



DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202-3100

Date:

FROM: Assistant Secretary for Legislation and Congressional Affairs

TO:

Bill Galston

- ☒ For your information.
- For appropriate action.
- For draft of an appropriate reply for my signature.
(Please return enclosure.)
- Please answer directly.
- Please talk to me about this.
- Please return with your comments.
- Other.

Bill -
Have you seen this? It
was prepared by
People for the American
Way.

- Kay

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NATIONAL ORGANIZATIONS OPPOSED TO THE HELMS SCHOOL PRAYER AMENDMENT

American Association of School Administrators
American Baptist Churches
American Civil Liberties Union
American Federation of School Administrators, AFL-CIO
American Jewish Committee
American Jewish Congress
Americans For Religious Liberty
Americans United for Separation of Church and State
Anti-Defamation League
Baptist Joint Committee on Public Affairs
Central Conference of American Rabbis
Church of the Brethren, Washington Office
Council of Chief State School Officers
Council of the Great City Schools
The Episcopal Church
Friends Committee on National Legislation
General Conference of Seventh-day Adventists
National Association of Elementary School Principals
National Coalition for Public Education & Religious Liberty
National Council of Churches
National Council of Jewish Women
National Education Association
National Jewish Community Relations Advisory Council
National Jewish Democratic Council
National P.T.A.
National School Boards Association
People For The American Way Action Fund
Presbyterian Church (USA), Washington Office
Union of American Hebrew Congregations
Unitarian Universalist Association of Congregations
United Church of Christ
United Methodist Church, General Board of Church & Society
United Synagogues of Conservative Judaism

June 3, 1994

Dear Senator,

As educational organizations, religious and faith communities, and organizations devoted to religious and civil liberty, we write to urge that you **oppose** the **Helms school prayer amendment** which will be offered when the Senate considers S. 1513, the Elementary & Secondary Education Authorization Act. The Helms amendment would terminate all Department of Education funding to any state or local educational agency which "has a policy of denying or which effectively prevents participation in, constitutionally protected prayer in public schools by individuals on a voluntary basis."

Together, we serve millions of students and parents, thousands of school administrators and school boards, teachers and child advocates, as well as millions of Americans of many religious faiths. We are firmly convinced, for the many reasons outlined below and explained more fully in the attached memorandum, that the Helms amendment would undermine local control of education, would needlessly interfere with the task of running our public schools, would undermine religious liberty, and should be rejected by the Senate:

- The amendment places an unfair burden on school authorities by forcing them to navigate an exceedingly complex and sometimes contradictory area of constitutional law under penalty of forfeiting all federal funding.
- The amendment is draconian, withholding precious educational resources even for actions which unintentionally, indirectly or unforeseeably interfere with prayer in schools.
- The amendment would significantly expand federal bureaucratic intrusion into decisions by state and local educational officials.
- The amendment would invite widespread threats and litigation against school officials by activists seeking to force group prayer into the public schools.
- Although seemingly phrased in constitutionally neutral language, the amendment would actually encourage widespread violations of the First Amendment's Establishment Clause, and would thereby foster even more litigation against our schools.
- Finally, the Helms amendment is wholly unnecessary in light of the availability of ordinary legal remedies for violations of the constitutional right to pray and the very sparse record of judicial decisions finding violations of students' constitutional rights to pray in school.

For the sake of our schools, local control of education, and our Constitution, we urge you to reject the Helms amendment to ESEA.

American Association of School Administrators

American Federation of School Administrators, AFL-CIO
American Jewish Committee
American Jewish Congress
Americans For Religious Liberty
Americans United for Separation of Church and State
Anti-Defamation League
Baptist Joint Committee on Public Affairs
Central Conference of American Rabbis
Church of the Brethren, Washington Office
Council of Chief State School Officers
Council of the Great City Schools
The Episcopal Church
Friends Committee on National Legislation
General Conference of Seventh-day Adventists
National Coalition for Public Education & Religious Liberty
National Council of Churches
National Council of Jewish Women
National Education Association
National Jewish Community Relations Advisory Council
National Jewish Democratic Council
National P.T.A.
National School Boards Association
People For The American Way Action Fund
Presbyterian Church (USA), Washington Office
Union of American Hebrew Congregations
Unitarian Universalist Association of Congregations
United Synagogues of Conservative Judaism

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THE EFFECTS OF THE HELMS SCHOOL

PRAYER AMENDMENT: A LEGAL ANALYSIS

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I. INTRODUCTION: THE HELMS SCHOOL PRAYER AMENDMENT

When the Senate considers S. 1513, the Elementary & Secondary Education Authorization bill ("ESEA"), a school prayer amendment is expected to be offered that would unnecessarily and dangerously expose school boards to threats, litigation and federal funding cut-offs. The amendment -- identical to one offered by Sen. Jesse Helms (R-NC) on the "Goals 2000" legislation (hereinafter the "Helms Amendment") -- would terminate all federal education funding

to any state or local educational agency which has a policy of denying or which effectively prevents participation in, constitutionally-protected prayer in public schools by individuals on a voluntary basis.

The Helms amendment would impose a deceptively broad, confusing, and harmful federal mandate upon state and local education authorities that would endanger both public education and religious liberty. A broad range of educational, religious, and other organizations, such as the National Council of Churches, the Baptist Joint Committee on Public Affairs, the National School Boards Association, the Council of Chief State School Officers, and the Central Conference of American Rabbis, have joined in vigorously opposing the amendment. As these and many other organizations recently wrote to the Senate, the Helms Amendment would "undermine local control of education, would needlessly interfere with the task of running our public schools, would undermine religious liberty, and should be rejected by the

Senate."¹

The Senate previously approved the Helms amendment on February 3, 1994, during debate on the "Goals 2000" education bill after a modification in the final minutes of consideration limiting the amendment's coverage to "constitutionally-protected" prayer. At the time, the Senate heard almost no debate on the effect of the modified Helms amendment. Upon closer examination of the Helms amendment's breadth and harsh effect on schools, however, many Senators who initially supported the amendment, including Labor Committee Chairman Edward Kennedy (D-MA), now firmly oppose the provision.²

This memorandum analyzes in detail the serious problems posed by the Helms amendment. It begins by demonstrating that the amendment would place an unreasonable burden upon school boards because the meaning of the phrase "constitutionally-protected" prayer is unclear. It then explains that the Helms amendment's proposed funds cut-off penalty is a rare and extreme sanction that is totally unwarranted in light of the minimal record of constitutional violations relating to school prayer. The memorandum next shows that the Helms amendment would needlessly harm school districts and their students and subject school boards to threats and costly and divisive litigation over

¹ Letter of June 3, 1994 (included in Enclosure A-2). A complete list of the religious and faith communities and other organizations opposing the Helms Amendment is included in Enclosure A-1.

² 140 Cong. Rec. at S3866 (Mar. 25, 1994) (remarks of Sen. Kennedy).

school prayer. The memorandum concludes by examining the risk that the Helms amendment, despite its ostensible purpose, would actually produce widespread violations of the First Amendment rights of students.

II. THE HELMS AMENDMENT WOULD IMPOSE AN EXTREME AND VIRTUALLY IMPOSSIBLE BURDEN ON SCHOOL AUTHORITIES BY FORCING THEM TO NAVIGATE A COMPLEX AREA OF CONSTITUTIONAL LAW UNDER PENALTY OF LOSING ALL FEDERAL FUNDS

The Helms amendment would cut off all federal funds to any school district that prevents "constitutionally-protected prayer in public schools by individuals on a voluntary basis." Although the concept of penalizing a public body for prohibiting or interfering with "constitutionally-protected" rights may have superficial appeal, the concept breaks down in this context because the courts cannot themselves agree on such critical questions as what student prayer is "constitutionally-protected" under all circumstances, placing school districts in an impossible situation.

In particular:

- No Supreme Court decision has delineated the precise boundaries of "constitutionally-protected" prayer. The issue of graduation prayer alone is the subject of several contradictory decisions by the lower federal courts, despite a recent Supreme Court decision on the subject. School authorities would find it difficult or impossible to know what the amendment required of them.

- "Voluntary" prayer has likewise not been defined by the federal courts. Significantly, this term has been interpreted extremely broadly by the very activists and litigators who would use the Helms amendment to demand that school districts allow prayer. They insist that group prayer is "voluntary" so long as

a majority of students present want the prayer -- regardless of whether 49% of students object and claim that it violates their rights to religious liberty.

- The amendment applies to prayer by any "individuals." This open-ended term could cover prayer initiated and led not only by students, but also by groups or by school authorities such as teachers, principals and coaches.

- The amendment covers any action attributable to a state or local education agency that "effectively prevents" protected prayer. Good faith attempts to comply with the law do not protect school authorities and the children in their care from the amendment's funds cut-off. Even actions that have the unintentional, indirect, or unforeseeable effect of preventing such prayer would trigger a complete loss of federal funding.

These problems are best illustrated by the continuing confusion over the issue of prayer at high school graduations. In the 1992 case of Lee v. Weisman, 112 S. Ct. 2649, the Supreme Court held that prayer at a secondary school graduation is unconstitutional when school officials authorize or impose it. In Lee, the graduation prayer was delivered by a clergy member invited by school officials. Since then, a number of federal courts, drawing on the First Amendment principles articulated in Lee and in other Supreme Court cases striking down organized school prayer, have held that such prayer is unconstitutional even if "student-initiated" and student-led.

For example, the Third Circuit Court of Appeals, in ACLU v.

Blackhorse Pike Regional Board of Education, No. 93-5368 (3d Cir., June 25, 1993), last spring enjoined a school board from conducting any school-sponsored graduation ceremony that included organized prayer, even if student-initiated. Similarly, a federal district court in Virginia recently struck down student-initiated, student-led high school graduation prayer and held, in the case of Gearon v. Loudoun County School Board, 1993 WL 595198 *2 (E.D. Va., Dec. 22, 1993), that "a constitutional violation inherently occurs" when organized prayer is offered at a high school graduation, "regardless of who makes the decision that the prayer will be given." And a federal district court in Iowa, in Friedmann v. Sheldon Community School District, No. C93-4052 (N.D. Iowa, May 28, 1993), also enjoined a school district from permitting student-initiated and student-led graduation prayers.³

By contrast, the Fifth Circuit has permitted non-sectarian, non-proselytizing student-initiated high school graduation prayer, upholding a school district policy allowing such prayer in Jones v. Clear Creek Independent School District, 977 F.2d 963 (5th Cir. 1992), cert. denied, 113 S. Ct. 2950 (1993). A federal district court in Idaho has also permitted such prayer. That case, Harris v. Joint School District No. 241, 821 F. Supp. 638 (D. Idaho 1993), is now on appeal before the Ninth Circuit.

The cases permitting graduation prayer raise an additional

³That decision was later vacated on standing grounds by the Eighth Circuit, 995 F.2d 802 (8th Cir. 1993).

question as to the meaning of "constitutionally-protected" student prayer. While those decisions stand for the proposition that such prayer is constitutionally permissible in that the courts refused to prohibit schools from allowing such prayer at graduation, they did not address the question of whether such prayer is constitutionally required, i.e., whether schools must allow it. It is therefore unclear even from those decisions whether those courts would consider such prayer to be "constitutionally-protected." Even a Supreme Court decision on whether Jones or Blackhorse is correct could well leave open such questions.

In addition, these cases leave unresolved serious questions as to the meaning of "voluntary" student prayer in the public school setting, another term used in the Helms amendment. While a student who chooses to give a prayer may do so "voluntarily," another student who does not desire to participate in that religious observance yet who is compelled by law to attend school cannot be said to be a "voluntary" participant.

Given the conflicting lower court decisions and views of legal advocates regarding student prayer, the Helms amendment would put school officials in the untenable position of having to choose among them, with a loss of federal funds as the penalty for making the wrong "choice." Congress cannot properly put public officials in such an impossible position. Moreover, given the split in judicial authority, the proposed federal funds cut-off would probably not even be applied consistently across the

country; some school districts may lose federal funds while others will not, even though they follow the exact same policies regarding student prayer. As the Supreme Court has explained in another context, if Congress wishes to impose a condition on federal funds, "it must do so unambiguously." Pennhurst State School and Hospital v. Halderman, 451 U.S. 1, 17 (1981). The inherent ambiguities and problems of the Helms amendment clearly warrant its rejection by the Senate.

III. PROPONENTS OF THE HELMS AMENDMENT HAVE FAILED TO MAKE THE FACTUAL OR LEGAL CASE FOR THE EXTREME SANCTION OF A FUNDS CUT-OFF

A. Congress Has Reserved the Enforcement Mechanism of Terminating Funds For Situations When Traditional Legal Remedies Have Failed or Did Not Exist

Congress has considered the termination of funds to recipients as a tool to be employed only where necessary to provide remedies in extreme cases. For example, Title VI of the Civil Rights Act of 1964 authorizes agencies to terminate funding to any program or activity which does not meet departmental regulations prohibiting discrimination based on race, color or national origin. 42 U.S.C. §2000d. In 1964, a decade after the Supreme Court's landmark decision in Brown v. Board of Education, 347 U.S. 483 (1954), desegregation in schools and other areas of public life was clearly not proceeding with "all deliberate speed." Congress had before it ample evidence that existing legal remedies requiring case-by-case litigation had failed to accomplish desegregation in many areas. Congress created the discretionary funds cut-off mechanism of Title VI only in the face of years of "massive resistance" to executive orders and court injunctions calling for desegregation.

