

FREEDOM FROM RELIGION *foundation*

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August 7, 2023

SENT VIA EMAIL & U.S. MAIL: david.buuck@knoxcounty.org

Mr. David L. Buuck
Legal Counsel
Knox County Schools
400 Main Street, Suite 612
Knoxville, TN 37902

Re: Constitutional concerns regarding bible classes and records request

Dear Mr. Buuck:

I am writing again on behalf of the Freedom From Religion Foundation (FFRF) regarding a matter of constitutional concern occurring in Knox County Schools (the District). Additionally, this letter includes an open records request submitted in conjunction with a Tennessee resident. If you are no longer counsel for the District, please advise.

Several concerned District community members and FFRF's East Tennessee chapter reported that the District's schools "now have the option to teach classes surrounding the Bible which will count as course credit"; resources to implement the released time bible classes should be available to schools by Spring 2024.¹

Per Knox County Board of Education Policy I-122, which was revised in July 2023. The Board:

is allowing high school students to receive on credit for each completed released time course, as validated by a transcript from the course provider[.]

To decide whether one (1) elective credit may be awarded for a student's completion of a released time course, the Board and Knox County Schools' Curriculum Supervisors are to evaluate the course neutrally, without any test for religious content or denominational affiliation. Aside from content, the same internal procedures for evaluation and acceptance of any new course shall be followed. The secular criteria utilized to evaluate a released time course include:

- A. The amount of classroom instruction time shall be equivalent to a block when a high school uses block scheduling, or one class period when a high school does not use block scheduling.
- B. The course syllabus, which shall reflect the course requirements and any materials used in the course.
- C. Methods of assessment used in the course shall be evaluated and it is expected that traditional assessments, such as tests and projects, will be utilized.

¹ Sam Luther, *Knox County Schools Allows Off-site Religious Classes for High Schoolers*, WVLT 8 Knoxville (July 13, 2023), <https://www.wvlt.tv/2023/07/14/knox-county-schools-allows-off-site-religious-classes-high-schoolers/>.

- D. The course provider must ensure that the course is taught by a Tennessee state certified teacher with the relevant endorsements (if any). The provider selects the educator as long as the licensure requirement is met.²

We write to request that the Board rescind this newly adopted policy allowing released time religious courses or, at the very least, amend the policy so that students cannot receive an elective credit for completing a released time course.

While the Supreme Court has upheld the constitutionality of released time bible classes, this doesn't permit schools to foster, require, or encourage participation in these programs. *See Zorach v. Clauson*, 343 U.S. 306(1952); *McCollum v Bd. of Ed.*, 333 U.S. 203 (1948). Schools also may not promote these programs. In *Zorach*, the Supreme Court held that released time is acceptable if school authorities "do no more than release students whose parents so request." *Id.* at 311. This means the school district cannot:

- Expend public school funds and resources for the program
- Encourage participation in the program
- Treat the program as an official school elective
- Use public school facilities or resources during school hours for released time programs, including allowing a bus, trailer, or other vehicle to be parked on school grounds for the program
- Allow released time instructors to solicit student participation during school hours or at school-sponsored events.

Here, the Board's newly adopted policy singles out religious released time programs for favored treatment by treating religious released time classes more favorably than all other outside classes. Per the Board's policy, all other high school course credit earned outside the district is subject to various limiting conditions that do not apply to religious released time classes.³ It is unconstitutional for a public school district to single out religious released time programs for favored treatment.

Furthermore, the Board's policy favors and advantageous Christian students. Per the local news source referenced above, it seems that the Board adopted this policy with specifically a Christian bible study released time program in mind. It is unlikely that students who subscribe to religions other than Christianity will be afforded an equal opportunity to earn an elective credit through a released time program. Further, religious released time programs advantage and favor religious students, generally, over nonreligious students, who are afforded no opportunity to earn an elective credit through completing a released time course. Ultimately, this new policy inappropriately and needlessly alienates the students and families who practice a minority religion, as well as those students who are a part of the 49 percent of Generation Z who are religiously unaffiliated.⁴

Additionally, this policy is likely to lead to unconstitutional state/church entanglement by requiring the Board and the Curriculum Supervisors to review, inspect, and approve a sectarian class's course syllabus, including assignments and materials used in the course, and methods of assessment. This is essentially stating that a public school district must review and approve the religious content for a sectarian bible study program, in violation of the First Amendment. The requirement that an MOU/Agreement must be approved by the Board to establish a released time program and approve a course for credit creates constitutionally problematic partnerships between a public school and religious organizations.

Further, released time programs pose practical concerns for the districts that approve them. Since released time classes take place during school hours, students miss valuable educational time by attending, and educators are

² Knox County Board of Education Policy, *Course Credit Earned Outside the Base High School*, <https://www.knoxschools.org/cms/lib/TN01917079/Centricity/domain/974/board%20policies/I-122%20Course%20Credit%20Earned%20Outside%20the%20Base%20High%20School.pdf>.

³ *Id.*

⁴ 2022 Cooperative Election Study of 60,000 respondents, analyzed by Ryan P. Burge www.religioninpublic.blog/2023/04/03/gen-z-and-religion-in-2022/.

forced to account for a portion of their students being routinely absent from class each week. This disrupts the school day and has significant potential to negatively impact the District's legitimate academic goals for its students. Moreover, released time bible study programs are rarely as academically rigorous and sound as standard elective courses.

We ask that the Board rescind its newly adopted policy allowing released time programs, or that it at least amend the policy to remove the option for students to earn elective credit through completing a released time program. Please respond in writing with the steps the District is taking to address these concerns so that we may inform our complainants.

Pursuant to Tennessee's Public Records Act (Tenn. Code § 10-7-503), in conjunction with Tennessee resident, Aleta Ledendecker, I hereby request the following records:

- 1) All communications, including emails, sent or received by the District, including any employees of the District, regarding the structure, organization, facilitation, funding, and promotion of any proposed, contemplated, or approved released time bible study class;
- 2) All communications, including emails, sent or received by the Board, regarding the newly adopted policy regarding released time programs; and,
- 3) All documents regarding the curriculum for any proposed, contemplated, or approved released time bible class, including all communications discussing the curriculum, documents planning the curriculum, assignments for potential use in the program, and any potential lesson plans for the program.

If any of these records are available in electronic format, they may be emailed to records@ffrf.org. If you have any questions or I can clarify this request in any way, you can contact me at (608) 256-8900 or slawrence@ffrf.org. In the event that you prefer to send the records directly to a Tennessee resident, please forward them to FFRF's Tennessee chapter head, Aleta Ledendecker at aledendecker@att.net; physical records can be mailed to her at 2123 Stonybrook Road, Louisville, TN 37777.

If this request is denied, please respond with a written explanation of the denial including any references to statutory exemptions or other case law upon which you rely. Thank you for your time and attention to this matter.

Sincerely,



Samantha F. Lawrence
Anne Nicol Gaylor Legal Fellow
Freedom From Religion Foundation