

**AMERICAN CIVIL  
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March 22, 2011

**VIA EMAIL AND U.S. MAIL**

Barry L. Carroll, Ed. D.  
Superintendent  
Limestone County School District  
14717 Friend Road  
Athens, AL 35611  
Email: [barry.carroll@lcsk12.org](mailto:barry.carroll@lcsk12.org)

**Re: Bible distributions and promotion of creationism at Blue Springs  
Elementary School**

Dear Dr. Carroll:

We write on behalf of Thomas Moore, a parent of two children currently attending Blue Springs Elementary School. Mr. Moore has notified us of several troubling and likely unconstitutional practices, including Bible distributions by school staff and endorsements of creationism by a fifth-grade teacher. This letter provides advice regarding the law on these matters with the hope that the District will take immediate steps to cure these violations. It should also be treated as an official public records request pursuant to Alabama Code §§ 36-12-40. The requested records, set forth below, are necessary to further our investigation of these problematic District practices and to determine whether we must take further action should the District fail to remedy them.

**Bible Distributions**

We understand that, within the past three months, Bibles have been distributed to students on several occasions. In one instance, a fifth-grade teacher (Amanda Moss) went from classroom to classroom and placed a stack of Bibles on a desk in each room and instructed students to “come get it” if they wanted one. On another occasion, first-grade and second-grade students took a special trip to the library, where the librarian (Diane Gilliam) handed out Bibles to students. Unsurprisingly, with the rest of their classmates looking on, Mr. Moore’s children felt uncomfortable refusing the Bibles and thus, like others in the class, accepted them at the behest of their teachers.

These Bible distributions run afoul of the Establishment Clause of the First Amendment of the U.S. Constitution. As the Supreme Court has recognized, “there are

*So long as we have enough people in this country willing to fight for their rights, we'll be called a democracy  
Roger Baldwin, ACLU Founder*

heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools.” *Lee v. Weisman*, 505 U.S. 577, 592 (1992). Thus, the federal courts “have been particularly vigilant in monitoring compliance with the Establishment Clause” in the public-school context, *Edwards v. Aguillard*, 482 U.S. 578, 583 (1987), consistently prohibiting public school officials or outsiders from distributing Bibles or other religious literature in classrooms or in connection with instructional time. *See, e.g., Doe v. South Iron R-1 Sch. Dist.*, 498 F.3d 878, 881-83 (8th Cir. 2007) (enjoining school from permitting Gideons to distribute Bibles to fifth-grade students in classrooms or anywhere else on campus during school day); *Berger v. Rensselaer Cent. Sch. Corp.*, 982 F.2d 1160, 1171 (7th Cir. 1993) (holding that “the Gideons may not distribute Bibles in Rensselaer public schools during class time for non-pedagogical purposes”); *Doe v. Wilson County Sch. Sys.*, 564 F.Supp.2d 766, 795 (M.D. Tenn. 2008) (“Lakeview administration signaled its endorsement of Christian religious activity . . . [when] the Gideons were allowed to distribute Bibles to fifth graders during instructional time.”); *Chandler v. James*, 998 F.Supp. 1255, 1275 -78 (M.D. Ala. 1997) (upholding injunction prohibiting school officials from “aiding, abetting, commanding, counseling, inducing, ordering, procuring, or otherwise permitting, school officials or nonschool persons to enter any classroom or any school property where students are assembled, for the purpose of distributing Gideon Bibles or other religious tracts, literature, or paraphernalia to students on school property during the school day, including the home room period and any period during which students are required to be present in school, or at any school-sponsored event”).<sup>1</sup>

Moreover, while some courts have held that it is acceptable for outside religious groups to participate in school-organized, neutral limited public fora or other neutral schemes to distribute religious and nonreligious materials to students, they have done so only in certain limited, highly constrained circumstances designed to minimize any religious coercion, favoritism, or other association with the school. For example, even one of the most permissive decisions allowing the distribution of religious literature authorized *only* passive distribution of Bibles in accordance with a “neutral policy of allowing religious and nonreligious groups alike to set up” distribution tables at high schools. *See Peck v. Upshur*, 155 F.3d 274, 275-76 (4th Cir. 1998) (upholding school district’s distribution policy where materials – including Bibles – were placed on tables outside of the classroom; the tables displaying the Bibles were set up for only one day; the tables had a disclaimer, renouncing any sponsorship or endorsement by the school; no one was allowed to enter classrooms to announce the availability of the religious or political material, or to stand at the tables to encourage or pressure students to take the