Beyond school desegregation, Congress found numerous examples of widespread racial discrimination warranting enactment of Title VI. In 1963, the U.S. Commission on Civil Rights documented continued civil rights violations in vocational

training programs and hospital admissions.⁴ Congress heard extensive evidence of widespread racial discrimination in federally supported programs, ranging from health care to vocational rehabilitation to school lunch programs.⁵ Title VI supporter Sen. Pastore specifically explained the need for the legislation in light of the refusal of health care facilities in North Carolina to desegregate despite a federal court decision in Simkins v. Moses H. Cone Memorial Hospital, 323 F.2d 959 (4th Cir.), cert. denied, 376 U.S. 438 (1964), which ordered two hospitals in Greensboro to admit patients and doctors without regard to race:

[D]espite the effort of the court of appeals to strike down discrimination in the Simkins case, the same court was forced last week to rule again in a Wilmington, N.C. suit that a private hospital operated with public funds must desist from barring Negro physicians from staff membership.

[This] is why we need Title VI....⁶

Nothing in the current record regarding school prayer indicates any history even remotely like that which prompted Title VI or other funds cut-off provisions.⁷ Before enacting

⁴ U.S. Commission on Civil Rights Report (Sept. 30, 1963).

⁵ See H. Rep. No. 914 part 2, 88th Cong., 1st Sess. (Dec. 2, 1963) (additional views on H.R.7152 of Hon. William M. McCulloch et al.), reprinted in 1964 U.S.C.C.A.N. 2510-12.

⁶110 Cong. Rec. S7054 (1964).

⁷ Funds cut-off mechanisms modeled on Title VI were included in Title IX of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973. Prior to the enactment of these

that law, Congress required extensive documentation concerning defiance by state and local authorities of court orders in Brown, Simkins and other cases. By contrast, there is no evidence of such disregard of First Amendment decisions by school authorities, nor is there any suggestion that traditional judicial remedies are inadequate or nonexistent. Indeed, as explained below, students' First Amendment rights to freely exercise their religions are already well protected, and proponents of the Helms amendment have simply failed to demonstrate the need for an extraordinary funds cut-off remedy.

statutes, no remedies existed to protect individuals covered by Title IX from gender discrimination in education or those shielded by Section 504 from discrimination based on disability. While there was thus no history demonstrating the failure of legal remedies to secure those rights, the record clearly established through extensive hearings and investigations that the discrimination addressed in these statutes was widespread, warranting Congressional action to create effective remedies to address those problems. See, e.g., Hearings on S.7 Before the Subcommittee on the Handicapped of the Senate Committee on Labor and Public Welfare, 93rd Cong., 1st Sess. (1973) (Section 504); Hearings on Section 805 of H.R.16098 before the Special Subcommittee on Education of the House Committee on Education and Labor, 91st Cong., 2nd Sess. (1970) (Title IX).

B. Existing Remedies Adequately Protect a Student's Right to Pray, and Proponents of the Helms Amendment Have Presented an Inaccurate and Inadequate Factual Record

As explained in Section II above, the lower courts remain divided on such complex constitutional issues as organized student prayer at graduation. It is clear, however, that individual students do have the constitutional right to pray on their own time in a nondisruptive manner in school, whether silently before a math test or quietly before lunch in the cafeteria. Yet there is not a single reported judicial case of an individual student being prevented from exercising this right in school.

In individual cases where students believe that school authorities have failed to respect this right, a clearly defined judicial remedy exists -- a lawsuit under 42 U.S.C. § 1983 for injunctive relief or damages for violation of the First Amendment. Particularly where complex issues are presented, such as whether and when student religious groups can meet on campus, judicial remedies have sometimes been necessary and may also be obtained under the Equal Access Act. Unlike the situation that gave rise to Title VI, however, there has been no pattern of defiance of court orders or pervasive pattern of violations necessitating a funds cut-off remedy. Indeed, as discussed in Section III D below, Congress specifically rejected a funds cut-off remedy when it adopted the Equal Access Act in 1984.

Proponents of the Helms amendment have nevertheless

repeatedly alleged that schools regularly violate students' individual rights to pray. A careful review of their allegations reveals, however, that these claims are plainly wrong.

For example, on the Senate floor on March 25, 1994, Sen. Coats read a list of "cases that are now in the courts brought by students who have been denied their right to free expression of their faith."⁸ But subsequent investigation reveals that the description of all seven cited incidents are clearly inaccurate, and that not a single one has even led to a lawsuit.

For instance, it was claimed that Becky Renshaw of Kremmling, Colorado, had been ordered not to mention the word "Jesus" in school.⁹ But according to the principal of West Grand Elementary, Paul Reece, the situation was quite different. Becky Renshaw is a parent in the district. By his account, the school had never sought to stop Ms. Renshaw's son Devin from saying "Jesus". Instead, Devin had been aggressively proselytizing other kindergartners, claiming that they would go to hell if they did not believe in Jesus. In response to complaints from other parents whose children were disturbed by this conduct, school officials simply asked Devin's parents to stop their son from scaring other children with such statements. No lawsuit has ever been filed. See Enclosures G-1 and G-5.

Similarly, Congress was told that a ". . . case was brought"

⁸ 140 Cong. Rec. S3870 (daily ed. March 25, 1994 (statement of Sen. Coats) (emphasis added)).

⁹ 140 Cong. Rec. S3871 (daily ed. Mar. 25, 1994) (statement of Sen. Coats).

when an individual middle school student in Champaign, Illinois was allegedly improperly denied the right to participate in a "See You at the Pole" group prayer activity.¹⁰ But a spokeswoman for the school, Arlene Blank, has explained that this was simply not the case. No lawsuit was ever brought against the school. After several meetings with members of the community, the District's Board of Education reaffirmed its existing policy providing that the area around the school flagpole is not considered an open forum for group speech activities, whether religious or otherwise, so that in fact, no violation of rights ever took place.¹¹ The factual predicate offered by the proponents of the Helms amendment is plainly inaccurate and does not justify the draconian measure of a federal funds cut-off.

¹⁰ Id.

¹¹ See Enclosures G-1 and G-4. The other five "cases" referred to by Senator Coats are also discussed in Enclosure G.

C. Supreme Court Precedent Confirms That, in the Case Of Prayer in the Public Schools, Public Officials Have Tended to Overstep Constitutional Limits, Not Inhibit Constitutionally-Protected Activity

As discussed above, the extreme sanction of a federal funds cut-off has generally been reserved by Congress for egregious situations in which recalcitrant parties have repeatedly failed to comply with clearly applicable law or court orders. That is not the situation here. Indeed, when the issue of the constitutionality of prayer in the public schools has reached the Supreme Court, it is usually because public officials have gone too far in permitting or requiring organized prayer in the public schools and not because they have prevented or inhibited prayer by students in any situation protected by the Constitution.

For example, in Engel v. Vitale, 370 U.S. 421 (1962), the Court held that voluntary, nondenominational prayers recited at the beginning of each day in public schools were unconstitutional. In School District of Abington Township v. Schempp, 374 U.S. 203 (1963), the Court held that the recitation of the Lord's Prayer at the beginning of the day in public schools was unconstitutional. In Karen B. v. Treen, 455 U.S. 913 (1982), the Court unanimously and summarily affirmed a decision of the Fifth Circuit, 653 F.2d 897 (1981), invalidating a Louisiana statute authorizing students or teachers to offer a prayer at the beginning of class. In Wallace v. Jaffree, 472 U.S. 38 (1985), the Court struck down an Alabama statute providing that teachers could allow a moment of silence for "meditation or voluntary prayer" before class. Most recently,

and as noted above, the Court in Lee v. Weisman, 112 S. Ct. 2649 (1992), held that prayer incorporated into the official program and led by clergy at secondary school graduations is unconstitutional.¹² In sharp contrast, there is not a single Supreme Court case holding that a student was denied his or her constitutional right to pray in public school.

More importantly, as shown above, there is clearly no body of case law in any way indicating that public school students have been prohibited on any systematic or widespread basis from exercising "constitutionally-protected" right to pray in school. To the contrary, existing constitutional jurisprudence regarding school prayer demonstrates the absence of a problem that would warrant the extreme sanction of a funds cut-off.

Moreover, as the Supreme Court has recognized, while government-endorsed religious observance is constitutionally problematic in any setting, it creates particular First Amendment concerns in primary and secondary schools because "[s]tudents in such institutions are impressionable and their attendance is involuntary." Edwards v. Aguillard, 482 U.S. 578, 584 (1987). The Court has therefore cautioned that:

there are heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary schools. . . . [P]rayer exercises in public schools carry a particular risk of indirect coercion. . . . What to most believers may seem nothing more than a reasonable request that

¹² Even more recent examples where school officials have apparently violated the Establishment Clause rights of students are discussed in Enclosure F.

the nonbeliever respect their religious practices, in a school context may appear to the nonbeliever or dissenter to be an attempt to employ the machinery of the State to enforce a religious orthodoxy.

Lee, 112 S. Ct. at 2658.

Against this legal backdrop of concern about violations of the Establishment Clause, the proposed Helms amendment is precisely the wrong response. It penalizes school officials only if they prevent prayer, not if they violate students' Establishment Clause rights by authorizing or even commanding it. Such a one-sided threat would encourage school officials to overstep constitutional limits regarding school prayer in order not to risk a cut-off of federal funds. The amendment would fly directly in the face of these significant First Amendment concerns.

D. Under Similar Circumstances, Congress Rejected a Funds Cut-Off When It Passed the Equal Access Act Because It Recognized That Such a Draconian Penalty Would Injure Schoolchildren.

In 1984, Congress considered a related issue concerning First Amendment rights of students to engage in religious activity and adopted the Equal Access Act. The Act provides for a federal cause of action against any public secondary school receiving federal funds which allows non-curriculum related student groups or clubs to meet before or after school but refuses to allow other groups to meet ". . .on the basis of religious, political, philosophical, or other content of the speech at such meetings." 20 U.S.C. § 4071(a). One of Congress' concerns was to prevent discrimination against student religious clubs. Yet the legislative history of the Act makes clear that Congress rejected a federal funding cut-off mechanism because it recognized that other remedies were available and that school children would be unfairly punished by such a draconian penalty. As Representative Slattery explained, "This penalty would hurt students who are most in need. . . All students should not suffer because of a decision made by officials in one school."¹³

In the Senate, the bill's chief sponsor, Sen. Hatfield, successfully offered an amendment to strike a proposed federal funding cut-off mechanism in favor of a judicial remedy. When he offered the bill on the Senate floor, Sen. Hatfield stated, "the

¹³ 130 Cong. Rec. H12231 (May 15, 1984) (statement of Rep. Slattery).

House bill provided for Federal cut-off of Federal moneys. We provided here for due process and an implied judicial remedy. . .we are trying to take away the Federal cut-off of funds."¹⁴ The bill was subsequently approved by the Senate by a 88 to 11 vote.¹⁵ As enacted, the law specifically provides that it may not be construed to "authorize the United States to delay or withhold Federal financial assistance to any school."¹⁶

Unlike the current school prayer proposal, which has never had any hearings or committee consideration, the Equal Access Act was subject to full scrutiny and deliberation by the Congress.¹⁷ The final exclusion of a funding cut-off as a remedy in the Equal Access Act was a carefully considered decision. In the end, Congress concluded that a funds cut-off was a dangerous idea. Congress was right then and should resist the present efforts to

¹⁴ 130 Cong. Rec. S19236 (June 27, 1984) (statement of Sen. Hatfield).

¹⁵ Id. at 19252.

¹⁶ 20 U.S.C. § 4071(e). Although the House passed a version of the bill which included a funds cut-off, it did so with the understanding that the funds cut-off would be dropped in conference and replaced with a judicial remedy. See, e.g., 130 Cong. Rec. H12230 (May 16, 1984) (statement of Rep. Stenholm) ("I, like Chairman Perkins, support the judicial remedy which would be substituted from the Senate bill during conference"), 130 Cong. Rec. H12227 (May 16, 1984) (statement of Rep. Goodling) ("[The] cutting off of Federal funds. . .will not be part of the final bill . . .[The Committee] already [has] an agreement with the Senate that it will be a judicial procedure, not a cutoff of Federal funds")

¹⁷ Not only did the Senate hold two hearings on the Equal Access Act, but the House held at least six hearings of its own. See, e.g., Hearings on H.R. 2732 Before the Subcomm. on Elem., Sec., and Voc. Educ. of the House of Representatives Comm. of Educ. and Lab., 98th Cong., 1st Sess. (1983).

retreat from its carefully considered position on this important issue.

IV. THE HELMS AMENDMENT WOULD SEVERELY DAMAGE THE NATION'S
SCHOOL DISTRICTS AND SCHOOLCHILDREN

A. The Amendment Would Risk Serious Harm to Students and
Intrusion into the Operations of Local School Districts

As discussed above, the Helms amendment would apply to any action -- intentional or unintentional, direct or indirect, systematic or confined to a single classroom -- that "effectively prevents" any "constitutionally-protected" prayer. It risks punishing all students in an entire school district with the draconian penalty of a total loss of federal funds on the basis of even a single action by a lone teacher or administrator that has even the unforeseeable, unintentional, or indirect effect of preventing prayer. It would effectively require every school administrator and teacher in the country to become a super-constitutional scholar on school prayer, able to predict unerringly what is "constitutionally-protected" student prayer in every circumstance, on pain of forfeiting all school district federal funding.

