



January 5, 2018

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Frankfort, KY 40601  
*Via first class mail and electronic mail at:* kyle.lee@education.ky.gov

RE: "Bible Literacy" education

Dear Mr. Lee,

We write to express serious concerns with "Bible Literacy" classes in Kentucky public schools. We understand your office is currently working to promulgate academic standards pursuant to HB 128, which was adopted by the legislature and signed into law by the governor in 2017. We raise this issue with your office now with the hope of ensuring that any standards, guidance, or curriculum addressing the Bible in our public schools is appropriately controlled and applied constitutionally.

Our office has recently undertaken an Open Records Act investigation into "Bible Literacy" classes in public schools around the state. We sent identical records requests to every school district in the state, requesting specific documentation on any "Bible Literacy" course currently offered. It appears that the vast majority of schools currently do not offer a "Bible Literacy" course. However, several schools do offer such classes – and there appear to be serious fundamental and constitutional issues with those courses, which we will describe here.

Preliminarily, while it is not unconstitutional *per se* to teach schoolchildren about religion and religious texts, when a course focuses on one religious text, such as the Bible, it is exceedingly difficult to implement the class within constitutional strictures. Any course addressing the Bible in public schools must be secular, objective, nondevotional, and must not promote any specific religious view. As one Court has put it, there is a "difference between teaching about religion, which is acceptable, and teaching religion, which is not." *Roberts v. Madigan*, 921 F.2d 1047, 1055 (10th Cir. 1990) (quoting district court opinion with approval).

Accordingly, it is inappropriate and unconstitutional to use public-school educational courses to teach the Bible as truth or from a religious perspective, or to use such courses to disparage other faiths. *See, e.g., Doe v. Porter*, 370 F.3d 558, 562-63 (6th Cir. 2004) (permitting Bible ministry members to teach courses on school property during the school day that treated the Bible as "literal truth" violated the Establishment Clause of the First Amendment); *Hall v.*

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*Bd. of Sch. Comm'rs*, 656 F.2d 999, 1001-03 (5th Cir. 1981) (ruling that Bible literature course taught from “a fundamentalist, evangelical, protestant perspective” could not pass constitutional muster); *Herdahl v. Pontotoc Cty. Sch. Dist.*, 933 F. Supp. 582, 592-99 (N.D. Miss. 1996) (ruling that a public-school course teaching the Bible as truth and teacher’s screening of religious videotapes explaining the “real” reasons for Christmas and Easter holidays “constitute[d] impermissible religious instruction and endorsement of religion by a public official”).

In order to appropriately introduce this material into a public-school curriculum, the curriculum itself must be carefully designed to avoid proselytizing, or indeed, any suggestion that a religious message is being promoted by the school. *See e.g. Wiley v. Franklin*, 468 F. Supp. 133, 152 (E.D. Tenn. 1979). The course should approach the topic from a scholarly perspective. Teachers must be properly trained in how to teach the Bible from an academic viewpoint and must understand the legal implications and limitations of teaching the Bible or religion courses in public schools. *See id.*

Based on the responses that we have received to our Open Records Act requests, it is clear that these principles are being violated in Kentucky schools that offer “Bible Literacy” courses. The most problematic courses that we have discovered are not academic and neutral, but rather present the Christian Bible as the only biblical text and Christianity as the one correct religion. In several of these classes, teachers are using the Bible to impart religious life lessons and actively inculcate Christianity – again, in contravention of prevailing constitutionally acceptable practices.

For example, several of the courses we discovered through our Open Records Act requests proselytize, or ask students to proselytize, which has no place in our public schools. Students in Barren County, after visiting the South Central Kentucky Cultural Center, are assigned to write to a family member and encourage them to visit the Cultural Center as well: “Devote your writings to an item or items of interest in the religious exhibit relating to faith and religious heritage. Discuss why the reader needs to appreciate this.” [Attachment 1].

Meanwhile, a worksheet on the Book of Proverbs in McCracken County asks students, “How are the virtues praised by the Book of Proverbs important character traits for society today?” [Attachment 2]. Students in the same class were encouraged to turn to the Book of Philippians to learn how to treat anxiety. [Attachment 3]. Even if the schools could identify a primary secular purpose for these assignments, which they have not, schools “cannot employ a religious means to serve otherwise legitimate secular interests.” *See Karen B. v. Treen*, 653 F.2d 897, 901 (5th Cir. 1981), *aff’d* 455 U.S. 913 (1981); *see also Holloman ex rel. Holloman v. Harland*, 370 F.3d 1252, 1287 (11th Cir. 2004) (rejecting teacher’s claim that in-class prayer was permissible way of teaching compassion in connection with character education instruction because prayer “is not within the range of tools among which teachers are empowered to select in furtherance of their pedagogical duties”).