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<sup>1</sup> *See also, e.g., Sch. Dist. v. Schempp*, 374 U.S. 203, 263 (1963) (Brennan, J., concurring) (citing, with approval, state cases that “have invalidated programs for the distribution in public school classrooms of Gideon Bibles”); *Goodwin v. Cross County Sch. Dist.*, 394 F.Supp. 417, 428 (E.D. Ark. 1973) (“The practice . . . of distributing the Gideon Bible by a representative of the Society to the fifth grade students in the elementary schools of the Cross County School District is an exercise of religious character which is prohibited by the First Amendment.”); *cf. Helland v. South Bend Comm’y Sch. Corp.*, 93 F.3d 327, 329, 331 (7th Cir. 1996) (upholding teacher’s dismissal, in part, because he had repeatedly “proselytized in his classes by reading the Bible aloud . . . [and had] distribut[ed] Biblical pamphlets”).

material; and no school announcement or assembly was allowed to mark the availability of the Bibles or any other religious or political material).<sup>2</sup>

These limitations are especially important in the elementary school context because young children are much more susceptible to the coercive influences of their teachers and peers. *See Rennselar*, 982 F.2d at 1170 (“Many cases have focused on the impressionability of students in elementary and secondary schools and the pressure they feel from teachers, administrators and peers. . . . If the Supreme Court [in *Lee*] was concerned about the coercive pressures on fourteen-year-old Deborah Weisman, then we must be even more worried about the pressures on ten- and eleven-year-old fifth graders in Rensselaer such as Joshua Berger.”). Young students are likely to feel uncomfortable refusing a school official’s invitation to receive a Bible, especially when their classmates are watching, thereby resulting in impermissible religious coercion. *See, e.g., Jabr v. Rapides Parish Sch. Bd.*, 171 F. Supp.2d 653, 663 (W.D. La. 2001) (“The School Board, by permitting the principal of the school to make Bibles available for students in his office, on his desk, in front of the child’s peers, after summoning the students to his office fails the *Lee* test because the school totally disregards the coercive influences on impressionable children.”); *see also, e.g., Peck*, 155 F.3d at 288 n.\* (limiting decision to secondary schools and acknowledging potential for greater coercion in the elementary school context).

The recent Bible distributions at Blue Springs Elementary do not accord with the principles set forth in these cases and the requirements of the Establishment Clause of the First Amendment. Unlike in *Peck*, the District has failed to implement any safeguards to minimize the risk of religious coercion.<sup>3</sup> Indeed, given that children as young as six years old are among the targets of the Blue Springs distributions, as well as the District’s apparent history of conducting the distributions in blatant violation of the Establishment Clause, it is questionable whether any set of limitations would suffice to alleviate the pressures attendant to such practices or to distill the message of religious endorsement they convey. *See Roark v. South Iron R-1 Sch. Dist.*, 573 F.3d 556, 560-61 (8th Cir. 2009) (upholding permanent injunction barring “distribution of Bibles to elementary school children on school property at any time during the school day” where District had “for decades impermissibly endorsed a particular religion by allowing the distribution of

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<sup>2</sup> *See also Meltzer v. Bd. of Pub. Instruction*, 577 F.2d 311, 312 (5th Cir. 1978) (per curiam) (en banc) (narrowly upholding Bible distributions that were conducted according to strict limitations providing that materials be distributed at one designated location only; prohibiting distributions at other locations, including “the classroom, homerooms, in assembly or any portion of school property”; and barring school employees from “comment[ing] upon the decision by any group to make available or not make available literature, the content of such literature” and from “in any way influenc[ing] others concerning the literature or concerning the taking or reading of the literature”), *aff’g in part & rev’ing in part, Meltzer v. Bd. of Pub. Instruction*, 548 F.2d 559, 562 (5th Cir. 1977) (setting forth policy).

