

FREEDOM FROM RELIGION *foundation*

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May 11, 2023

SENT VIA EMAIL & U.S. MAIL: rpoole@prescottschool.net

Robert Poole
Superintendent
Prescott School District
762 Martin Street
Prescott, AR 71857

Re: Unconstitutional bible distribution and school prayer

Dear Superintendent Poole:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding several constitutional violations occurring in the Prescott School District (“the District”). FFRF is a national nonprofit organization with more than 40,000 members across the country, including members and a local chapter in Arkansas. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

Numerous Arkansas citizens reported that Prescott Elementary School recently distributed New Testament Bibles to its fifth and sixth grade students. A May 4, 2023 post on the official Prescott School District Facebook page states:

This is a sight that should make anyone happy! It sure does us! Our 5th and 6th grade students received New Testament Bibles today and were reading them at lunch and even on the bus this afternoon. God is so good!

Additionally, it is our understanding that the faculty and staff at Prescott Elementary School have led pre-kindergarten students in prayer and encouraged them to pray. A second recent post on the official District Facebook page states:

Our sweet little PreK students praying before they eat lunch! At Prescott, we pray.

Please see the enclosed screenshots of the above mentioned posts.

Further, it appears that the official District Facebook page has “turned off” comments on these posts. We are told that the District may have deleted any negative comments made by concerned community members pointing out how Prescott Elementary School’s actions are unconstitutional.

We write to request that the District immediately investigate this situation and ensure that Prescott Elementary School immediately cease praying with students and refrain from distributing religious literature to students in the future.

The First Amendment of the Constitution dictates that public schools may not show favoritism towards or coerce belief or participation in religion. *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000); *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); *McCullum v. Bd. of Ed.*, 333 U.S. 203 (1948). When a public elementary school's faculty and staff lead students in prayer, encourage students to pray, and distribute bibles to students, the District displays blatant favoritism towards Christianity and coerces elementary school students to participate in a religious exercise and accept religious literature.

Public elementary schools cannot distribute bibles to students:

It is unconstitutional for public school districts to allow the distribution of bibles in classrooms during the school day. Courts uniformly have held the distribution of bibles to students at public schools during instructional time is prohibited. This means that public school faculty and staff cannot hand out bibles or otherwise facilitate the distribution of bibles. In one of the leading federal court decisions on this topic, *Berger v. Rensselaer Central Sch. Corp.*, 982 F.2d 1160 (7th Cir. 1993), the Seventh Circuit Court of Appeals held that classroom distribution of Gideon bibles to fifth-graders violated the Establishment Clause of the First Amendment to the United States Constitution. In permitting distribution of bibles, "schools affront not only non-religious people but all those whose faiths, or lack of faith, does not encompass the [bible]." The Eighth Circuit Court of Appeals, which holds jurisdiction over Arkansas, likewise upheld an injunction prohibiting a bible distribution on public school property. *See Roark v. South Iron R-1 Sch. Dist.*, 573 F.3d 556 (8th Cir. 2009) (upholding an injunction prohibiting bible distribution on school property). Additionally, distributing religious literature creates an unwelcoming and divisive environment in schools. Bible distributions needlessly alienate and exclude those students who are a part of the 49 percent of Generation Z who are religiously unaffiliated.¹

Public school employees cannot lead students in prayer:

Public school faculty and staff may not lead their students in prayer, encourage or coerce students to pray, or participate in student-initiated prayer. The Supreme Court has continually struck down teacher or school-led prayer in public schools. *See, e.g., Engel* (declaring school-sponsored prayers in public schools unconstitutional); *Schempp* (declaring unconstitutional devotional Bible reading and recitation of the Lord's Prayer in public schools); *Wallace* (overturning law requiring daily "period of silence not to exceed one minute . . . for meditation or daily prayer"). The elementary school environment is inherently coercive. Elementary school students are quite literally a captive audience. Further, elementary school students are young, impressionable, and eager to please their teachers and fit in with their peers. When fifth and sixth grade students see their peers taking and reading bibles, it is only logical that they will take one and read it to fit in. When faculty and staff lead pre-kindergarten students in prayer or encourage them to pray, students that young will no doubt take that as a command that they must obey.

Certainly, "a school can direct a teacher to 'refrain from expressions of religious viewpoints in the classroom and like settings.'" *Helland v. S. Bend Comm. Sch. Corp.*, 93 F.3d 327 (7th Cir. 1993) (quoting *Bishop v. Arnov*, 926 F.2d 1066, 1077 (11th Cir. 1991)). The Supreme Court has recognized that "[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

¹ 2022 Cooperative Election Study of 60,000 respondents, analyzed by Ryan P. Burge
<https://religioninpublic.blog/2023/04/03/gen-z-and-religion-in-2022/>

(1987). Here, Prescott Elementary School, and thus the District, has repeatedly violated the trust that parents place in their public schools and usurped the authority of parents to direct the religious or nonreligious upbringing of their children.

It is important to note that this case is readily distinguishable from the Supreme Court's recent ruling in *Kennedy v. Bremerton School District*. In *Bremerton*, the Court held that a high school football coach's silent, private post-game prayer was constitutional. 142 S.Ct. 2407, 2415–16 (2022). Throughout its opinion, the Court repeatedly stressed that the coach silently prayed alone. *Id.* (the coach "offered his prayers quietly while his students were otherwise occupied."). The prayers "were not publicly broadcast or recited to a captive audience. Students were not required or expected to participate." *Id.* at 2432. Additionally, the Court concluded the coach's quiet private prayer was private speech. *Id.* at 2423–24. (the coach's prayer was not given while he was performing official duties such as instructing players, discussing strategy, or encouraging better performance). In stark contrast, faculty and staff at Prescott Elementary School have actively led pre-kindergarten students in prayers.

In order to protect the First Amendment rights of all Prescott Elementary School students and respect the constitutional rights of parents, the District must ensure that Prescott Elementary's faculty and staff cease leading students in prayer, encouraging students to pray, and distributing religious literature to students. Please inform us in writing of the steps the District is taking to address these serious constitutional violations and ensure that they do not recur.

Sincerely,

A handwritten signature in black ink, reading "Samantha F. Lawrence". The signature is fluid and cursive, with the first name "Samantha" being more prominent and the last name "Lawrence" following in a similar style.

Samantha F. Lawrence
Anne Nicol Gaylor Legal Fellow
Freedom From Religion Foundation

Enclosures



Prescott School District

May 4 at 7:15 PM · 🌐

This is a sight that should make anyone happy! It sure does us! Our 5th and 6th grade students received New Testament Bibles today and were reading them at lunch and even on the bus this afternoon. God is so good! [#impactthepack](#)



👍❤️ 225

23 comments 36 shares

👍 Like

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Prescott School District

Yesterday at 10:27 AM · 🌐

...

Our sweet little PreK students praying before they eat lunch! At Prescott, we pray. [#impactthepack](#)



👍❤️ 198

24 comments 20 shares

👍 Like

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