One of the many problematic questions posed to students in Letcher County’s “Bible” electives was: “What are some promises in the Bible that God gives everyone who believes in him?” [Attachment 4]. High school students in that class are also assigned to “[d]o your best to build close relationships with other Christians, so that you may help one another through tough

times.” [Attachment 5]. The worksheet that includes this assignment – and many other worksheets used in this class – appears to have been accessed through “Teen Sunday School Place,” an online database of Sunday School lessons and worksheets. Other worksheets used in this course appear to be created by the Christian publisher “Rose Publishing.” Needless to say, these are not appropriate sources for curricular materials for a public-school course.

Beyond worksheets pulled directly from Sunday School websites, teachers in several of these classes have also used source materials that are simply not academic or clearly skewed to promote and inculcate Christianity. Letcher County students have watched the devotional movies “God’s Not Dead 2” and “The Five People You Meet in Heaven.” [Attachment 6]. The students in the Lewis County course were shown “The Exodus Decoded,” which, the teacher informed students, purportedly uses science to account for Biblical events.<sup>1</sup> [Attachment 7].

Far from encouraging academic and objective study of the Bible and its historical context or literary value, it is clear that the coursework in these “Bible Literacy” classes often resembles Sunday School lessons. For instance, several of these courses include assignments of rote memorization, which are far more akin to religious training exercises than a scholarly, academic, and secular study of the Bible. Students in Letcher County were assigned to memorize 2 Corinthians 12:10 [Attachment 5], while students in McCracken County were asked to memorize Psalm 23 [Attachment 8]. Several other assignments or quizzes include simple fill-in-the-blank worksheets that serve to test students’ knowledge of scripture and Biblical teachings, but do not probe any deeper into an academic or intellectual understanding of the Bible and its influences. Please see Attachment 9 for several examples of this type of worksheet.

Perhaps most troubling, and indicative of just how important clear, concise, and controlled guidance from the Department of Education will be, is Lewis County’s “Bible Literacy” class. Eager to adopt a course after the passage of HB 128, and without waiting for standards and guidance from the state, a Lewis County high school teacher relied on her students for a statutory interpretation of the new bill. After reading the language of the bill,<sup>2</sup> she asked her students what questions they would like to address based on it, and the entire course is, ostensibly, an exercise in addressing those questions one by one. The list of the students’ questions is included here as Attachment 10. It includes such questions as “Is there evidence to support the Bible and all of the stories within it?,” “Dinosaurs and mythological creatures, what does the Bible say about them?,” “Does Christianity influence other religions and if so how?,” and “The Ark Adventure in Kentucky – can we go see it?” As has been noted time and again, crafting and teaching “Bible Literacy” courses in a constitutionally permissible manner is

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<sup>1</sup> This “documentary” aired on The History Channel, but the claims made in it have largely been debunked. The filmmaker himself acknowledged at the time the movie was released that “most scholars remain skeptical of his ideas and that there is not a single archeological artifact supporting the story of Exodus.” Felicia R. Lee, *Plagued by No Doubts, a Filmmaking Detective Turns to the Exodus*, NEW YORK TIMES, Aug. 17, 2006, available online at <http://www.nytimes.com/2006/08/17/arts/television/17exod.html>.

<sup>2</sup> It appears from documents received pursuant to our Open Records Act request that the version provided by the teacher to her class is actually a version of the “Bible Literacy” bill from a prior General Assembly, which had been filed in the Senate and was not ultimately passed.

exceedingly difficult to do – such a difficult and important task should not be left up to the very students who are in school to learn. All courses, not just “Bible Literacy” classes, must follow academic standards. We are hard-pressed to see how this elective course does so.

Religious education is best left to parents and churches, not school or government officials. Religion is a deeply personal matter, and families are in the best position to introduce their children to religious belief systems. For this reason, ACLU of Kentucky representatives testified against the “Bible Literacy” bill last year, and we continue to believe that “Bible Literacy” courses have no place in our state’s public schools. However, should the Department of Education continue to promulgate standards for these courses, we hope that the above examples demonstrate the importance of clear, concise, and controlled guidance for Kentucky’s schoolteachers. Moreover, we urge you to put in place mechanisms for monitoring these courses as they are implemented to ensure that they do not run afoul of the students’ and parents’ constitutional rights. Otherwise, schools will likely face costly and drawn-out litigation, among other consequences.<sup>3</sup> We appreciate your important work in this regard, and welcome any questions or feedback based on this letter.

Sincerely,



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<sup>3</sup> See, e.g., Compl., *Moreno v. Ector Cty. Indep. Sch. Dist.*, No. 7:07-cv-00039-RAJ (W.D. Tex. May 16, 2007) (suing over use of National Council on Bible Curriculum in Public Schools (NCBCPS) course for advancing one particular view of the Bible); see also Press Release, *ACLU, Agreement with Ector County School Board Will Prevent Unconstitutional Curriculum from Being Taught* (Mar. 5, 2008), <https://www.aclu.org/news/texas-school-board-agrees-stop-teaching-unconstitutional-bible-class-public-schools> (announcing settlement in which school district agreed to stop using NCBCPS course and to adhere to objective standards for any future course).