



March 28, 2014

VIA U.S. MAIL

[REDACTED]
Director
REACH Program
[REDACTED]

Dear [REDACTED]

The American Civil Liberties Union of Tennessee (ACLU-TN) received a report alleging that the Cannon County REACH Program prohibits students from reading their Bible during a free read period. If these allegations are true, they are born out of a fundamental misunderstanding of the constitutional guarantee of religious liberty. ACLU-TN maintains a firm commitment to upholding the religious liberties guaranteed to all Tennesseans under the federal and state constitutions.

On Thursday March 20, 2014, [REDACTED] was contacted by the site manager of the Cannon County REACH after school program and asked to pick up her son. [REDACTED] reported that her son was told he was not allowed to read his Bible during a free read period and that he could read any book but the Bible. According to [REDACTED] her son was instructed to put the Bible away and select another book. When he refused, staff tried to take his Bible from him. [REDACTED] reported that REACH staff told her that if REACH allowed her son to read his Bible, the state could shut them down.

The REACH site manager and staff's actions and statements regarding the student's ability to read the Bible of his own volition during a free read period demonstrate a misunderstanding of the religious liberty protections in the U.S. Constitution, the Tennessee Constitution and federal laws.

The First Amendment of the U.S. Constitution and Article I, § 3 of the Tennessee Constitution are designed to protect the religious liberty of all students. They accomplish this in two ways. First, they prohibit public schools from imposing, endorsing, or promoting religion. But simultaneously, they also guarantee that students can engage in independent religious activities if they do not disrupt the school day or interfere with other students' education.

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In other words, the government must not impose or promote religion. For example, the establishment clause would prohibit a school from forcing a student to pray or read religious materials.¹ This requirement has led some to claim that the Supreme Court has declared the public schools “religion-free zones” or that religion has been completely removed from the public schools. These claims are simply wrong. Because of such bad information, some have developed a baseless fear that any accommodation of a child’s religious beliefs will run afoul of the establishment clause.

But the purpose of the First Amendment is not to prohibit religious expression, but to preserve the freedom to worship, or not, as one chooses. “Families 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 US 578, 584 (1986).

Tennessee public school students cannot be denied the right to engage in religious activities during student activity times, recess and other free time, provided they do not cause a disruption or interfere with the education of other students. Reading the Bible, or any other religious text, during a free read period would fall within these protected freedoms.

We believe that this incident arose from a fundamental misunderstanding of the protections and guarantees of the First Amendment.

We ask that you acknowledge in writing to us that you have instructed your employees on their obligation under the law to safeguard their students’ religious liberties without imposing religion on them. We also ask that you acknowledge that [REDACTED] son will be allowed to read his Bible during free read periods and other student activity time if he chooses.

¹ One of the guiding principles used by the Court is that the “First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion.” McCreary Cnty v. ACLU of Ky., 545 U.S. 844, 860 (2005) (quoting Epperson v. Arkansas, 393 U.S. 97, 104 (1968)). It is, therefore, important to appreciate the distinction between allowing a student read his Bible during a free period and allowing the distribution of Bibles to all students during instructional time.¹ See Berger v. Rensselaer Sch. Corp., 98 F.2d 1160 (7th Cir.) (ruling that the Gideons Society’s practice of distributing Bibles to public school students in fifth grade classrooms was unconstitutional).

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We appreciate your swift attention to this matter. If you have any questions or would like more resources on the First Amendment's religious liberty guarantees, please feel free to contact me directly at [REDACTED] or [REDACTED] so that we can discuss a timely resolution to these issues.

Sincerely,

A handwritten signature in blue ink, appearing to read 'THOMAS H. CASTELLI', written over the printed name.

Thomas H. Castelli
Legal Director