Such a cut-off would be truly devastating. It would mean the loss of an average of some 6% of a local school district's already tight budget. In poorer districts, the penalty would be even more severe. Chapter One funding for educationally disadvantaged students, school nutrition programs for needy children, and many more crucial programs would all be severed. The words of one member of Congress in successfully arguing against such a drastic and punitive measure in another context

bear repeating. "This penalty would hurt students who are most in need. . . All students should not suffer because of a decision made by officials in one school."¹⁸

Correspondingly, the amendment would drastically increase federal intrusion into decisions by state and local school boards and place federal bureaucrats in the position of pronouncing upon complex issues of constitutional law. Under the amendment, Department of Education officials would be effectively given the power to second-guess individual decisions by local school authorities and to withhold federal funds if they did not like the results. Bureaucrats with little or no constitutional expertise would be vested with the power to pronounce upon the exceedingly complex commands of the Constitution in this sensitive area and to enforce their pronouncements with total funds cut-offs. Such an intrusion would be seriously disruptive to school districts across the country, and would significantly undermine the concept of local control over education.

¹⁸ 130 Cong. Rec. H12231 (May 15, 1984) (Statement by Rep. Slattery).

B. The Amendment Would Subject School Districts to
 Additional Threats From Ideological Pressure Groups and
 to Costly and Divisive Litigation Based on Such Threats

As controversy over such issues as organized prayer at graduation has increased, school districts have increasingly been subjected to threats and lawsuits by pressure groups. For example, Pat Robertson's legal organization, the American Center for Law and Justice (ACLJ), has engaged in widely-publicized efforts to threaten and intimidate school districts in order to force its brand of religious observance into the public schools. Prior to the 1993 high school graduation season, the ACLJ sent mass mailings to each school district in the U.S. and announced the formation of "legal SWAT teams" which it threatened to send into school districts around the country in order to advocate so-called student-initiated, organized prayer at graduations. New York Times (Apr. 16, 1993) (included in Enclosure E-1). At a press conference held in front of the Department of Justice in February 1994, Jay Sekulow, Chief Counsel of the ACLJ, was asked about the ACLJ's "legal SWAT teams." He responded by explaining that the organization's litigation strategy was to deploy attorneys affiliated with the ACLJ all over the country, to send demand letters to schools that had allegedly violated the law, to insist on a response within 24-48 hours, and file litigation. Focusing on the Equal Access Act, the ACLJ further stated that it had "initiated an aggressive legal campaign by filing lawsuits against offending school districts nationwide." ACLJ News Release (Feb. 16, 1994) at 1 (included in Enclosure E-2).

Such tactics have been severely criticized by school authorities. The General Counsel of the National School Boards Association recently explained that the ACLJ's latest threat to send "SWAT teams" against school districts was based on "numerous misstatements about the law" and can "only lead to more confusion at the local level." Letter from August Steinhilber to Jay Sekulow (Mar. 2, 1994) at 1 (included in Enclosure E-4). A Texas lawyer responding to one of ACLJ's threats last November complained about ACLJ's erroneous legal arguments and its "heavy-handed and confrontational tactics," which have created significant concern across the ideological spectrum, even among ACLJ's "potential allies." Letter from Therold Farmer to Stuart Roth (Nov. 4, 1993) at 3 (included in Enclosure E-3). As NSBA's General Counsel pointed out:

We are forced to spend [more] valuable time and money addressing the ACLJ's erroneous threats than we are assisting school boards in complying with the law. . . . With all of the problems facing schools--from crime and violence, to the lack of money to deal with the huge influx of immigrant students--the last thing we need is a war over religion promoted by the ACLJ.

[NBSA press release (March 3, 1994) (included in Enclosure E-4).

These problems would be multiplied enormously by the Helms amendment. Indeed, the ACLJ's Sekulow has stated clearly that his organization would use the Helms amendment to force school authorities to conform to his view of "constitutionally-protected" prayer. At a press conference in Washington on February 16, 1994, Sekulow called the Helms amendment:

a very, very important weapon that we would have in this ongoing struggle for student free speech in this country Couple that with a lawsuit, and I think that we'd have a tremendous opportunity to resolve this case in the courts.

Excerpt of ACLJ Press Conference (Feb. 16, 1994) (included in Enclosure E-6) (emphasis added).

On March 28th, during a broadcast on Pat Robertson's Christian Broadcasting Network, Sekulow reiterated his intention to wield the Helms amendment as a weapon against school boards. He characterized the Helms amendment's funds cut-off penalty as

a very, very important aspect, an additional tool that will give us **to really go after these school boards**, in addition to law suit[s]"

Excerpt of "A Call to Action," (Mar. 29, 1994) at 1 (included in Enclosure E-6) (emphasis added).¹⁹

The potential for abuse of the Helms amendment is illustrated by a recent example in Johnstown, New York. On May 19, 1994, the Rutherford Institute, a legal organization similar to ACLJ, wrote to the Johnstown school district demanding that it permit "student-initiated" prayer at the upcoming high school graduation. Rutherford not only warned of possible litigation, but also claimed that unless the district authorized graduation prayer, it would "risk forfeiture of federal funds after July 1." Letter from Rutherford Institute to Supt. Timothy Morrell (May

¹⁹ In fact, the ACLJ has supported and worked with Sen. Helms on his prayer amendment, including supplying a legal memorandum at his request on the issue and issuing press statements in support. See Enclosure E-5; 140 Cong. Rec. S1117 (Feb. 8, 1994) (remarks of Sen. Helms).

19, 1994) at 3 (included in Enclosure E-8). This erroneous threat was based on language in the Goals 2000 bill which does not even authorize a funds cut-off, but simply provides that no federal Goals 2000 funding may be used to adopt policies preventing voluntary prayer.

If the Helms amendment were passed, the ability of groups like Rutherford and ACLJ to intimidate and disrupt school districts would increase tremendously. Merely by adding a letter of complaint to the Department of Education, they could transform each of their hundreds of threatening letters to school districts into a full-fledged federal investigation, consuming enormous federal and local resources and diverting educators' focus from their proper role of educating students. Additional costly and divisive litigation would almost surely follow, either from groups like ACLJ or from those opposed to the results of intimidation against school districts. In short, the Helms amendment would arm groups like ACLJ with a funds cut-off weapon to be held like a sword of Damocles over the heads of the nation's school districts and their students.

C. The Helms Amendment Would Lead School Districts to Allow Prayer That is Constitutionally Prohibited Rather Than Risk a Funds Cut-off, and Would Thereby Cause Violations Of Students' First Amendment Rights

Ironically, the most likely effect of the Helms amendment (which purports only to address "constitutionally-protected prayer") actually would be to encourage widespread violations of the Constitution. School prayer walks a very fine constitutional line. Of course, the Constitution requires school authorities to respect not only the Free Exercise Clause rights of students who want prayer, but also the Establishment Clause rights of other students. However, the Helms amendment terminates federal funding only for violations of the Free Exercise Clause. Its severe, alarming, one-sided penalty will distort the calculus school authorities must make in following the commands of our Constitution, causing serious harm to students' rights.

1. The loss of federal funding would be devastating for a school board, making it likely that education authorities would be "blackmailed" into allowing prayer that is constitutionally prohibited

The Helms amendment would encourage threats against schools and violations of the Establishment Clause. If the Helms amendment becomes law, school officials would be able to resist demands for prayer only at the risk of losing all federal education funding. Even if school officials believed that activists were demanding prayer that violates the Establishment Clause, they would be taking a major and unacceptable risk by refusing to succumb to the demand.

As explained above, the ACLJ has pledged to use the Helms amendment to pressure school authorities. The Rutherford Institute has already sought to misuse the language in the "Goals 2000" bill for this purpose. The Helms amendment would permit these activists to put heavy pressure on school boards without even expending the resources necessary to file a lawsuit; if they preferred, they could simply file an administrative complaint with the Department of Education. The ACLJ, the Rutherford Institute and others would use the Helms amendment to "blackmail" school boards into following their aims on school prayer.

The potent threat of a funds cut-off, coupled with the complex and sometimes confusing state of the law governing school prayer, would likely produce numerous violations of the Establishment Clause. As explained above, even with the best legal advice, in many instances school administrators could not be sure that the form of prayer demanded by activists was constitutionally protected.

The Helms amendment would enable the ACLJ, the Rutherford Institute and others to exploit this ambiguity. They could deliver a simple but powerful message to school authorities: "You may doubt our version of the law relating to the prayer we are demanding, but you would be foolish to risk all your federal funding to learn whether we are wrong." In many instances, these threats would prove irresistible.

This problem is particularly troubling in light of the overall objectives of groups like ACLJ. As ACLJ's Sekulow

proclaimed several years ago:

For too long we have separated the religious from the secular. Now we must convert the secular to the religious. Our public schools began as ministries of the church; now it is time to return them to the Lord.

Sekulow, *Governmental Encroachment on the Church, Charisma and Christian Life* (Sept. 1990) at 130 (included in Enclosure E-9).

In sum, the Helms amendment would facilitate and encourage disruptive threats against schools. Its one-sided funding cut-off would also encourage widespread violations of the Establishment Clause. Schools and schoolchildren would pay the price.

2. Prayer in the public schools in circumstances that are constitutionally prohibited would violate the First Amendment rights of school children, subject them to harassment and ridicule on the basis of their religious beliefs, and generate even more litigation.
-

As discussed above, passage of the Helms amendment would have the likely effect of causing school officials to overstep constitutional limits and to permit prayer in schools in circumstances that violate the Constitution does not permit, so as not to risk losing federal funds. This would not result merely in some harmless technicality. Instead, as the Supreme Court has made clear, it will produce violations of the First Amendment rights of schoolchildren who do not wish to participate in the religious observance. Those children -- as a result of Congress' action on the Helms amendment -- would thus be put in

the untenable position of either having to suffer in silence a deprivation of their fundamental constitutional rights or of not participating and thus subjecting themselves to ostracism, harassment and ridicule.

The case of Walter v. West Virginia Board of Education, 610 F. Supp. 1169 (D. W. Va. 1985) is illustrative. West Virginia had amended its constitution to require a moment of silence at the beginning of the school day for "personal and private contemplation, meditation, or prayer."²⁰ An eleven-year old Jewish boy testified at trial that he declined to participate in this observance and used the time to read. As a result, he was severely harassed by his classmates. One told him that he should "be praying all the time" and maybe then he could "go to heaven with all the Christians" instead of "going down with all the other Jews." Another proclaimed that "Jews weren't worth saving because they had killed Christ." Id. at 1172. He testified that he felt angry and uncomfortable, but was afraid to even complain to his teacher for fear that the teacher either wouldn't listen or else "a big issue" would be made out of it, and he would be placed "in the limelight." Id. at 1172-73. The court held that the prayer amendment violated the First Amendment, but that ruling came too late to erase the painful harassment that he had suffered. The Helms amendment would jeopardize the rights of

²⁰In Wallace v. Jaffree, 472 U.S. 38 (1985), decided later that year, the Supreme Court held that a statute providing for a period of silence for "meditation or voluntary prayer" in the public schools was unconstitutional.

countless children like the young boy in Walter throughout the country.

The fact that some would consider prayer under the Helms amendment as "voluntary" will not mitigate such tragic results. Minnesota first-grader Michael Bristor declined to participate in "voluntary" prayer in his classroom in 1990. His teacher placed him on "time out," requiring him to sit with his head on his desk, while prayer took place each day. Michael became the butt of cruel classroom jokes. The school refused even to transfer Michael to another classroom, denied him a position on the Honor Roll, and labeled him as a "problem" child. Michael and his family eventually had to move from their lifelong Minneapolis neighborhood to escape abuse from neighbors and discrimination by their school. In 1994, Michael and his family finally received some vindication, as the school district apologized, paid a monetary settlement, made clear that organized classroom prayer is not permitted, and restored Michael to the 1990-91 Honor Roll. Minnesota Civil Liberties Union press release (Feb. 9, 1994) (included in Enclosure F-4). Even without the Helms amendment, such cases will occasionally occur. If the Helms amendment is enacted, painful tragedies like Michael's will multiply.

Such violations of constitutional rights will of course not go unchallenged in the courts. School districts will find themselves in the midst of litigation brought to protect the rights of students impermissibly subjected to organized prayer as a result of the Helms amendment. The sad irony of the Helms

amendment, therefore, is that while it seeks to condition the use of federal funds in order to protect students' rights, its passage would instead endanger the rights of students like Michael and force school districts to spend more and more of their time and money on litigation, not education.

**AN OPEN LETTER TO SCHOOL BOARD PRESIDENTS AND SCHOOL
SUPERINTENDENTS ON FREEDOM OF RELIGION AND PRAYER IN PUBLIC
SCHOOLS**

April 1994

As efforts to reinstate organized prayer in the public schools proliferate, we write as religious leaders serving millions of Americans of faith to express our opposition to such activities, and we do so on the basis of our faith and our belief in the sanctity of prayer. In many communities, officials have passed resolutions urging that "prayer be returned to the public school systems of this nation." Elsewhere, "legal SWAT teams" have been dispatched to public school districts to advocate so-called student-led, organized prayer at public school graduations, and many school districts have already endorsed, encouraged and allowed such prayer.

While such actions may have been undertaken in an attempt to strengthen religion, they will have precisely the opposite effect. These activities not only weaken the principle of the separation of church and state that has ensured religious liberty in our country for over 200 years, they also engender conflict in our public schools and seriously erode religious freedom in America.

Both religious leaders and government officials have long recognized that the separation of church and state is essential to preserving religious freedom for all. History teaches that religious freedom and practice have flourished when government remains neutral toward religion, as in America today. By contrast, when government seeks to promote religion, as in the state-sponsored churches of Europe, pews have emptied and the free exercise of religion has suffered.

