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Guidelines for Bible Distribution in Oklahoma Schools

by Staci L. Roberds

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. Although this article focuses specifically on Bible distribution, the constitutional implications and 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

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privilege of distributing Bibles in the school district.

Although the above guidelines provide a constitutional procedure for school districts to follow for Bible distribution on school grounds, a school district should consult with its attorney, especially when special circumstances or requests are made.

Student 504 Plan Eligibility After Ineligibility for Special Education Under IDEA

by Cheryl A. Dixon

If your school district finds a student with a disability ineligible for special education pursuant to the IDEA, that student's eligibility for a 504 Plan must also be determined. Section 504 of the Rehabilitation Act of 1973 (Section 504) is a federal civil rights law which provides that no qualified individual with a disability shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, including those of public school districts. Under Section 504, individuals with disabilities are defined as persons with a physical or mental impairment that substantially limits one or more major life activities. People who have a history of or who are regarded as having a physical or mental impairment that substantially limits one or more major life activities, are also covered. "Major life activities" include, but

SAVE THE DATE

RFR Spring Education Seminar

Where: Tulsa Technology Center Riverside Campus, Tulsa
801 East 91st Street, Tulsa, OK
Date: Wednesday, April 29, 2015
Time: 8:30 a.m. to 12:30 p.m.
Cost: Free to all Administrators/ Board Members of RFR Clients— Public School Districts and Career Technology Centers

PROGRAM AT A GLANCE

8:00 a.m. to 9:00 a.m.	Registration and Refreshments
9:00 a.m. to 10:15 a.m.	Affordable Care Act, Employee Benefits and Superintendent's Contracts
10:15 a.m. to 10:45 a.m.	Legislative Update and Policies
10:45 a.m. to 11:00 a.m.	Break
11:00 a.m. to Noon	Competitive Bidding
Noon to 12:30 p.m.	Visual Inspection

Register by completing the registration form on Page 5

are not limited to, caring for one's self, walking, seeing, hearing, speaking, and learning. Therefore, even though a student with a disability may not meet the eligibility requirements of the IDEA, the student will qualify for a 504 plan if the student's disability substantially limits a major life activity, such as learning.

The Section 504 regulations require the school district to provide a "free appropriate public education" (FAPE) to each qualified student with a disability who is in the district's jurisdiction, regardless of the nature or severity of the disability. Under Section 504, FAPE consists of the

provision of regular or special education and related aids and services designed to meet the student's individual educational needs as adequately as the needs of the school district's nondisabled students are met. Failure to provide a qualified student with a 504 Plan could impose liability on the school district for failing to provide the student FAPE and/or for discrimination in failing to permit the student equal access to the district's programs or services. If you have any questions or need guidance on this issue, please contact your school district's lawyer.

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Chalkboard is a Rosenstein, Fist & Ringold publication that addresses current education law issues. *Chalkboard* is published monthly through the school year and is sent without charge to all education clients of Rosenstein, Fist & Ringold and all other persons who are interested in education law issues. We invite you to share *Chalkboard* with your friends and colleagues. We think you will find *Chalkboard* to be informative and helpful with the difficult task of operating our educational institutions.

Chalkboard is designed to provide current and accurate information regarding current education law issues. *Chalkboard* is not intended to provide legal or other professional advice to its readers. If legal advice or assistance is required, the services of a competent attorney familiar with education law issues should be sought.

We welcome your comments, criticisms and suggestions. Correspondence should be directed to: Rosenstein, Fist & Ringold, 525 South Main, Seventh Floor, Tulsa, Oklahoma 74103-4508, or call (918) 585-9211 or 1-800-767-5291. Our FAX number is (918) 583-5617. Help us make *Chalkboard* an asset to you.

Please use the form on www.rfrlaw.com (located on the Resources page) to add or change *Chalkboard* e-mail addresses.

2015 SPRING CONFERENCE

**PLEASE REGISTER THE FOLLOWING FOR THIS SEMINAR:
(Please Print Legibly)**

Name School District Employed By/Position/Board Member

E-Mail Address

Name School District Employed By/Position/Board Member

E-Mail Address

Name School District Employed By/Position/Board Member

E-Mail Address

Name School District Employed By/Position/Board Member

E-Mail Address

**Fax Form To: 918-583-5617
OR E-Mail Form Information To:
jimh@rfrlaw.com**

RFR will submit an application to the State Department of Education and the Oklahoma Department of Career and Technical Education for 2 hours of board member credit for Legal Issues Impacting Local School Districts or Continuing Education

*RFR clients are invited to attend this free seminar.
Non-clients are welcome to attend at a charge of \$125.00 per person.*