<sup>3</sup> As noted above, in *Peck*, the Court emphasized that “neither the Board nor any other school employee will require or even encourage any student to pick up a Bible, much less to read one, and the Board has also expressly forbidden the private sponsors of the tables from imposing upon any student to take a Bible. The Bibles are made available outside of the formal classroom setting and students will be able to ignore or simply walk past the table set up in the hall or library—presumably without even calling any attention to that choice. Thus, no student will be put to the choice of ‘participating [in a religious exercise], with all that implies, or protesting.’” *Peck*, 155 F.3d at 287 (quoting *Lee*, 505 U.S. at 593).

Bibles in fifth grade classrooms”).<sup>4</sup> But permitting teachers to distribute Bibles to students in the classroom, or as part of an organized trip to the school library, certainly falls far short and clearly violates even the most permissive of constitutional standards in this regard.

### Promotion of Creationism

We also understand that Jody Brown, a fifth-grade teacher, recently refused to continue with a science lesson when the topic of evolution arose in a science textbook. Ms. Brown announced that she would not read or discuss the issue further because “some of us believe in God” and “some of believe that the world was made in seven days and that God created man and the trees.” At a subsequent meeting with Mr. Moore and Assistant Principal Cade Baker, Ms. Brown admitted that she presents both evolution and creationism to students because she is concerned about conflicting with what students are taught at home.

Ms. Brown’s practice of teaching or otherwise promoting creationism is, simply put, unlawful. As the District is surely aware, the federal courts have been unequivocally clear that efforts to inject religious beliefs regarding the origin of life into public school science curricula are constitutionally impermissible, no matter what form they may take. *See, e.g., Edwards v. Aguillard*, 482 U.S. at 586, 592 (striking down Louisiana Balanced Treatment for Creation-Science and Evolution-Science in Public School Instruction Act as unconstitutional, holding that the Act was “was not designed to further” the State’s purported goal of “protecting[ing] academic freedom,” and concluding that “[t]he preeminent purpose of the Louisiana Legislature was clearly to advance the religious viewpoint that a supernatural being created humankind”); *Epperson v. Arkansas*, 393 U.S. 97, 108 (1968) (holding unconstitutional state law prohibiting the teaching of evolution in public schools as “there can be no doubt that Arkansas has sought to prevent its teachers from discussing the theory of evolution because it is contrary to the belief of some that the Book of Genesis must be the exclusive source of doctrine as to the origin of man”); *Freiler v. Tangipahoa Parish Bd. of Educ.*, 185 F. 3d 337, 344-45 (5th Cir. 1999) (overturning school board policy requiring teachers to read classroom disclaimer questioning validity of evolution and promoting creationist beliefs and holding that the “contested disclaimer does not further the [Board’s] first articulated objective of encouraging informed freedom of belief or critical thinking by students . . . [but rather] we find that the disclaimer as a whole furthers a contrary purpose, namely the protection and maintenance of a particular religious viewpoint”); *Daniel v. Waters*, 515 F.2d 485, 487, 489 (6th Cir. 1975) (striking down statute barring public school use of any textbook teaching evolution “unless it specifically state[d] that it is a theory as to the origin and creation of man and his world and is not represented to be scientific fact” and unless

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<sup>4</sup> *See also Borden v. Sch. Dist. of Tp. of East Brunswick*, 523 F.3d 153, 178 (3d Cir. 2008) (holding that a reasonable observer with “knowledge of [football coach’s] extensive involvement with the team’s prayers over the past twenty-three years during which he organized, participated in, and led prayer . . . would conclude that Borden is showing not merely respect when he bows his head and takes a knee with his teams and is instead endorsing religion”); *McCreary County*, 545 U.S. at 873-74 (taking into account previous religious displays by county in determining constitutionality of revised display).

equal time was devoted to creationism); *Kitzmiller v. Dover*, 400 F. Supp.2d 707, 765-66 (M.D. Pa. 2005) (striking down school board policy promoting the teaching of intelligent design in biology class); *McLean v. Ark. Bd. of Educ.*, 529 F. Supp. 1255, 1274 (E.D. Ark. 1982) (enjoining statute authorizing teaching of creation-science in public schools and holding that “[n]o group, no matter how large or small, may use the organs of government, of which the public schools are the most conspicuous and influential, to foist its religious beliefs on others”).

