

FREEDOM FROM RELIGION *foundation*

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Date: June 29, 2022

To: District Superintendent

From: Freedom From Religion Foundation

Re: Memorandum on Unconstitutional Public School Bible Distributions

We have experienced an increase in the number of complaints recently from Tennessee residents regarding bible distributions within the public schools, and we are writing to educate schools on the law on this subject. The Freedom From Religion Foundation (FFRF) is a national nonprofit organization with currently more than 37,000 members, including more than 450 members and an active state chapter in Tennessee. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

Some recent bible distribution scenarios at Tennessee public schools have included two “guests” coming into a middle school classroom during a class and asking the children to come to the front to take a bible. In another school, tables were set up in a hallway before noon so, when classes were released, a bottleneck was created that effectively forced all students to walk by the tables while two men distributed bibles. In both instances, students reported feeling uncomfortable and pressured to interact with the men to take bibles.

Courts have held that the distribution of bibles to students at public schools during instructional time is prohibited. *See Roark v. South Iron R-1 Sch. Dist.* 540 F. Supp.2d 1047, 1059 (E.D. Mo., 2008); *upheld in relevant part by* 573 F.3d 556, (8th Cir. 2009) (holding that school policy allowing evangelical Christian organization to distribute bibles in school violated Establishment Clause); *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.

Gideons International is the organization most commonly associated with school bible distributions. It is an association of Christian business and professional men who are members of Protestant and evangelical churches.¹ They are “dedicated to telling people about Jesus . . . by

¹ See www.gideons.org/faq.

providing Bibles and New Testaments” and placing them in “strategic locations.”² Their website openly refers to “students in the fifth grade and above” as prime targets and members “personally witness and distribute God’s Word.”³ The Gideons confirmed in federal court “that they must be present when their Bibles [are] distributed.” *Roark*, 540 F. Supp.2d at 1052.

To accomplish their goal of personally distributing bibles to public school students, 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. Our goal is to increase awareness of these circumstances and to educate to prevent these constitutional violations.

Public schools have a constitutional obligation to remain neutral toward religion and to protect the rights of conscience of young and impressionable students. When a school distributes religious literature to its students, or permits evangelists to distribute religious literature to its students, it entangles itself with that religious message. Christian messaging unnecessarily alienates non-Christian students and families, including the nearly thirty percent of the American population who are not religious.⁴ By allowing students to be effectively coerced into engaging with purveyors of bibles—and Christianity—who are given unique access to a captive audience of students during the school day, you do not respect your students’ rights of conscience—or their families’ right to control their children’s religious upbringing. Adult men insisting on handing out any material so that they can personally share their religious beliefs with schoolchildren should raise red flags.

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 distribution may also be unconstitutional. *See Roark*, 573 F.3d (upholding an injunction prohibiting bible distribution on school property). Public schools need not create an open public forum whereby any private organization may take advantage of school resources and a captive student audience to further its personal goals. FFRF has, in the past, sought to distribute our own literature, such as “An X-Rated Book: Sex and Obscenity in the Bible” and “What Does the Bible Say About Abortion?” alongside bibles, and may seek to do so in any school district that maintains an open forum policy.⁵ If a public school has a policy that allows religious materials to be distributed, the school cannot discriminate against any religious or nonreligious viewpoint. The best solution is a policy that does not allow third-party literature distribution.

Distributing bibles during the school day to public school students is unconstitutional. Please examine your school policies to ensure that they reflect your constitutional obligation to religious neutrality. Please educate your teachers, administrators, and staff about the insidious methods employed by religious organizations targeting schoolchildren to spread their message via bible distributions. Under no uncertain terms should a public school student feel coerced to take religious materials from anyone at school. Religion should be a private matter between a student and family, and public schools should stick to secular education.

² See www.gideons.org/about.

³ *Id.*

⁴ Gregory A. Smith, *About Three-in-Ten U.S. Adults Are Now Religiously Unaffiliated*, Pew Research Center (Dec. 14, 2021), available at www.pewforum.org/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/.

⁵ See <http://goo.gl/9AIp9s>.