Even when the purpose is benign, government involvement in, or promotion of, religious practice inevitably politicizes religion and harms religious freedom. If the government were to sponsor or endorse a particular denomination's religious practices or prayer, for example, it would place the weight of the state behind a "preferred" religion, thereby excluding those with different religious beliefs. And if the government were to try to make state-sponsored observance "nonsectarian," the result would be to trivialize and secularize religion, insulting those who take their faith seriously. As the Supreme Court has observed, "a union of government and religion tends to destroy

government and to degrade religion." Engel v. Vitale, 370 U.S. 421, 431 (1962). A key premise of the First Amendment is that "the State is firmly committed to a position of neutrality" with respect to religion. School District of Abington Township v. Schempp, 374 U.S. 203, 226 (1963).

Two years ago, in Lee v. Weisman, 112 S. Ct. 2649 (1992), the Supreme Court held that school-sponsored graduation prayer is unconstitutional. In so holding, the Court recognized that

there are heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary schools. . . . [P]rayer exercises in public schools carry a particular risk of indirect coercion. . . . What to most believers may seem nothing more than a reasonable request that the nonbeliever respect their religious practices, in a school context may appear to the nonbeliever or dissenter to be an attempt to employ the machinery of the State to enforce a religious orthodoxy. 112 S. Ct. at 2658.

These dangers are no less real when public prayers spoken during school hours or at school events, such as graduations, are student-initiated or student-led. Government sponsorship is inherent at such school-sponsored events and during such hours. And even though a majority of students may vote to conduct prayer, the Constitution does not subject the rights of other students to such votes nor require that students be forced to choose between their own religious beliefs and participation in school activities.

None of this means, however, that students who desire to pray are forbidden to do so. Despite rhetoric to the contrary, the fact remains that prayer by students has never been and is not now prohibited. Nothing prevents a student from visiting a place of worship before or after school, or from praying silently in school, whether in the classroom or lunchroom, or on the playing field, or from attending prayer groups on school premises before or after classes under the Equal Access Act, just as students may attend meetings of nonreligious clubs before or after school. And students desiring to solemnize significant events such as graduations may hold private, religious baccalaureate services, where like-minded students and adults can pray, sing hymns, hear sermons, and otherwise worship as they choose. In addition, schools may teach about religion and religious issues, so long as such teaching is presented objectively as part of a secular program of education. Attempting to invoke the mechanisms or authority of government to promote religion, however, ultimately restricts religious liberty and violates constitutional principles.

As we approach public school graduations this year, we urge all people of faith to declare a permanent cease fire on this issue, and work to promote the true cause of religious liberty, including the separation of church and state. It is critical to our society and to the fundamental well-being and liberty of our children that these precepts of religious freedom be preserved, and that you, as educators, respect these principles. All of us must make every effort to prevent our public schools from becoming a battleground over religion and to promote true religious liberty.

Sincerely,

(Signatories are listed by state)

Rabbi Dr. Steven Jacobs, Temple B'nai Shalom, (Jewish), Huntsville, AL
Rabbi Jonathan Miller, Temple Emanu-El, (Jewish), Birmingham, AL
Dr. Howard W. Roberts, Auburn First Baptist, (Baptist), Auburn, AL
Dr. G. Todd Wilson, Weatherly Heights Baptist Church, (Baptist), Huntsville, AL
Rev. Doak Mansfield, Unitarian Universalist Church, (Unitarian), Huntsville, AL
Rev. Dr. Roger Lovett, Bapt. Church of the Covenant, (Baptist), Birmingham, AL
Rabbi Eugene Levy, Congregation B'nai Israel, (Jewish), Little Rock, AR
Dr. Layne E. Smith, Cooperative Baptist Fellowship, (Baptist), Fayetteville, AR
Rev. Melvin Briere, (Evan. Lutheran Church in Amer.), Sun City, AZ
Rev. Michael G. Nickerson, United Methodist, (Methodist), Phoenix, AZ
Rev. Willis F. Erickson, Evangelical Lutheran Church of America, (Lutheran), Tucson, AZ
Rev. L. Alvin Young, Presbyterian Church (USA) (Presbyterian), Phoenix, AZ
Rev. Richard L. Smith, (United Church of Christ), Tucson, AZ
Rabbi David Pinkwasser, (Jewish), Tempe, AZ
Rev. Joseph L. Carucci, ELCA, (Lutheran), Paradise Valley, AZ
Rabbi Maynard Bell, Temple Solel, (Jewish), Scottsdale, AZ
Rabbi Stephen J. Einstein, Congregation B'nai Tzedek, (Jewish), Fountain Valley, CA
Rev. Thomas Kilgore, Jr., Progressive National Baptist Convention, (Baptist), Los Angeles, CA
Rev. Sharon Delgado, (United Methodist Church), Santa Cruz, CA
Rabbi Denise L. Eger, Congregation Kol Ami, (Jewish), West Hollywood, CA
Rev. Robert Achzehner, H.W., M., (The Prosperos), Costa Mesa, CA
Rabbi Andrew Straus, (Jewish), Burlingame, CA
Rabbi Donald Goor, Temple Juda, (Jewish), Tarzana, CA
Rabbi Allen I. Freghtling, University Synagogue, (Jewish), Los Angeles, CA
Rabbi Steven A. Chester, Temple Sinai, (Jewish), Oakland, CA
Rev. Dr. David J. Jamieson, Northern CA/NV Conference, (UCC), San Francisco, CA
Rev. John Simmons, Evangelical Lutheran Church, (Lutheran), Burbank, CA

Rev. Stanley E. Olson, Evangelical Lutheran Church, (Lutheran), Placerville, CA
 Rev. Lloyd Hanson, Evangelical Lutheran Church, (Lutheran), Sacramento, CA
 Rabbi Jerald Brown, Temple Ahavat Shalom, (Jewish), Northridge, CA
 Rev. Jerald Stinson, (United Church of Christ), Carlsbad, CA
 Rabbi Richard Shapiro, (Jewish), Santa Barbara, CA
 Rabbi Howard Laibson, Temple Israel, (Jewish), Long Beach, CA
 Rev. Anne Lee Kreml, (United Church of Christ), San Francisco, CA
 Rabbi Patricia Karlin-Neumann, Temple Israel, (Jewish), Alameda, CA
 Rabbi Michael Robinson, Congregation Shomrei Torah, (Jewish), Santa Rose, CA
 Rabbi Miriam Biatch, Temple Beth Solomon of the Deaf, (Jewish), Arleta, CA
 Rabbi Robert Shapiro, Congregation Beth Israel, (Jewish), San Diego, CA
 Rabbi Alan Henkin, Beth Knesset Bamidbar, (Jewish), Lancaster, CA
 Rabbi Melanie Aron, Congregation Shir Hadash, (Jewish), Los Gatos, CA
 Rabbi Michael Mayersohn, Temple Beth David, (Jewish), Westminster, CA
 Rabbi Hillel Cohn, Congregation Emanu-El, (Jewish), San Bernardino, CA
 Rev. Christine Tata, Community Congregational Church, (UCC), Tehachapi, CA
 Rev. Dr. Peter Sabey, Interfaith Counseling Service, (Presbyterian), Davis, CA
 Rev. Fred Register, (United Church of Christ), Alhambra, CA
 Rev. Anne Hess, (United Church of Christ), Monterey, CA
 Rev. Jerry Stevenson, (United Church of Christ), Bakersfield, CA
 Rev. Charles Schepel, (United Church of Christ), Cypress, CA
 Rev. Ilo J. Madden, (United Church of Christ), Escondido, CA
 Rev. Philip Price, Woodland Hills Community Church, (UCC), Woodland Hills, CA
 Rev. Dr. Peggy Betzholtz, First Congregational Church of Christ, (UCC), Eureka, CA
 Rev. Kenneth E. Lockwood, The Congregational Church, (UCC), San Luis Obispo, CA
 Rev. Gregory G. Garland, (United Church of Christ), Long Beach, CA
 Rabbi Bruce Kadden, Temple Beth El, (Jewish), Salinas, CA
 Rev. Betsy B. Bennett, (Episcopalian), Carmel, CA
 Rev. James DeLange, ELCA, (Lutheran), San Francisco, CA
 Rev. Harley Pryor, (Presbyterian), Duarte, CA
 Rev. H. Paul Schaeffer, Evangelical Lutheran Church of America, (Lutheran), Mendocino, CA
 Rev. Richard L. Schaper, St. Mark's Lutheran Church, (Lutheran), San Francisco, CA
 Rev. Dr. Davida Foy Crabtree, (United Church of Christ), Pasadena, CA
 Rev. Father James Adams, St. Sophia Greek Orthodox Cathedral, (Greek Orthodox), Los Angeles, CA
 The Rt. Rev. Frederick H. Borsch, Bishop of L.A.-Episc. Church, (Episcopalian), Los Angeles, CA
 The Rev. Dr. Marjorie N. Leaming, (Unitarian Universalist), Santa Paula, CA
 Rev. Albert H. Thelander, (Unitarian Universalist), Aroata, CA
 Rabbi Deborah R. Prine, (Jewish), Poway, CA
 Rev. C. Harold Rickard, (United Methodist), Golden, CO
 Rev. Stuart Haskins, Jr., (United Church of Christ), Littleton, CO
 Rev. Clyde Miller, (United Church of Christ), Denver, CO
 Rev. Bruce Inglis, (United Church of Christ), Denver, CO
 Father Charles Buswell, (Catholic), Pueblo, CO

Rev. Charles Archibald, (Humanist Society of Friends), Durango, CO
 Prof. Rev. Kenneth E. Morse, Phi Delta Kappa Education Society, (Baptist), Bloomfield, CT
 Rabbi Arnold H. Miller, Temple Israel, (Jewish), Waterbury, CT
 Rev. Shepard Parsons, (United Church of Christ), New Haven, CT
 Rabbi Cory A. Weiss, Congregation Beth Israel, (Jewish), West Hartford, CT
 Rabbi James Prosnit, Congregation B'nai Israel, (Jewish), Bridgeport, CT
 Rev. Peter Hammond, (United Church of Christ), Cornwall, CT
 Rev. Margaret Barron, First Congregational United Church of Christ, (UCC), Darien, CT
 Rev. Ronald Evans, First Congregational Church of Darien, (UCC), Darien, CT
 Rev. Allen Humes, Kensington Congregational United Church of Christ, (UCC), Kensington, CT
 Rabbi Howard Sommer, Temple Beth Tikvah, (Jewish), Madison, CT
 Rev. Robert C. Lane, (United Church of Christ), Windsor, CT
 Rev. Kent Siladi, (United Church of Christ), Guilford, CT
 The Rev. Dr. Robert M. Doss, (Unitarian Universalist), Wilmington, DE
 Rabbi Peter H. Grumbacher, Beth Emeth, (Jewish), Wilmington, DE
 Rev. William P. Zelazny, First Unitarian Church, (Unitarian Universalist), Wilmington, DE
 Rabbi David Saperstein, Dir. Religious Action Center of Reform Judaism, (Jewish) Washington, DC
 Rabbi Lynne Landsberg, Assoc. Dir. Religious Action Center of Reform Judaism, (Jewish), Washington, DC
 Rev. Jim Hedges, Wesminister Presbyterian Church, (Presbyterian), Washington, DC
 Rev. John Buchanan, (Baptist), Washington, DC
 Rabbi Mindy Portnoy, Temple Sinai, (Jewish), Washington, DC
 Rev. Barron B. Maberry, St. Matthew Evangelical Lutheran Church, (Lutheran), Washington, DC
 Rev. Dr. John F. Steinbruck, ELCA, (Lutheran), Washington, DC
 Rev. L. William Yolton, Presbyterian Church, (USA), Washington, DC
 Rev. James Dunn, The Baptist Joint Committee On Public Affairs, (Baptist), Washington, DC
 Rev. Elenora Giddings Ivory, Presbyterian Church, (USA), (Presbyterian), Washington, DC
 Rabbi Kenneth Weiss, Washington Hebrew Congregation, (Jewish), Washington, DC
 Rev. Brent Walker, The Baptist Joint Committee on Public Affairs, (Baptist), Washington, DC
 Rev. John Mack, First Congregational United Church of Christ, (UCC), Washington, DC
 Rev. Patricia Conover, (United Church of Christ), Washington, DC
 Rev. Tyrone Pitts, Progressive National Baptist Conference, (Baptist), Washington, DC
 Rev. Wilbert Miller, Augusta Lutheran Church, (Lutheran), Washington, DC
 Rev. Jay Lintner, (United Church of Christ), Washington, DC
 Rev. Stan Hastey, The Alliance of Baptists, (Baptist), Washington, DC
 Rev. Robert J. Brooks, (Episcopal), Washington, DC
 Rabbi Richard Birnholz, Congreg. Schaari Zedek, (Jewish), Tampa, FL
 Rev. J. Robert Nordlander, ELCA, (Lutheran), Sun City Center, FL
 Richard Agler, Congregation B'nai Israel, (Jewish), Boca Raton, FL
 Rabbi Fred Guttman, Congregation Ahavath Chesed, (Jewish), Jacksonville, FL
 Rabbi Ralph Kingsley, Temple Sinai of North Dade, (Jewish), North Miami Beach, FL
 Rabbi Gary M. Klein, (Jewish), Palm Harbor, FL
 Rabbi Norman Lipson, (Jewish), Hollywood, FL
 Rev. Dr. Charles L. Burns, FL Conference of United Church of Christ, (UCC), Winter Park, FL

