practice is a usurpation of parental authority. It is the duty of public school administrators to protect not only the personal conscience of students but to ensure they are safe from predatory adults while at school.

Unconstitutional Religious Displays

The District violates the Constitution when it allows its schools to display religious symbols or messages. Public schools may not advance, prefer, or promote religion. *See* *Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Epperson v. Arkansas*, 393 U.S. 97 (1967); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962). These displays violate this basic constitutional prohibition by creating the appearance that the District prefers religion over nonreligion and Christianity over all other faiths.

Courts have continually held that school districts may not display religious messages or iconography in public schools. *See, e.g.,* *Stone v. Graham*, 449 U.S. 39 (1980) (ruling that the Ten Commandments may not be displayed on classroom walls); *Lee v. York County*, 484 F.3d 689 (4th Cir. 2007) (ruling that a teacher may be barred from displaying religious messages on classroom bulletin boards); *Washegesic v. Bloomingdale Pub. Schs.*, 33 F. 3d 679 (6th Cir. 1994) (ruling that a picture of Jesus may not be displayed in a public school).

Religion is a divisive force in public schools. The Supreme Court has repeatedly noted that "[s]chool sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are nonadherents 'that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.'" *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O'Connor, J., concurring)).

These religious displays are particularly inappropriate given that about 38% of Americans born after 1987 are not religious.¹ The displays alienate those nonreligious students, families, teachers, and members of the public whose religious beliefs are inconsistent with the message being promoted by the school.

¹ Robert P. Jones & Daniel Cox, *America's Changing Religious Identity*, PUBLIC RELIGION RESEARCH INSTITUTE (Sept. 6, 2017), *available at* www.ppri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf.

Teacher-led Religious Club

To avoid the appearance of endorsing a religious club, the District may not allow teachers, administrators, or outside adults to be involved in student religious clubs beyond a supervisory capacity. The Equal Access Act, which allows the FCA to form, requires that “employees or agents of the school or government are present at religious meetings only in a nonparticipatory capacity.” 20 U.S.C. § 4071(c)(2). Any school religious clubs must be bona fide student clubs that are both student-initiated and student-run.

The District has an obligation under the law to make certain that “subsidized teachers do not inculcate religion.” *Lemon v. Kurtzman*, 403 U.S. 602, 619 (1971). Certainly, “a school can direct a teacher to ‘refrain from expressions of religious viewpoints in the classroom and like settings.’” *Helland v. South Bend Comm. Sch. Corp.*, 93 F.3d 327 (7th Cir. 1993) (quoting *Bishop v. Arnov*, 926 F.2d 1066, 1077 (11th Cir. 1991)). The District must make certain that teachers in its schools are not unlawfully and inappropriately indoctrinating students in religious matters.

We ask that you investigate these matters and ensure that outside adults are no longer allowed to proselytize or pass out bibles to students, that any religious displays in District schools are removed, and that teachers are not organizing or promoting FCA or any other religious clubs in the District, and that all religious clubs are truly student-run as the law requires. Given the egregiousness of these violations and the frequency with which we are receiving complaints in the District, all District staff members should receive training regarding the Establishment Clause and their duty as public school employees to refrain from promoting or endorsing their personal religious views.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Line", with a stylized flourish at the end.

Christopher Line
Staff Attorney
Freedom From Religion Foundation

Enclosures





