

BIBLE DISTRIBUTION ON SCHOOL GROUNDS

If a school district receives a request from a religious group to allow the distribution of Bibles at its schools, it is important that the school district's administration be aware of the possible federal constitutional implications of allowing the distribution. Factors that determine whether Bible distribution in schools meets constitutional muster primarily include the age of the student and the involvement of the religious group and the school district in distributing the Bibles to students.

The guidelines discussed herein are applicable to the distribution of any religious or anti-religious materials by any group in a school district. The Establishment Clause of the First Amendment to the United States Constitution impacts the distribution of Bibles in public schools. The Supreme Court of the United States has developed a test to determine whether a school practice or policy violates the Establishment Clause, which includes whether the practice or policy: (i) has a legitimate secular purpose; (ii) has a primary effect of neither advancing nor inhibiting religion; and (iii) does not foster an excessive entanglement between a school district and religion. In determining the second and third factors, the Supreme Court has considered whether a practice or policy "coerces" a student to affirm a religious belief and whether such practice or policy would be perceived by a reasonable observer aware of the circumstances as an "endorsement" of religious speech or activity by the school district. With these standards in mind, state and federal courts have upheld the constitutionality of Bible distribution, but they have limited the distribution to secondary school students and imposed specific guidelines on the religious group and the school district. For purposes of Bible distribution in Oklahoma, a secondary school is defined in the Oklahoma statutes as including students in grades seven through twelve. Other portions of the statutes categorize sixth grade as elementary school and note that a school district may include seventh and eighth grade as part of an elementary school or secondary school. Thus, based on federal law and Oklahoma law, religious groups should not be allowed to distribute Bibles in elementary schools, and in any event, distribute them to students who are in the sixth grade or younger.

Although distribution to secondary school students is constitutional under current law, the cases that have allowed such distribution have required specific guidelines be imposed to ensure that the First Amendment is not violated. The following procedure for Bible distribution to students on school grounds has been deemed constitutional:

- A religious group may be allowed one (1) day per school year to distribute Bibles at the school district's high school and to seventh and eighth-grade students. However, a religious group may not distribute Bibles in any elementary school.
- The religious group must arrive prior to the start of school and place Bibles on a table in an area pre-determined by the school district. The religious group must be off school grounds at least 30 minutes prior to the start of the school day.
- Bibles may remain on the table for the entire school day, and the table should include a sign stating: "Any student may take a free Bible, compliments of the _____ (whatever religious group is distributing the Bibles). The school district will not distribute any information to students in classrooms nor will it announce the Bible distribution to students. Further, no one representing the religious group or the school district should be present at the table and no one should encourage a student to take (or not take) a Bible."
- The religious group must come and remove any remaining Bibles at the end of the school day. These guidelines should be provided to the religious group prior to Bible distribution, and the group should be informed that their failure to follow the proper procedure may result in the revocation of the future privilege of distributing Bibles in the school district.