

April 24, 2023

Belinda Kuck
Sensitive Materials Review Committee
Davis School District
45 E. State Street
PO Box 588
Farmington, UT 84025
[REDACTED]

Sent via email

Re: Proposed Unconstitutional Removal of Bible from Davis High

Ms. Kuck and Members of the Sensitive Materials Review Committee:

First Liberty Institute is the nation’s largest law firm dedicated exclusively to defending and restoring religious liberty for all Americans. This advisory letter and public comment concerns your review of the Bible under Utah Code § 53G-10-103. We urge you to retain the Bible as available literature in the Davis School District libraries, as removal presents serious constitutional concerns.

The Bible has Serious Value for Minors.

Utah Code § 53G-10-103 presents a mechanism for concerned parents to remove instructional material deemed “sensitive” under Utah Code § 76-10-1235 (1)(a) for being “harmful to minors,”¹ pornographic,² or having “no serious value to minors.”³ The Bible is not any of these things. In fact, according to the Supreme Court of the United States: “[i]t certainly may be said that the Bible is worthy of study for its literary and historic qualities.” *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 225 (1963). Removal of the Bible from all Davis School District libraries⁴ risks offering an incomplete education

¹ “Harmful to minors’ means that quality of any description or representation . . . of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when it: taken as a whole, appeals to the prurient interest in sex of minors; is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and taken as a whole, does not have serious value for minors.” Utah Code § 76-10-1201.

² Material is pornographic when: “[t]he average person, applying contemporary community standards, finds that, taken as a whole, it appeals to the prurient interest in sex; [i]t is patently offensive in the description or depiction of nudity, sexual conduct, sexual excitement, sadomasochistic abuse, or excretion; and, [t]aken as a whole it does not have serious literary, artistic, political, or scientific value.” Utah Code § 76-10-1203.

³ Material has “serious value” when it has “serious literary, artistic, political, or scientific value for minors, taking into consideration the ages of all minors who could be exposed to the material.” Utah Code § 76-10-1227.

⁴ Under Davis School District Policy 4I-202, Section 4.3.3, a decision by the review board to remove the Bible would apply to all schools at the same level as Davis High and all schools at lower levels. Davis High enrolls grades 10-12, making it the highest instructional level in the Davis School District. Removal of the

to Davis students. “It might well be said that one’s education is not complete without a study of comparative religion or the relationship to the advancement of civilization.” *Id.*

Far from being inappropriate, knowledge of the Bible is actually critical to a student’s education. Statistics support this argument. In surveys performed by the Bible Literacy Project, 98% of high school-level English teachers agreed that students who do not know the Bible are at a disadvantage when reading and studying English literature; 38 out of 39 university-level English professors, representing Yale, Harvard, Princeton, Stanford, and the University of California-Berkley, among others, agree that an educated person must have awareness of the Bible; and, 80% of parents of teens age 13-17 agree that the Bible is beneficial for their child’s comprehension of art, literature, and music.⁵ Responding to these statistics, the Bible Literacy Project created a curriculum to teach the Bible academically that has been taught at 650 schools to 150,000 students in 45 states—including Utah.⁶

The serious value of the Bible to students is unquestionable. “[T]he Bible ‘may constitutionally be used in an appropriate study of history, civilization, ethics, comparative religions, or the like.’” *Edwards v. Aguillard*, 482 U.S. 578, 608 (Powell, J., concurring) (quoting *Stone v. Graham*, 449 U.S. 39, 42 (1980)). In fact, it has “undoubted literary and historic value apart from its religious content.” *Id.* Any finding by the Davis School District Sensitive Materials Review Committee that the Bible lacks social value or is harmful to minors, would simply be contrary to legal precedent supporting access to the Bible for secondary students and contrary to the pedagogical interests of students. The Davis School District should not provide students with an incomplete education.⁷

Removal of the Bible Would Constitute Hostility toward Christianity

The First Amendment to the United States Constitution prohibits a school district from acting in a hostile manner toward a specific religious belief. In fact, the Constitution “affirmatively mandates accommodation, not merely tolerance, of all religions, and forbids hostility toward any.” *Lynch v. Donnelly*, 465 U.S. 668, 673 (1984). Accordingly, Davis School District recognizes that students and employees have a constitutional right to freely express their religion and “supports[] a climate of academic freedom in which religious ideas . . . can be discussed in an objective way, for their educational value, with emphasis on the impact of religions on history, literature, art, music, morality, and other

Bible at Davis High would mean removal of the Bible at all high school, junior high school, elementary school, and preschools across the district.

⁵ Reasons to Teach the Bible, Bible Literacy Project, <https://www.bibleliteracy.org/> (last accessed Mar. 30, 2023).

⁶ U.S. Public Schools, Bible Literacy Project, <https://www.bibleliteracy.org/united-states> (last accessed Mar. 30, 2023).

⁷ The United States Department of Education Guidelines on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools acknowledge that study of religious texts is permissible for understanding “philosophical questions concerning religion, the history or religion, comparative religion, the Bible . . . as literature, and the role of religion in the history of the United States” in addition to “religious influences on philosophy, art, music, literature, and social studies.” Available at https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html (last updated Jan. 16, 2020).

key social institutions.”⁸ To do so, the District requires “neutrality on the part of teachers, administrators, other school employees, and volunteers regarding religious activity when acting in their official capacities” and “encourages educators and all members of the school community to engage in persistent efforts to eliminate prejudice, build trust, work toward consensus, and resolve disputes over religious issues in schools promptly, equitably, sensitively, and with civility at the local level.”⁹

Consistent with Constitution and district policies, Davis School District libraries have copies of the Bible, the Book of Mormon, the Torah, and the Quran available to check out.¹⁰ Removal of the Bible while permitting other holy books to remain available presents unconstitutional hostility toward Christianity. For example, the request for review cites passages from the books of Genesis, Exodus, Leviticus, Numbers, Deuteronomy in the Christian Bible. In Judaism, these same five books of Moses are known as the Torah. Further, the request takes objection with passages in the books of the Prophets, Judges, 1 Samuel, 2 Samuel, Isaiah, Jeremiah, Ezekiel, and Hosea, which are part of the Jewish Nevi'im. Finally, passages from Proverbs and Song of Songs are among the Jewish Writings, or Ketuvim. In short, of the 116 passages submitted for review, 76 are also present in the Tanakh, or the Hebrew Bible. Removal of exclusively the Christian Bible for passages of scripture that appear in other religion's holy books is unconstitutional hostility toward Christianity that the Constitution does not tolerate.

In conclusion, the Davis School District must take extreme care in its review of the Bible. First Liberty Institute encourages the District to follow precedent that deems the Bible to be of high educational value to students and not to act in a manner that is hostile toward Christianity by removing the Bible from District libraries.

Sincerely,



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⁸ Davis School District Policy 11IR-107, Section 1.

⁹ *Id.*

¹⁰ Courtney Tanner, *A Utah parent says the Bible contains porn and should be removed from school libraries. Here's their full challenge*, The Salt Lake Tribune (Mar. 22, 2023, 10:48 AM), <https://www.sltrib.com/news/education/2023/03/22/utah-parent-says-bible-contains/>.

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