



**KENTUCKY EQUALITY
FEDERATION**

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Equality.*

(877) KEF-5775 | www.kyequality.org

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Legal Representation



April 22, 2013

Marshall Kemp
Logan County Schools
2222 Bowling Green Road
Russellville, KY 42276

Commonwealth of Kentucky
Education Cabinet
Office of the Secretary
Capital Plaza Tower
500 Mero Street - 3rd Floor
Frankfort, KY 40601

RE: UNACCEPTABLE RESPONSE – GIDEONS BIBLES DISTRIBUTION AT LOGAN COUNTY SCHOOLS

Mr. Kemp:

We are writing again in response to Gideons Bibles being distributed in the Commonwealth's school system. We find your response to us dated February 25, 2013 unacceptable.

You stated: "[t]he Board, however, will continue to consider these and other important constitutional issues and *will examine this issue* with an eye toward adopting guidelines by the 2013-2014 school year."

04/22/13

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As our letter to Mr. Kemp dated January 31, 2013 made clear, it is the position of Kentucky Equality Federation that the Logan County School Board's relationship with Gideons International is in direct violation of the United States Constitution and Section V of the Kentucky Constitution. I appreciate that the Board will no longer be allowing Gideons International to infringe upon the constitutional rights of Logan County students for the remainder of the school year. However, I am concerned that your letter indicates that the Board may develop policies allowing Gideons International back into the school setting later, rather than terminating your relationship with Gideons International, or any other strictly religious organization, as I requested in my previous letter.

Despite your indication that you disagree with the case law on this issue, to date, the United States Supreme Court has interpreted the First Amendment to prevent the establishment of religion in public schools. The establishment clause bars third parties as well as school officials from using school property to coerce children into believing one faith over another.

In Santa Fe Independent School Dist. v. Doe, the Court noted that just because school officials did not engage in religious activities at a school event, the fact that the activity was occurring on school property and pursuant to a school policy meant that it was, "stamped with [the] school's seal of approval," and therefore, a violation of the establishment clause. 530 U.S. 290, 308 (2000).

The situation before us is even more egregious than the school's conduct in Santa Fe, because Gideons' impermissible conduct is occurring *during school hours* rather than at a school-sponsored event. When religious activity occurs during school hours, there is an even higher chance of coercion because both the state and the child's peer group may collude to

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advance a religious position so that, "children [may be] exposed to ostracism from their peer group members if they [do not] participate." Wallace v. Jaffree, 472 U.S. 38, 42 (1985).

It is clear from U.S. Supreme Court precedent alone that Gideons International may not hand out bibles in the Logan County Schools without violating constitutions of the United States and the Commonwealth of Kentucky.

Other federal case law contains additional strong support for the fact that the Constitution does not allow Gideons International in the public school system. While neither the Supreme Court nor any court in our jurisdiction has addressed the issue of the Gideons International bible program in public schools, several courts have considered the issue directly and found Gideons' conduct to be an establishment of religion by the state and unconstitutional.

In Berger v. Rensselaer Cent. School Corp., the 7th Circuit Court of Appeals first pointed out the coercive element of Gideons International on school premises when it stated "the only reason the Gideons find schools a more amenable point of solicitation than, say, a church or local mall, is ease of distribution since all children are compelled by law to attend school and the vast majority attend public school." 982 F.2d 1160, 1167 (1993).

The court then had no trouble concluding that the school board, "acted with state authority in welcoming the Gideons into public schools," and that Gideons International's distribution of bibles was an impermissible infringement upon the schoolchildren's constitutional right. *Id.* at 1169.



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The 7th Circuit is joined by several district courts in finding that the distribution of bibles by Gideons International in the public school setting is unconstitutional. *E.g.*, *Goodwin v. Cross County School Dist.*, 394 F. Supp. 417 (E.D. Ark. 1963); *Chandler v. James*, 985 F. Supp. 1094 (M.D. Ala. 1997); *Roark v. South Iron R-1 School Dist.*, 540 F. Supp. 2d 1047 (E.D. Mo. 2008).

As demonstrated above, binding U.S. Supreme Court precedent indicates that Logan County Schools may not allow Gideons International to pass out bibles in its schools; federal lower court case law supports this finding with reference to Gideons International specifically.

To the extent that your letter indicates the Logan County School Board's willingness to allow Gideons International back into the Logan County schools at a future date, Kentucky Equality Federation restates its position that this action would violate both the commonwealth and federal constitutions.

As I mentioned in my first letter, I hope that this issue can be settled amicably in a manner that satisfies all parties. I trust that you will convey this letter to the board and again ask for their assurances that Gideons International will no longer be allowed to distribute bibles on Logan County School premises and that Logan County Schools has dropped any and all relationships with strictly religious organizations.

No additional warnings will be issued. Should the Logan County School Board permit Gideon Bibles to be distributed again, the school, the school board, and every member of the Board will be sued separately and individually in addition to the Kentucky Education Cabinet.

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Please reference the first letter I sent to you (a link is provide below):

<http://www.kyequality.org/2013/logan-county-cease.pdf>



cc: Brandon Combs, Chairman of the Board
Rose Law Offices, Legal Representation for Kentucky Equality Federation
Kentucky Education Cabinet, Office of Secretary Joseph U. Meyer

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