Rev. Paul Norcross, American Baptist Churches/USA, (Baptist), Palm Harbor, FL
 Rabbi Samuel Silver, Temple Sinai, (Jewish), Delray Beach, FL
 Rev. Charles W. Bare, (Disciples of Christ), Miami, FL
 Rev. Terrell Kirk, (Episcopalian), Dunedin, FL
 Rev. Jane Goodman, Unity Church of Sarasota, Sarasota, FL
 Rev. Dr. Charles Burns, Florida Conference, (UCC), Winter Park, FL
 Rabbi Larry Halpern, (Jewish), Orlando, FL
 Rabbi William Cohen, (Jewish), Orlando, FL
 Rev. Carl Herman Voss, (United Church of Christ), Jacksonville, FL
 Rabbi Barry Friedman, Temple Israel, (Jewish), Merritt Island, FL
 Rabbi Howard R. Greenstein, Congregation Ahavat Chesed, (Jewish), Jacksonville, FL
 Rabbi Merle Singer, Temple Beth-El of Boca Raton, (Jewish), Boca Raton, FL
 Rev. David Charles Smith, Faith United Church of Christ, (UCC), Clearwater, FL
 Rev. Allan T. Dodge, (United Methodist), Bradenton, FL
 Rev. Lawrence Reimer, (United Church of Christ), Gainesville, FL
 Rev. Allen Hollis, Union Congregational Church of Christ, (UCC), West Palm Beach, FL
 Rev. Henry Strube, (Baptist), Ft Lauderdale, FL
 Rev. Howard S. Olson, E. Lutheran Church of America (Lutheran), Tampa, FL
 The Rev. Robert Reister, (Episcopal), Palm Harbor, FL
 Rev. Dr. Melvin E. Schoonover, American Baptist, (Baptist), Miami, FL
 Rabbi Mark Zimmerman, Congregation Beth Shalom, (Jewish), Atlanta, GA
 Rev. Andrew J. Young, (United Church of Christ), Atlanta, GA
 Rabbi Jordan M. Parr, Congregation Children of Israel, (Jewish), Augusta, GA
 Rev. Paul Hanna, (Methodist), Gainsville, GA
 Rabbi Stanley Davids, Temple Emanu-El, (Jewish), Atlanta, GA
 Rev. Roger Knight, (United Church of Christ), Roswell, GA
 Rabbi Vri Goren, (Jewish), Macon, GA
 Rev. Dr. Walter Brueggemann, Columbia Theological Sem., (UCC), Decatur, GA
 Rev. Tim Shirley, Virginia Highlands Baptist Church, (Baptist), Atlanta, GA
 Rev. Lanny Peters, Oakhurst Baptist Church, (Baptist), Decatur, GA
 Dr. James C. Strickland, Jr., Heritage Baptist Church, (Baptist), Cartersville, GA
 Rabbi Jeffrey R. Portman, Ayudas Action Congregation, (Jewish), Iowa City, IA
 Rev. Russell Fate, (Congregational-UCC), Iowa City, IA
 Rev. Robert Williams, (United Church of Christ), McGregor, IA
 Rabbi Steven M. Fink, (Jewish), Des Moines, IA
 Rev. Roger F. Miller, (Disciples of Christ), Muscatine, IA
 Rev. Charles Briem, (United Church of Christ), Des Moines, IA
 Rabbi Ellen Dreyfus, (Jewish), Homewood, IL
 Rev. Leslie E. Wilson, (Episcopal), Belleville, IL
 Rev. Jane E. Knowles, (United Church of Christ), Byron, IL
 Rev. Dwight E. Borden, (United Church of Christ), Byron, IL
 Bishop Robert J. Marshall, E. Lutheran Church of America, (Lutheran), Chicago, IL
 Bishop Herbert Chilstrom, E. Lutheran Church of America, (Lutheran), Chicago, IL

Rev. Dr. Donald E. Miller, (Church of the Bretheran), Elgin, IL
 Rabbi Brad Bloom, Sinad Temple, (Jewish), Champaign, IL
 Rabbi David M. Sofgian, Congregation Emanuel, (Jewish), Chicago, IL
 Rabbi Elliott Kleinman, Temple Sholom, (Jewish), Chicago, IL
 Dr. John Binder, North American Baptist Conference, (Baptist), Oakbrook Terrace, IL
 Dr. Charles Weber, North American Baptist Conference, (Baptist), Oakbrook Terrace, IL
 Rev. Gregory Skiba, (United Church of Christ), Hinsdale, IL
 Rev. Sarah S. Edwards, (United Church of Christ), Hinsdale, IL
 Rev. Dr. Richard E. Nye, (United Church of Christ), Hinsdale, IL
 Rabbi Amy Memis, Congregation BJBE, (Jewish), Glenview, IL
 Rabbi Dov Taylor, Congregation Solel, (Jewish), Highland Park, IL
 Rabbi Marc Berkson, Temple Judea Miapah, (Jewish), Skokie, IL
 Rev. J. Robert Linn, (United Church of Christ), Waukegan, IL
 Rev. Richard Wolf, (United Church of Christ), Elmhurst, IL
 Rev. Garry Oniki, (United Church of Christ), Bensenville, IL
 Rev. David Sickelka, (United Church of Christ), Highland, IL
 Rev. Fred Traut, (United Church of Christ), Chicago, IL
 Rev. Rebecca Anne Johnston, (United Church of Christ), Sheffield, IL
 Rabbi Gary S. Gerson, Oak Park Temple B'nai Abraham Zion, (Jewish), Oak Park, IL
 Rev. Clara Thompson, (Baptist), Montgomery, IL
 Rev. Wolfgang Roth, Garrett-Evangelical Seminary, (United Methodist), Evanston, IL
 Rabbi David Sofian, Congregation Emanuel, (Jewish), Chicago, IL
 Rev. J. Robert Zinn, (United Church of Christ), Waukegan, IL
 Rev. Eric S. Dale, (Disciples of Christ), Crystal Lake, IL
 Rev. Edgar Peara, (Unitarian Universalist), Park Forest, IL
 Bishop Howard Wemmes, E. Lutheran Church of America, (Lutheran), Chicago, IL
 Father Dr. John T. Paulikowski, Catholic Theological Union, (Catholic), Chicago, IL
 Sr. Marge Boyle, Sisters of Zion, R. Catholics, (Catholic), Chicago, IL
 Dr. Kenneth B. Smith, Chicago Theol. Sem., (UCC), Chicago, IL
 The Rev. Dr. David Stanford, (Episcopal), Chicago, IL
 Rabbi John G. Spiro, Moses Montefiore Temple, (Jewish), Bloomington, IL
 Dr. Dwight Jessup, Baptist Joint Committee of the Baptist General Conference, (Baptist), Upland, IN
 Rabbi Morley T. Feinstein, (Jewish), South Bend, IN
 Rev. James L. Ray, (United Methodist), Franklin, IN
 Rabbi Stanley Halpern, Temple Israel, (Jewish), Gary, IN
 Rabbi Laurence Milder, Indianapolis Hebrew Congregation, (Jewish), Indianapolis, IN
 Rev. John Morehouse, (Unitarian Universalist), South Bend, IN
 Rev. Tom Tucker, (United Church of Christ), Evansville, IN
 Rev. George Philip Hoy, (United Church of Christ), Evansville, IN
 Rev. Gordon D. Gibson, (Unitarian Universalist), Elkhart, IN
 Rabbi E Mark H. Levin, (Jewish), Prairie Village, KS
 Rev. Robert Kasper, (United Church of Christ), Tonganoxie, KS
 Rabbi Kenneth A. Emert, Temple Emanu-El, (Jewish), Wichita, KS

Rev. John Krueger, (United Church of Christ), Wichita, KS
 Father H. Paul Osborne, (Episcopal), Garrison, KY
 Rev. James E. Andrews, (Presbyterian Church USA), Louisville, KY
 Rev. James Holloday, Jr., (Southern Baptist), Louisville, KY
 Dr. John Dunaway, (Baptist), Corbin, KY
 Dr. Frances H. Fite, Louisville Presby. Theol. Sem., (Presbyterian), Louisville, KY
 Dr. Sarah Frances Anders, Baptist Joint Committee, (Baptist), Pineville, LA
 Rabbi David Kline, B'nai Israel, (Jewish), Monroe, LA
 Rev. William P. Richardson, (Episcopalian), New Orleans, LA
 Dr. Roger W. Sullivan, (Baptist), Leesville, LA
 Rev. Nancy H. McCarthy, (Episcopalian), Boca Raton, LA
 Rev. Clayton Reed, (United Church of Christ), Bass Harbor, ME
 Rev. Marshall Hughes, (United Church of Christ), Bar Harbor, ME
 Rev. William Bigelow, (United Church of Christ), Northeast Harbor, ME
 Rev. Robert Hotelling, (United Church of Christ), East Wilton, ME
 Rev. J. Mark Worth, (Unitarian Universalist), Ellsworth, ME
 Rabbi Reuben Levine, (Jewish), Gaithersburg, MD
 Rev. David Jordan, Twinbrook Baptist Church, (Baptist), Rockville, MD
 Rev. John Ewing Roberts, (Baptist), Baltimore, MD
 Rev. Jerry L. Martin, Kensington Baptist Church, (Southern Baptist), Kensington, MD
 Rev. Michael Simmons, St. Paul's United Church of Christ, (UCC), Westminster, MD
 Dr. David Albert Farmer, (Baptist), Baltimore, MD.
 Rev. Alfred Christenson, ELCA, (Lutheran), Columbia, MD
 Rev. John R. Houck, ELCA, (Lutheran), Baltimore, MD
 Rev. Dan Ivins, First Baptist Church, (Baptist), Silver Spring, MD
 Rabbi Gustav Buchdahl, Temple Emanuel, (Jewish), Baltimore, MD
 Ms. Mary Hunt, Women's All. for Thlgy., Eth., & Rit., (Catholic), Silver Spring, MD
 Rabbi Floyd L. Herman, (Jewish), Baltimore, MD
 Rabbi Mark J. Panoff, Temple Isaiah, (Jewish), Columbia, MD
 Rev. John R. Deckenback, (United Church of Christ), Baltimore, MD
 Dr. and Mrs. Bernard and Malvine Sobin, (Jewish), Silver Spring, MD
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 Rev. Howard Andrews, (United Church of Christ), Sterling, MA
 Rev. P.T. Calvin Johnson, E. Lutheran Church of America, (Lutheran), Marstons Mills, MA
 Rev. Gordon S. Nelson, E. Lutheran Church of America, (Lutheran), Marstons Mills, MA

Rabbi Elias Lieberman, Falmouth Jewish Congregation, (Jewish), East Falmouth, MA
 Rabbi Neil Kominsky, Temple Beth David of the South Shore, (Jewish), Brookline, MA
 Rabbi Dennis Ross, (Jewish), Pittsfield, MA
 Rev. Charles Bergstrom, ELCA, (Lutheran), West Yarmouth, MA
 Rabbi Harold Robinson, Cape Cod Synagogue, (Jewish), Hyannis, MA
 Rev. Luther Pierce, (United Church of Christ), Cummington, MA
 Rev. Denise Esslinger, (United Church of Christ), Cambridge, MA
 Rabbi Arthur Nemitoff, Temple Ohabei Shalom, (Jewish), Brookline, MA
 Rev. Kathryn Stevens, (United Church of Christ), Dorchester, MA
 Rev. Robert Gardiner, (United Church of Christ), Southampton, MA
 Rev. David Miller, (Unitarian Universalist), Holden, MA
 Dr. K. Joseph Short, (Disciples of Christ), Bradford, MA
 Rev. John A. Buehrens, (Unitarian Universalist), Boston, MA
 Rabbi Mark Dov Shapiro, Sinai Temple, (Jewish), Springfield, MA
 Bishop Herbert Skeete, United Methodist Church, (Methodist), Boston, MA
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 The Rev. Charles Homeyer, (Episcopal), Ada, MI
 Rev. Robert Snyder, West Adrian United Church of Christ, (UCC), Adrian, MI
 Rabbi Paul Yedwab, Temple Israel, (Jewish), West Bloomfield, MI
 Rabbi Norman T. Roman, CCAR, (Jewish), West Bloomfield, MI
 Rev. Dr. James R. Lyons, The Ecumenical Institute, (Congregational), Southfield, MI
 Rabbi Julian I. Cook, (Jewish), Bloomfield Hills, MI
 Rabbi Amy Bigman, Temple Emanu-El, (Jewish), Oak Park, MI
 Rabbi Daniel F. Polish, Temple Beth El, (Jewish), Bloomfield Hills, MI
 Rev. Richard Rowlands, (United Church of Christ), Lowell, MI
 Rev. Robert Kittendorf, (United Church of Christ), Grand Rapids, MI
 Rev. Tom Brown II, (United Methodist), Burton, MI
 Rev. Jeffrey B. Hildebrand, (United Methodist), Detroit, MI
 The Rt. Rev. Bishop R. Stewart Wood, Jr., Episcopal Diocese of Michigan, (Episcopalian), Detroit, MI
 The Rt. Rev. Bishop John H. Burt, (Episcopalian), Marquette, MI
 Rabbi Norman Cohen, Bet Shalom Congregation, (Jewish), Hopkins, MN
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 Rev. J. Samuel Shelby, (United Church of Christ), Appleton, MN
 Rev. Shirley Harper Cox, First Congregational Church, (UCC), Glencoe, MN
 Rev. Margaret Strodtz, (Presbyterian), Arden Hills, MN
 Rabbi Martin S. Scharf, (Jewish), Duluth, MN
 Rabbi Martin Zinkow, (Jewish), St. Paul, MN
 Rev. Glen Herrington-Hall, (United Church of Christ), St. Paul, MN
 Rev. David McMahon, (United Church of Christ), Northfield, MN
 Rabbi Max A. Shapiro, Temple Israel, (Jewish), Minneapolis, MN
 Rev. Howard B. Johnson, United Methodist Church, (Methodist), Minneapolis, MN
 Rev. David Southcomb, (Presbyterian), Canton, MS
 Rabbi Steven W. Engel, Beth Israel Congregation, (Jewish), Jackson, MS

