



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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February 26, 1982

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ROBERT T. STEPHAN
ATTORNEY GENERAL

ATTORNEY GENERAL OPINION NO. 82- 52

Mr. Gary Fisher
Superintendent
Unified School District No. 211
105 East Waverly
Norton, Kansas 67654

Re: Schools--School Buildings--Use for Religious
Purposes

Synopsis: Public school buildings may not be used for optional student assemblies which include prayer, and reading and study of the Bible, and which are held immediately prior to the start of instruction at the school.
Cited herein: U.S. Const., Amends. I, XIV.

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Dear Mr. Fisher:

The Board of Education of Unified School District No. 211 (Norton), has directed you to seek our opinion if it is legal for the Board to permit a youth minister from one of Norton's churches to conduct an optional student assembly, prior to the start of school, one day a week in the junior high school and one day a week in the senior high school. You explain that these assemblies include reading and study of the Bible, and prayer. You do not indicate the exact period of time during which these assemblies are held, but we assume they are held in close proximity to the start of instruction at the schools.

In our judgment, such assemblies are impermissible, under the Establishment Clause of the First Amendment to the United States

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Constitution, which is made applicable to the States under the Fourteenth Amendment to the Constitution. See, e.g., Committee for Public Education & Religious Liberty v. Regan, 444 U.S. 646, 649, 100 S.Ct. 840, 63 L.Ed.2d 94 (1980). This clause provides: "Congress shall make no law respecting an establishment of religion" U.S. Const., Amend. I.

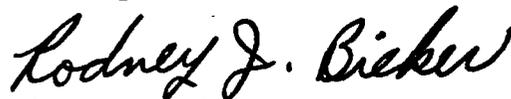
The provisions of this clause were interpreted and applied by the United States Court of Appeals for the Second Circuit, in Brandon v. Board of Ed. of Guilderland Cert. Sch., 635 F.2d 971 (2nd Cir. 1980), cert. denied _____ U.S. _____ (1981), where the facts bear a striking resemblance to the facts presented by you. In that case, students, who had organized a group called "Students for Voluntary Prayer," sued the local board of education, after the board had refused to allow the group to use a classroom for voluntary prayer immediately prior to the commencement of the school day.

The Court dismissed the student's complaint, holding not only that the action of the board was permissible, but that it was required by the Establishment Clause. The students asked the United States Supreme Court to review the decision of the Court of Appeals, but the high court refused to do so.

We believe Brandon is dispositive of the question you pose. Under that decision, we must conclude that public school buildings may not be used for "optional student assemblies" which include prayer, and the reading and study of the Bible, and which are held immediately prior to the start of instruction at the school.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Rodney J. Bieker
Assistant Attorney General

RTS:BJS:RJB:jm