### Public Records Request

We urge the district to cease these practices immediately and to take steps to prevent these constitutional violations from recurring. In the meantime, we intend to conduct our own investigation of these matters to determine whether further action must be taken should the District fail to remedy these problems. Pursuant to Alabama Code §§ 36-12-40 and 36-12-41, please provide copies of the following documents and materials:

- (1) All policies, rules, or guidelines governing, referring to, or relating to the distribution of religious materials on District property.
- (2) All policies, rules, or guidelines governing, referring to, or relating to the distribution, on District property, of any materials by outside, non-school groups.
- (3) All policies, rules, or guidelines governing, referring to, or relating to District officials’ conduct of prayer, proselytization, or other religious activities.
- (4) All records referring or relating to the distribution of Bibles or other religious materials at any District school during the 2008-2009, 2009-2010, and 2010-2011 academic years, including but not limited to all relevant email communications sent to or by school officials; all written announcements, parent newsletters, invitations, and advertisements or other materials (*e.g.*, flyers, posters, etc.) advertising, promoting or otherwise mentioning the distribution of religious literature to students; and all meeting agendas, minutes, notes, or other similar documents reflecting discussion of this issue.
- (5) All records referring or relating to Gideons International or any member, representative, or agent thereof.
- (6) All records referring or relating to complaints or other objections – whether made by District officials, students, parents, community members, or any other person or group – to the distribution of Bibles or other religious materials at any District school during the 2008-2009, 2009-2010, and 2010-2011 academic years.

- (7) All policies, rules, or guidelines governing, referring to, or relating to the teaching of evolution, including but not limited to policies referring to “critical analysis,” “critical thinking,” or similar terminology in connection with evolution; policies referring to the “strengths” or “weaknesses” of evolution; and policies referring to evolution as “controversial.”
- (8) All policies, rules, or guidelines governing, referring to, or relating to the teaching of religious matters or topics.
- (9) All teacher lesson plans referring or relating to evolution.
- (10) All records referring or relating to creationism, creation-science, or intelligent design, including but not limited to teachers’ lesson plans, syllabi, worksheets, exams, quizzes, study guides, powerpoint presentations, video or film presentations, and other instructional materials.
- (11) All records referring or relating to (a) “critical analysis,” “critical thinking,” or similar terminology in connection with evolution; (b) the “strengths” or “weaknesses” of evolution; and (c) evolution as a “controversial” subject. This request includes, but is not limited to, teachers’ lesson plans, syllabi, worksheets, exams, quizzes, study guides, powerpoint presentations, video or film presentations, and other instructional materials.
- (12) All records referring or relating to any disclaimer, sticker, or other notice relating to evolution placed in science textbooks or otherwise communicated to students or parents.
- (13) All records referring or relating to complaints or other objections – whether made by District officials, students, parents, community members, or any other person or group – to the teaching practices regarding evolution, creationism, or intelligent design at any District school during the 2008-2009, 2009-2010, and 2010-2011 academic years.

In the above requests, the term “District” means the Limestone County School District and/or the Limestone County Board of Education, their agents, officers, employees, representatives, servants, attorneys or anyone acting on their behalf. The term “records” includes all email correspondence sent to or from District officials (whether sent to or from their work or personal email accounts), which should be produced in electronic form where possible. **Because of the serious nature of these potential constitutional violations, we request that the District produce these documents within 14 days of receiving this request.** In the meantime, however, please do not hesitate to contact me if you have any questions regarding the requests set forth

above or if the District is amenable to taking *immediate and concrete* steps to remedy these problems.

Sincerely,

A handwritten signature in black ink that reads "Allison Neal". The signature is written in a cursive style with a large, prominent "L" at the end.

Allison Neal  
Legal Director  
(334) 265-2754, ext. 203