Rabbi Susan Talve, Central Reform Congregation, (Jewish), St. Louis, MS
 Rabbi Judith Bluestein, B'nai Israel Congregation, (Jewish), Hattiesburg, MS
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 Rev. Dr. Lee Berg, First Baptist Church, (Baptist), Meridan, MS
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 Rabbi Charles Rabinowitz, Congregation B'nai Abraham, (Jewish), Hagerstown, MO
 Dr. J. Daniel Day, First Baptist Church, (Baptist), Columbia, MO
 Rev. Anton K. Jacobs, (United Church of Christ), Liberty, MO
 Dr. Paul D. Duke, Kirkwood Baptist Church, (Baptist), St. Louis, MO
 Rev. Dr. John Schaeffer, (United Church of Christ), Billings, MT
 Rabbi Daniel F. Polish, Temple Beth-EL, (Jewish), Bloomfield Hills, MT
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 Rev. Donald E. Griffith, ELCA, (Lutheran), Lincoln, NE
 Rev. Dale C. Holt, ELCA, (Lutheran), Lincoln, NE
 Rev. Lauren D. Ekdahl, Trinity United Methodist Church, (Methodist), Lincoln, NE
 Rabbi Myer Kripke, (Jewish), Omaha, NE
 Rev. Lawrence E. Doerr, Presbyterian Church of USA, (Presbyterian), Lincoln, NE
 Rev. Benjamin C.L. Crosby, NH Conf., (United Church of Christ), Concord, NH
 Rev. Edward B. Grevatt, (United Church of Christ), Gilford, NH
 Rev. T. Guthrie Speers, Jr., First Presbyterian Church, (Presbyterian), Center Sandwich, NH
 Rabbi Gary A. Mazo, Congregation Mikir Shalom, (Jewish), Cherry Hill, NJ
 Rabbi Joshua Goldstein, (Jewish), Springfield, NJ
 Rabbi Philip Berkowitz, (Jewish), Wash Tap, NJ
 Rabbi Carla Freedman, Temple Beth Israel, (Jewish), Plattsburgh, NJ
 Rabbi Daniel M. Cohen, Temple Sharey Tefilo-Israel, (Jewish), South Orange, NJ
 Rabbi Howard L. Jaffe, (Jewish), Warren, NJ
 Rabbi Eric S. Gurvis, Temple Emeth, (Jewish), Teaneck, NJ
 Rabbi Laurence Groffman, (Jewish), Short Mills, NJ
 Rabbi Charles Kroloff, Temple Emanu-El, (Jewish), Westfield, NJ
 Rabbi Sally Priesand, Monmouth Reform Temple, (Jewish), Tinton Falls, NJ
 Rabbi Stanley Yedwab, Temple Beth Am, (Jewish), Lakewood, NJ
 Rev. Robert Moore, East Brunswick Congregational Church, (Congregational), Princeton, NJ
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 Rev. Elizabeth Thompson, (United Church of Christ), Haworth, NJ
 Rev. Samuel Appel, (Presbyterian), Mt. Laurel, NJ
 Rev. Kathleen J. Rusnak, ELCA, (Lutheran), Jersey City, NJ
 Rev. Edward D. Harper, Bethany Baptist Church, (Baptist), Newark, NJ
 Ms. Dorothy M. Noble, Felician College- Rel. Studies, (Catholic), Lodi, NJ
 Rabbi Bruce K. Cole, (Jewish), Newark, NJ
 Rev. Virginia Ramey Mollenkott, (Episcopalian), Hewitt, NJ
 Rabbi Cyril Stanway, (Jewish), Las Cruces, NM
 Rabbi Paul J. Citrin, (Jewish), Albuquerque, NM

Rev. Brian C. Taylor, (Episcopalian), Albuquerque, NM
 Rabbi Steven L. Mills, Congregation Albert, (Jewish), Albuquerque, NM
 Rev. Pierre Gallardo, (Unity Church), Silver City, NM
 Rabbi Gershon Schwartz, South Baldwin Jewish Center, (Jewish), Baldwin, NY
 Rabbi Charles D. Lippman, (Jewish), New York, NY
 Rev. Carolyn J. Strack, United Methodist Church of Richmond Hill, (Methodist), Richmond Hill, NY
 Rabbi Arturo Kalfus, Congregation Beth Emeth, (Jewish), Albany, NY
 Rabbi Helene Ferris, Temple Israel of N. Westchester, (Jewish), Croton-on-Hudson, NY
 Rabbi Barry L. Schwartz, Temple Sinai, (Jewish), Amherst, NY
 Rev. William H. Carey, (Pentecostal), Schenectady, NY
 Rabbi Hishel Jaffe, Temple Beth Jacob, (Jewish), Newburgh, NY
 Rabbi Peter J. Rubinstein, (Jewish), New York, NY
 Rabbi Brooks R. Susman, Temple Israel, (Jewish), Lawrence, NY
 Rabbi Sue Ann Wasserman, Brooklyn Heights Synagogue, (Jewish), Brooklyn, NY
 Rabbi David E. Fass, Temple Beth Sholom, (Jewish), New York, NY
 Rev. George W. Webber, (United Church of Christ), New York, NY
 Rabbi Daryl P. Crystal, North Shore Synagogue, (Jewish), Syosset, NY
 Rabbi Aaron Panken, Congregation Rodeph Sholom, (Jewish), New York, NY
 Rev. Dr. Judith E. Hjorth, (United Church of Christ), Syracuse, NY
 Rabbi Joshua Aaronson, Temple Beth Zion, (Jewish), Buffalo, NY
 Rabbi George Stern, Temple Beth Torah, (Jewish), Upper Nyack, NY
 Rabbi David Katz, Temple Israel, (Jewish), New York, NY
 Rev. Dr. G. Eric Pace, Universal Science of Mind, New York, NY
 Rabbi Martin Rozenberg, (Jewish), Port Washington, NY
 Rabbi Nathan Landman, (Jewish), Larchmont, NY
 Rabbi Steven Rosman, Jewish Family Congregation, (Jewish), South Salem, NY
 Rabbi Henry Bamberger, (Jewish), Utica, NY
 Rabbi Jeffrey Hoffman, Congregation Sons of Israel, (Jewish), Upper Nyack, NY
 The Rev. Dr. William Briggs, NY Conference of United Church of Christ, (UCC), Syracuse, NY
 Rev. J. William Hawk, (United Church of Christ), Canandaigua, NY
 Rev. Dr. Wesley Nielson, (United Church of Christ), Calverton, NY
 Rev. Thomas Danncy, (Reformed Church in America), Nyack, NY
 Rev. John Ekman, New England Congregational Church, (Presbyterian), Saratoga Springs, NY
 Rev. Robert Bermudes, (United Church of Christ), Rochester, NY
 Rev. Brian Krause, (United Church of Christ), Honeoye, NY
 Rev. Russell Newbeat, (Episcopalian), Buffalo, NY
 Rev. Lee Sullivan, (Presbyterian), Hartsdale, NY
 Rabbi Margaret Moers Wenig, Temple Beth Am, The People's Temple, (Jewish), New York, NY
 Rev. John Hatt, Presbetery of Northern N.Y., (Presbyterian), Elizabethtown, NY
 Rev. Dr. Merrill Cadwell, (Disciples of Christ), East Aurora, NY
 Rabbi Adam D. Fischer, Temple Isaiah, (Jewish), Stony Brook, NY
 Rev. Patricia Reeberg, Exec. Dir., The Council of Churches of the City of NY, New York, NY
 Rabbi Stephen A. Klein, (Jewish), Scarsdale, NY

Rev. Canon Herbert Arrunategui, The Episcopal Church, (Episcopalian), New York, NY
 Rev. Jeanne Audrey Powers, United Methodist, (Methodist), New York, NY
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 Rabbi Lori Forman, The Amer. Jewish Committee, (Jewish), New York, NY
 Rev. Donald C. Armstrong, (United Church of Christ), Buffalo, NY
 Mr. Karl Berolzheimer, The National Conference of Christians & Jews, (Jewish), New York, NY
 Mr. Herman Harmelink III, (Reformed Church in America), Poughkeepsie, NY
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 Rabbi Mordechai Liebling, The Amer. Jewish Committee, (Jewish), New York, NY
 Bishop Vsevolod, (Ukrainian Ortho. Church of Amer.), Jamaica, NY
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 Rabbi A. James Rudin, The American Jewish Committee, (Jewish), New York, NY
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 Rabbi Jay S. Lapidus, (Jewish), Massapequa, NY
 Rev. Dr. James Melvin Washington, Union Theo. Sem.- Amer. Bapt., (Baptist), New York, NY
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 Rabbi Lucy H.F. Dinner, Temple Beth Or, (Jewish), Raleigh, NC
 Rev. S. David Knisley, (Episcopalian), Weaverville, NC
 Dr. Gerald L. Niece, (Presbyterian), Rocky Mount, NC
 Rev. Allen Laymon, (Baptist), Charlotte, NC
 Rabbi Robert Ratner, Congregation Beth HaTephila, (Jewish), Asheville, NC
 Rabbi John Friedman, (Jewish), Durham, NC
 Dr. Robert E. Albritton, Millbrook Baptist Church, (Baptist), Raleigh, NC
 Rev. Lamar Clements, (United Church of Christ), Morehead City, NC
 Rev. T. Melvin Williams, Jr., Watts Street Baptist Church, (Baptist), Durham, NC
 Dr. Carole Chase, (Presbyterian), Elon College, NC
 Rev. Dr. Jean Rodenbough, (Presbyterian), Madison, NC
 Rev. W.W. Finlator, (Baptist), Raleigh, NC
 Rev. Collins Kilburn, N.C. Council of Churches, (UCC), Raleigh, NC
 Rev. J. George Reed, (Baptist), Cary, NC
 Rev. Lloyd Pendergraft, (United Church of Christ), Mt. Pleasant, NC
 Rev. Dr. J. William Angell, (Baptist), Winston-Salem, NC
 Rev. Dr. Jack J. Seville, Jr., United Church of Christ of ND, (UCC), Bismarck, ND
 Rev. Ervin Overlund, ELCA, (Lutheran), Devils Lake, ND
 Rev. Elinor Artman, (Unitarian Universalist), Cincinnati, OH
 The Rev. Priscilla Murdock, (Unitarian Universalist), Cincinnati, OH
 Rev. Robert Walcott, (Episcopalian), North Canton, OH
 Dr. Rev Harry F. Baker, United Methodist Church, (Methodist), Columbus, OH
 Rabbi P. Irving Bloom, Temple Israel, (Jewish), Dayton, OH
 Rabbi Howard Apothakey, (Jewish), Columbus, OH
 Rev. Betty L. Pingel, (Unitarian Universalist), Akron, OH
 Rabbi Rosette Haim, The Temple - Tifereth Israel, (Jewish), Beachwood, OH

Rabbi David J. Gelfand, Anshe Chesed Fairmount Temple, (Jewish), Beachwood, OH
 Dr. Bill Johnson Ed.D, (United Church of Christ), Cleveland, OH
 Rabbi Susan Stone, (Jewish), So. Euclid, OH
 Rabbi Daniel Roberts, Temple Emanu El, (Jewish), Cleveland, OH
 Rev. Verlyn L. Barker, (United Church of Christ), Cleveland, OH
 Pastor Daniel W. Bochers, (Evan. Lutheran Church in Amer.), Sandusky, OH
 Rabbi Mark Goldman, Rockdale Temple/K.K. Bene Israel, (Jewish), Cincinnati, OH
 Rabbi David Horowitz, Temple Israel, (Jewish), Akron, OH
 Rabbi Gerry Walter, Temple Shalom, (Jewish), Cincinnati, OH
 Rev. John Bertsch, (United Church of Christ), Hartville, OH
 Rev. Bernice Buehler, (United Church of Christ), Dover, OH
 Rev. Daniel Geslin, (Liberation United Church of Christ), Cleveland, OH
 Rev. James S. Yost, Euclid Avenue Christian Church, Cleveland Heights, OH
 Rev. Fr. Kenneth R. Irvin, Free Catholic Church International, (Catholic), Steubenville, OH
 Rev. Rick Nutt, Muskingum College, (Presbyterian), New Concord, OH
 Rev. Maria Porrata, (United Church of Christ), Cleveland, OH
 Rev. Terry Provance, (United Church of Christ), Cleveland, OH
 Rev. Craig Schaub, Pilgrim Congregational, (UCC), Cleveland, OH
 Rev. Mary Sue Gast, (United Church of Christ), Cleveland, OH
 Rev. Robert Strommen, Western Reserve Assc. of the United Church of Christ, (UCC), Lakewood, OH
 Rev. Dr. Robert Polk, (United Church of Christ), Cleveland, OH
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 Rev. Dale Hempen, (United Church of Christ), Canton, OH
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 Rabbi Gary P. Zola, Hebrew Union College, Institute of Religion, (Jewish), Cincinnati, OH
 Rev. Paul H. Sherry, President, (United Church of Christ), Cleveland, OH
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 Rev. Denise Andersen, Clackamas Christian, (United Church of Christ), Milwaukie, OR
 Rev. Nestor O. Perala, Queen of Heaven Gnostic Church, Portland, OR
 Rev. Eugene Ross, (United Church of Christ), Portland, OR
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 Rabbi Joseph Forman, Reform Congregation Keneseth Israel, (Jewish), Elkins Park, PA
 Rabbi Robert Leib, Temple Beth Am, (Jewish), Abington, PA
 Rabbi Marjorie S. Yudkin, Temple Covenant of Peace, (Jewish), Easton, PA
 Rabbi Simeon Maslin, Congregation Keneseth Israel, (Jewish), Elkins Park, PA
 The Rev. Dr. Daniel Weiss, Gen. Sec., American Baptist Church/USA, (Baptist), Valley Forge, PA
 Rabbi Constance Golden, Old York Road Temple-Beth Am, (Jewish), Abington, PA

