

FREEDOM FROM RELIGION *foundation*

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June 24, 2021

SENT VIA EMAIL & U.S. MAIL: philip.qualman@eagleschools.net

Philip Qualman
Superintendent
Eagle County Schools
P.O. Box 740
Eagle, CO 81631

Re: Unconstitutional Religious Display & Bible Distribution

Dear Superintendent Qualman:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional violation occurring in Eagle County Schools. FFRF is a national nonprofit organization with more than 36,000 members across the country, including nearly 1,100 members and two local chapters in Colorado. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

A concerned Eagle County Schools community member has reported that Redeemer Eagle Valley, a Christian church being run out of Brush Creek Elementary School, has been allowed to advertise and distribute bibles to Brush Creek Elementary School students. Our complainant reports that the church has a display up during school-sponsored summer school, when it is not renting the building, that includes a Latin cross and has bibles available for students along with a sign reading "FREE BIBLES !!!" Please see the enclosed photo, taken on a weekday.

We write to ask that this display be removed immediately and that the District ensure that Redeemer Eagle Valley is no longer allowed to distribute bibles to students or put up displays during times when it is not renting the school building.

It is well settled that 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. Ark.*, 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). Advancing, preferring, and promoting religion is exactly what a school does when it allows a church to distribute bibles to students and to prominently place an advertisement for students, parents, school employees, or anyone visiting the school to see.

Brush Creek Elementary School may not allow religious displays on school grounds. Courts have continually held that school districts may not display religious messages or iconography in public schools. *See generally, Stone v. Graham*, 449 U.S. 39 (1980) (ruling that the Ten Commandments may not be displayed on classroom walls); *Lee v. York Cty.*, 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.*, 813 F. Supp. 559 (W.D. Mich. 1993), *aff'd*, 33 F. 3d 679 (6th Cir. 1994) (ruling that a picture of Jesus may not be displayed in a public school). This "[s]chool sponsorship of a religious message is impermissible because it sends the ancillary message to . . . 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.*, 530 U.S. 290, 309 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)).

Public schools have a constitutional obligation to remain neutral toward religion. When a school displays an advertisement for a church on its property, it has unconstitutionally entangled itself with a religious message, here a Christian message. This alienates those non-Christian students, teachers, and members of the public whose religious beliefs are inconsistent with the religious messages being promoted by the church. It is particularly exclusionary to the 35 percent of Americans who are non-Christian.¹

If the church wishes to advertise its services on school property, it may only use school property during the time it has actually rented the property—on Sundays. It must put up the signs no earlier than when the rental time begins and take them down when the rental time ends.

It is also unconstitutional for public school districts to permit churches to distribute bibles as part of the public school day. See *Roark v. South Iron R-1 Sch. Dist.*, 573 F.3d 556 (8th Cir. 2009) (permanently enjoining distribution of bibles to school children on school property); *Berger v. Rensselaer Central Sch. Corp.*, 982 F.2d 1160 (7th Cir. 1993) (holding that classroom distribution of bibles to fifth-graders violated the Constitution); *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 a religious group).

In striking down a school district’s policy permitting Gideons International 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. This practice sends the message that the district endorses the message contained within the Christian bibles. As the Supreme Court has recognized, “[f]amilies entrust public schools with the education of their children, but condition their trust on the understanding that the classroom will not purposely be used to advance religious views that may conflict with the private beliefs of the student and his or her family.” *Edwards v. Aguillard*, 482 U.S. 578, 584 (1987).

To avoid continuing to violate the Establishment Clause, Brush Creek Elementary School must immediately remove the Redeemer Eagle Valley’s display, and ensure that it is no longer distributing bibles to students or putting up displays during the school day. Please inform us in writing of the steps the district is taking to remedy this violation.

Sincerely,



Christopher Line
Staff Attorney
Freedom From Religion Foundation

CAL:am

Enclosure

¹ *In U.S., Decline of Christianity Continues at Rapid Pace*, PEW RESEARCH CENTER (Oct. 17, 2019), available at <https://www.pewforum.org/2019/10/17/in-u-s-decline-of-christianity-continues-at-rapid-pace/>.