Rabbi Martin P. Jr. Beifield, (Jewish), Allentown, PA
 Rabbi Jeffrey J. Weisblatt, (Jewish), Harrisburg, PA
 Rabbi Michael Joseph, Temple B'nai B'rith, (Jewish), Kingston, PA
 Rev. Thomas L. Harwell, Oak Hills Christian Church, Butler, PA
 Rabbi Michael Feshbach, Temple Anshe Hesed, (Jewish), Erie, PA
 Rabbi Richard Klein, Main Line Reform Temple, (Jewish), Wynnewood, PA
 Rabbi Mayer William Solekman, (Jewish), Broomall, PA
 Rabbi James Gibson, Temple Sinai, (Jewish), Pittsburgh, PA
 Rev. Lyle Weible, Penn Central Conference Minister, (UCC), Harrisburg, PA
 Rev. Kenneth Trauger, (United Church of Christ), Lancaster, PA
 Chaplain Kenneth Burnette, (Baptist), Lancaster, PA
 Rev. Aidsand Wright-Riggins, American Baptist Churches, (Baptist), Valley Forge, PA
 Rev. Douglas Hodges, (United Church of Christ), Greencastle, PA
 Rev. Dr. Robert Jobe, (United Church of Christ), Jeannette, PA
 Rev. James Birney, (Episcopalian), West Chester, PA
 Rev. T. Chipman Day, (United Church of Christ), Waynesburg, PA
 Rev. Charlotte Hull Whiting, (United Church of Christ), Lancaster, PA
 Rev. Joseph N. Carr, Jr., (United Church of Christ), Allentown, PA
 Rev. Charles W. Appel, Jr., (Episcopalian), Pittsburg, PA
 Rev. John A. Golden, Jr., (Episcopalian), Pittsburgh, PA
 Rev. John E. Strausz Clement, (Presbyterian), Pittsburg, PA
 Rev. Michael Morrill, American Baptist Churches, (Baptist), Philadelphia, PA
 Rev. Norman Hjelm, ELCA, (Lutheran), Wynnewood, PA
 Rev. J. Daniel Burke, St. Martin's Church, (Episcopalian), Providence, RI
 Rabbi George J. Astrachan, Temple Sinai, (Jewish), Cranston, RI
 Rev. Harry Sterling, (United Church of Christ), W. Warwick, RI
 Rev. Raymond Bradley, Jr., Riverside Congregational Church, (UCC), Riverside, RI
 Rabbi Leslie Y. Gutterman, Temple Beth-EL, (Jewish), Providence, RI
 Rabbi Lawrence Mahrer, Beth Israel Congregation, (Jewish), Florence, SC
 Rev. James Gunn, Richland Memorial Hospital, (Methodist), Columbia, SC
 Rev. Joseph Alley, (Methodist), Columbia, SC
 Rev. James Fields, Plymouth Congregational, (UCC), Charleston, SC
 Rev. Roy J. Schaffer, (Episcopal), Franklin, TN
 Rev. Nancy Hastings Schested, Prescott Memorial Baptist Church, (Baptist), Memphis, TN
 Rev. David More Maynard, (Unitarian Universalist), Nashville, TN
 Rev. Oswald Schrag, (United Church of Christ), Nashville, TN
 Rev. John Lackey, (United Church of Christ), Knoxville, TN
 Rabbi David E. Stern, (Jewish), Dallas, TX
 Rabbi Kenneth Roseman, Temple Shalom, (Jewish), Dallas, TX
 Rev. John L. Stanley, (Baptist), Austin, TX
 Rabbi Samuel Stahl, Temple Beth-El, (Jewish), San Antonio, TX
 Rev. Bill Hornbuckle, Highland Park Baptist Church, (Baptist), Austin, TX
 Rabbi Ralph D. Mecklenburger, Beth-El Congregation, (Jewish), Fort Worth, TX

Rabbi Stephen D. Gold, Congregation Beth-El, (Jewish), Tyler, TX
 Dr. Charles L. Isbell, Coastal Plains Area of the Christian Church, (Disciples of Christ), Houston, TX
 Rev. William D. Hall, (Disciples of Christ), Fort Worth, TX
 Rabbi Mathew D. Michaels, Congregation Emanu El, (Jewish), Houston, TX
 Rabbi Mark Goldfarb, Temple Mount Sinai, (Jewish), El Paso, TX
 Rev. Jim Collie, (Presbyterian), Bedford, TX
 Rabbi Barry Block, Temple Beth-El, (Jewish), San Antonio, TX
 Rev. Ray Flachmeier, Ascension Lutheran Church, (Lutheran), Garland, TX
 Rev. Dr. Norman A. Beck, ELCA, (Lutheran), Seguin, TX
 Rev. Dr. George A. Mason, Wilshire Baptist Church-TX, (Baptist), Dallas, TX
 Bishop Mark B. Herbener, Northern TX-LA Synod, ELCA, (Lutheran), Dallas, TX
 Rev. Dr. Charles Johnson, Second Baptist Church, (Baptist), Lubbock, TX
 Rev. Dr. David Randle, (United Church of Christ), Sandy, UT
 Rev. David J. Bort, (United Methodist), Arlington, VT
 Rev. Donald Goff, (United Church of Christ), Jericho, VT
 Dr. Frank E. Eakin, Jr., U. of Richmond- Dept. of Rel., (Episcopalian), Midlothian, VA
 Rev. Lawrence E. Matthews, Vienna Baptist Church, (Baptist), Vienna, VA
 Rev. Hunsdon Cary, Jr., (Episcopalian), Richmond, VA
 Rev. Thomas H. Britton, (United Church of Christ), Virginia Beach, VA
 Rev. Robert R. Ward, ELCA, (Lutheran), Salem, VA
 Rabbi Mark Golub, (Jewish), Newport News, VA
 Rev. Dwayne J. Westermann, ELCA, (Lutheran), Salem, VA
 Rev. Thomas G. Faulkner, Jr., (Episcopalian), Fredricksburg, VA
 Rev. Hubert Beckwith, (United Church of Christ), Annandale, VA
 Rev. Dr. L. Dean Majette, Ox Hill Baptist Church, (Baptist), Chantilly, VA
 Rev. Benjamin Axleroad, (Episcopalian), Arlington, VA
 Ms. Ruth McDonough Fitzpatrick, Women's Ordination Conference, (Catholic), Fairfax, VA
 Rabbi Howard M. Folb, (Jewish), Winchester, VA
 Rev. Woodward D. Morriss, Parish of Shenandoah, (Presbyterian), Raphine, VA
 Rabbi Amy R. Perlin, (Jewish), Fairfax Station, VA
 Rev. E. Glenn Hinson, (Baptist), Richmond, VA
 Rev. Gary Schroeder, ELCA, (Lutheran), Blacksburg, VA
 Rev. Roberta Finkelstein, (Unitarian), Arlington, VA
 Rabbi Bonnie Margulis, Central Conf. of American Rabbis, (Jewish), Staunton, VA
 Rabbi Arnold G. Fink, Beth El Hebrew Congregation, (Jewish), Alexandria, VA
 Rev. Marlene Walker, (Unitarian Universalist), Harrisonburg, VA
 Rabbi Jonathan Biatch, (Jewish), Staunton, VA
 Rabbi Rosalind Gold, (Jewish), Reston, VA
 Rabbi Paul F. Cohen, Sholom Temple, (Jewish), Norfolk, VA
 Rev. Bruce Edward Wilson, (Southern Baptist), Danville, VA
 Rabbi Jonathan E. Kraus, (Jewish), Alexandria, VA
 Rabbi Amy Schwartzman, Temple Rodef Shalom, (Jewish), Falls Church, VA
 Rev. Hubert G. Locke, (Disciples of Christ), Seattle, WA

Rev. Norman G. Folkers, (Lutheran), Lynnwood, WA
Rev. William E. Jones, United Methodist Elder, (Methodist), Edmonds, WA
Rev. David J. Brown, (United Church of Christ), Wenatchee, WA
Rev. Daniel Schnabel, (United Church of Christ), Yakima, WA
Rev. John Manter, (United Church of Christ), Tacoma, WA
Rev. Dee Eisenhauer, United Church of Christ in University Place, (UCC), Tacoma, WA
Sr. Barbara A. Ferraro, (Roman Catholic), Charleston, WV
Sr. Patricia Hussey, (Roman Catholic), Charleston, WV
Rev. Peter E. Erikson, (Evan. Lutheran Church in Amer.), Webster, WI
Rev. Samuel D. Robbins, (United Church of Christ), Madison, WI
The Rev. Carl R. Simon, (Presbyterian), Milwaukee, WI
Rev. William E. Rishel, First Congregational United Church of Christ, (UCC), Plymouth, WI

The Myth of 'Voluntary' School Prayer

Public prayer is popular in Jackson, Miss. Students at Wingfield High School voted overwhelmingly to allow one of their number to open a recent school day with a prayer over the school's intercom. When the local school board dismissed the principal for permitting the prayer, many students walked out of classes and many parents staged protest rallies. A State Senator promises to introduce a bill cutting off the school system's funding if it doesn't allow "voluntary" student prayer.

The protesting students and parents contend, mistakenly, that the Constitution allows and may even require the prayer. Fortunately for the religious liberty of all, the First Amendment does not let even huge majorities in a school require all students, whatever their faith or lack of it, to pray.

Supreme Court decisions against prayers that are state-sponsored or composed by state officials are only the clearest examples of violations of government neutrality toward religion. To avoid those rulings, some religious groups are claiming that student-generated "voluntary" prayer is different. One Federal court has allowed a short student-composed prayer at a graduation ceremony. But none have approved a prayer that is part of the schools' daily routine.

Such approval is unlikely. Courts are bound to recognize that it is still the state that hands the student the microphone. The principal, the state's

agent, knows full well that the student will lead the worship of the majority's God.

Half a century ago Justice Hugo Black announced a test that has endured many assaults on the doctrine of church-state separation:

"The establishment of religion clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another."

This test builds a high wall of protection for individual conscience. As Justice John Paul Stevens put it more recently, "Religious beliefs worthy of respect are the product of free and voluntary choice by the faithful," not the imposition of worship by a "volunteering" majority on others.

Devout students are not forbidden to pray. Federal law allows religious clubs and other organizations equal access to school rooms before or after class. They can pray silently, without microphone, to their deity.

Much more than a children's crusade is under way in Mississippi. Religious groups like Pat Robertson's American Center for Law and Justice and Donald Wildmon's American Family Association preach that religious establishment will redeem an immoral society. Better for all to learn religious tolerance than beam their particular prayers to a society of diverse faiths.

3/10/94

School-prayer issue returns to Senate with a new twist

'You can pinpoint when the decline of this country actually began," North Carolina Republican Sen. Jesse Helms informed his colleagues recently. The day Jesse Helms was elected to the Senate? No, the day the Supreme Court barred officially sponsored prayer in public schools.

Whether or not that decision put the nation on a downward slide, it did nothing to raise the level of political debate, which for 32 years has been corroded by politicians pretending to rescue the faithful from a hostile and godless government. I

Stephen Chapman

have yet to meet anyone who has been prevented by the Supreme Court from engaging in regular communications with providence, but some believers will never be content until their rituals carry a government endorsement.

The school prayer issue is back with a new twist, thanks to a 1992 Supreme Court decision that left the door open just a crack for certain expressions of religious faith in certain settings. The decision held that a school could not include a prayer led by a rabbi in a junior high school graduation ceremony.

At the time, the ruling was taken as a victory for those who believe in keeping a healthy distance between church and state. But groups on the other side thought it left some room for prayers if they were initiated by students rather than administrators and led by students rather than a cleric. And the 5th Circuit Court of Appeals agreed: If a majority of kids in a graduating class vote to include an invocation in their own commencement exercise, the court said, they're allowed to do so.

That was the opportunity for Pat Robertson's American Center for Law and Justice to send letters to 15,000 school districts around the country informing them that they had a legal duty to let students lead prayers during graduation ceremonies. It also has formed a team of lawyers to help fight school boards that disagree. Since the 5th Circuit verdict, other courts have taken a different view, but at least until the Supreme Court addresses the matter, the religious right has a useful weapon.

The Senate wants to make it even more powerful. The amendment offered by Helms would withhold federal education funds from any school district that interferes with "constitutionally protected prayer," and due partly to the help of Ted Kennedy, it passed by a 75-22 vote.

On the face of it, the measure does nothing more than say that what is allowed is allowed. In practice, it may not make any difference, since the dilemma educational administrators face is not deciding whether to permit constitutionally protected prayer but figuring out what is constitutionally protected prayer.

The Helms amendment offers no assistance in divining the inclination of the Supreme Court, which is ultimately what matters. But the amendment would tilt the scale a little. The conspicuous fact about this proposal is that it mandates no punishment for a school that allows constitutionally forbidden prayer. Helms and his fellow senators worry about only one type of misbehavior.

So if the threat achieves anything, it will induce school boards to err on the side of allowing too much prayer rather than too little. Maybe the intent is only symbolic, but the symbolism is loud and clear: Violations of free speech or religious freedom cannot be tolerated, but violations of the ban on establishment of religion can.

The real problem, though, is that many public schools habitually ignore the ban on official endorsement of religion. The Wall Street Journal reported in 1984 that such defiance is "repeated daily in many schools around the country. Religious observances include prayers read over the school loudspeakers, Gideon Bibles distributed free to students, roving students giving weekly gospel classes or evangelical youth ministers conferring locker-room blessings on school athletic teams."

In one recent case, a 12-year-old Texas girl joined the girls' basketball team at her junior high school, only to find that prayer was a regular feature of games, practices, pep rallies and bus trips. When she objected, her history teacher interrupted class to call the girl a "little atheist." In Minneapolis, a first-grader was punished for refusing to participate in daily prayers led by his teacher.

All these abuses have supposedly been stopped, but plenty of other kids no doubt suffer similar ones that go unreported and unchecked. They can expect no sympathy from the Senate, which upholds only those constitutional protections it likes.

School-prayer proposals pose problems

Some years ago, the fast-footed rapper Hammer donned a choir robe and chanted, "Pray, pray, you got to pray just to make it today."

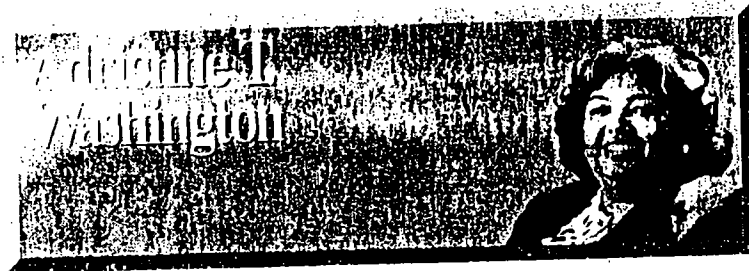
I agree. But Hammer should have noted you can pray just as long as you don't do it over the public address system of a public school.

We can't forget that the Constitution guarantees a separation of church and state — that includes school buildings.

Some well-meaning folks, however, believe that teen violence and sexuality is so rampant that children ought to be able to engage in student-led prayers during the school day, regardless of the constitutional prohibitions. They assume that the recitation of prayers will change childish, errant behavior for the better.

Who really knows? Remember, we are living with an entire generation — or two — of youth who have been raised without any religious training.

Some adults were surprised last week during a youth violence forum when far less than half the students raised their hands when asked if they believed in God or if they had ever attended a church service. It's difficult to preach personal responsibility to those who have



no idea what that means.

Virginia Gov. George Allen, the Virginia General Assembly and D.C. Council member Marion Barry are among those who would pass laws allowing state-sponsored school prayer in this violence-plagued decade.

Somehow these politicians believe this emotionally charged measure can be implemented without being offensive. Given the ethnic and religious diversity in this metropolitan region, it would take a miracle to do so. I bet Moses had an easier time parting the Red Sea with God's help.

So why is the school-prayer issue being resurrected now? Are these "new" bills just another feel-good gimmick offered by politicians who have no other concrete ideas about how to tackle the complex problems facing today's troubled youth?

I, too, wish that prayer could help restore calm and sanity, especially within schoolhouses,

but I know the solution is not that simple. In fact, the very mention of the touchy issue stirs up emotional debates that leave the participants feeling anything but peaceful or resolved.

Virginia students are already allowed "a moment of silence," ostensibly for the purpose of praying or meditation or to find out what it's like not to hear their boomboxes blasting for 60 seconds.

In the District, the Board of Education and the superintendent decided late last year that kids could pray any time they wanted as long as they initiated the religious practice themselves.

Heard a school choir or chorus lately? They often sing hymns or inspirational anthems during school-sponsored events without objection. Just listen to the world-renowned Eastern High School Choir, famous for its glorious singing.

I don't know if student-led prayers can curb student-led violence, but some would argue that it can't hurt. Exposing children to religions and spiritual development might promote discipline and tolerance. But is the public school classroom the proper place for prayer? I'm really not sure.

We are at a point in American society where we expect educators in public schools to make up for years of poor parenting. But schools are failing because society is failing. We are asking too much of our schools.

Now we expect educators to take up the slack in moral guidance. Self-discipline, for example, is being taught under the guise of "conflict resolution" in some areas.

Schools are resorting to condom distribution because far too many parents are not discussing the issues of sexuality with their offspring early enough.

Many students want to go to school early and remain as late as possible because the buildings represent a safe haven from the life-threatening environment they must face daily — even in their own homes.

In some jurisdictions, school systems now have government

social workers working side by side with teachers to address the basic human needs of so-called "at-risk" students.

The prevailing wisdom argues that schools are the one place all children must be, so while they are a captive audience, let's work out as many societal problems as we can in a six-hour day, for five days a week, 180 days a year.

This is not good, and it's just one of the many reasons why the educational program suffers so.

It now appears that we are poised to further the socialization process by including religion in the school day because many students seem to lack church-going experiences. But are we prepared to teach morals in schools when we have so many different views on what constitutes sound moral judgment and behavior in the larger society? I think not.

Prayer is such a personal thing. For some it is a daily ritual. For others it is no more than a wishful thought. Still others don't feel prayer is necessary at all.

We must be extra careful as we move down this murky road of attempting to make all schools all things to all children.

"USA TODAY hopes to serve as a forum for better understanding and unity to help make the USA truly one nation."

—Allen H. Neuharth
Founder, Sept. 15, 1982



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Karen Jurgensen
Editor of the
Editorial Page
Thomas Curley
President and Publisher

Today's debate: PRAYING IN SCHOOL

Legislators should butt out of school-prayer issue

OUR VIEW

Lawmakers, eager to make political points, are adding to the problem, not the solution.

When constitutional rights collide, the conflict is best resolved by courts and common sense. Not by overzealous legislators, who tend to turn constitutional fender-benders into full-speed, head-on crashes.

Just such a collision looms on school prayer. Students have a constitutionally guaranteed right to pray, even on school grounds. And they clearly have a right to freedom from other people's prayers.

The Supreme Court long ago addressed the second point, ruling school-sanctioned prayer unconstitutional. But a new round of debate is emerging over voluntary public prayer led by students — the kind that might be offered in a high school valedictorian's speech or at an after-school rally.

In a 1992 Texas case, a federal appeals court said graduation prayer is OK if it's student-initiated, non-sectarian and non-proselytizing. That's now the law in Texas, Louisiana and Mississippi, where the appellate court has jurisdiction.

School-prayer advocates, seizing momentum from that ruling, are vigorously lobbying legislatures to make it law in their states, too. Prayer laws are passed or in the works in Alabama, Florida, Georgia, Louisiana, Pennsylvania, South Carolina, Virginia and Tennessee.

The fervor even has reached Congress. Both houses have voted to deny federal

funds to school districts that prohibit students from voluntarily praying.

This legislative flurry scores points with prayerful constituents, who rightly believe government should not interfere in religious choices. Unfortunately, the legislative remedy only stands to make matters worse.

As different laws with different definitions of prayer evolve in different states, school officials' confusion mounts.

Some principals, just to be safe, require graduation speakers to sign a pledge that they won't mention prayer. Mississippi principal Bishop Knox thought he was obeying the law when he allowed a student-initiated, non-sectarian prayer over the school intercom. He lost his job.

Then there's poor Dwayne Oldham, a Tennessee principal caught between a student petition demanding prayer and an ACLU threat to sue if he permitted it. He's asked a court to settle the argument.

That's where the debate belongs. In court. Well-meaning laws that permit prayer open the door for abuse by those who would impose a majority's prayers on an unwilling minority. Denying federal funds because an overzealous principal bans voluntary prayer merely punishes students.

Either abuse — tyranny of the majority or overzealous restriction of students' rights — can be corrected in court. Eventually, such a case will reach the U.S. Supreme Court and the law for all will be clear.

Until then, legislators should have the good sense to get out of the way,

Mr. Helms vs. the Education Bill

The Senate is poised to pass an important education bill as it approaches recess, but Jesse Helms is blocking the doorway. The Republican Senator from North Carolina is trying to attach a prayer amendment to legislation that would set national standards for students and pour about \$5 billion into school reform. His efforts should be rejected.

Deciding what students should know and how to help them learn has become an integral part of the national school reform movement. But since national goals were defined at an education conference in 1989, Congress has not approved legislation that would help states achieve them.

Pending before the Senate now is the most ambitious legislative attempt yet to put the promise of the 1989 conference into action. The bill would encourage states to set standards in nine basic subjects.

The Senate measure aims to help localities meet growing expectations of what all students should know, without dictating materials or methods. Beyond that it would channel nearly \$5 billion to local districts for school reform, favoring those with

large numbers of disadvantaged students. The bill also provides funds for school safety.

The House passed a conference version this week, by a broadly bipartisan vote of 307 to 120. But in the Senate, Mr. Helms staged a filibuster to push a provision denying funds to any district that prevented students from participating in constitutionally protected school prayer.

The conference bill already provides that no funds from the legislation can be used to adopt policies that prevent voluntary prayer in schools. But Mr. Helms's plan holds out the chilling prospect of squabbles in schools around the country over what constitutes "constitutionally protected" prayer, with religious groups trying to use the threat of a cutoff of Federal funds to get their way.

The Senate is rushing toward recess this weekend and the bill needs to be signed by April 1 for the first \$125 million to be released this year. If Mr. Helms doesn't care about the \$2.1 million North Carolina would lose, the rest of the Senate should put the needs of schoolchildren first. That means sustaining a vote to cut off debate and passing the conference version of the bill.

Why Our Schools Shouldn't Have a Prayer

Violence is rising in D.C. schools, and D.C. Council member Marion Barry argues that prayer is the way to curb it. "With all this violence and other problems, we need to get back to trying to allow those who want to pray to do it," he said recently, when he introduced legislation on school prayer to the council. "It may set a moral tone at the schools."

Barry isn't alone. His initiative is part of a national trend. Virginia legislators, who had previously approved allowing "a moment of silence" for students, authorized explicit prayer before going out of session. Last month, Georgia passed legislation to allow both prayer and "a moment of quiet reflection"; prayer proponent David Scott, like Barry, said he was motivated by rising school violence. The measure, he explained, would encourage students to "look inward" and get "some things in order." Tennessee and Alabama have passed similar laws, which are now under court challenge, while other states have bills pending.

Even Congress is getting in on the act, with the House voting to withhold federal education funds from schools that bar students from engaging in voluntary prayer.

Alas, the school prayer debate illustrates the failure of both our educational and political systems. People want schools that can't teach arithmetic to preach spirituality; politicians who won't take the tough steps necessary to

improve the quality of schools hope to win votes through empty symbolism.

Not that there's anything wrong with, as Barry puts it, allowing "those who want to pray to do so." But they already can and do pray. Students can pray before tests, they can pray between classes and they can pray in class while a boring teacher drones on.

Of course, what Barry wants is public prayer—over the intercom, at assemblies and the like. Some state legislators, in Mississippi, for instance, would go further and inaugurate prayer led by administrators or teachers. Why?

There's no reason to believe that nondenominational prayer led by a perhaps unbelieving teacher is going to do much good. To the contrary, such formalistic rituals teach an empty spirituality devoid of meaning. Student-led prayer for irreverent classmates, in whatever forum, is likely to be little more effective.

Moreover, such official expressions of religiosity inevitably put pressure on nonbelievers. How should Muslims respond to a Christian prayer? Will Christians share the microphone with Jews, Muslims and pantheists? Or will the prayers be so general as to appeal to even the most skeptical?

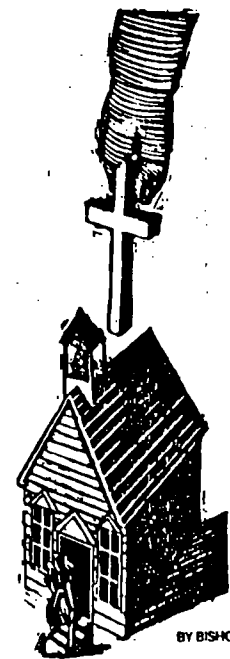
Of course, the problems that Barry and others speak of are hideous: The spread of violence, in particular, reflects a moral breakdown of frightening proportions. And prayer is

part of the answer—voluntary prayer, by those who believe in its efficacy, meant as a petition to God, not a show for man.

Thus, parents who want their kids to pray should lead them in prayer at home and take them to church. Pastors who want to rebuild a moral ethic should make their case by preaching rather than by lobbying legislators. And students who want to pray should—privately, whether on or off school grounds.

Let's not, however, ask schools that are little more than drug-infested holding pens to get in the God business. Their priority should be to provide a safe environment in which to teach kids to read and write. Until they do that, asking them to do much else, especially to lead a spiritual revival, is a fool's errand.

—Doug Bandow
is a senior fellow
at the Cato Institute.



BY BISHOP

GUEST VIEWS



**MICHAEL J.
CLINGENPEEL**

Legislative proposals to institute programs of "voluntary," student-initiated prayer in public schools are cropping up across the country. I am opposed to this type of legislation.

Not because I value prayer too lightly.

Not because I believe our public school students could not use the practice.

I am opposed because:

- Prayer legislation is unnecessary. Prayer has never been outlawed in public schools. Any student who chooses to utter a sincere prayer can do so any time he or she wishes. The human conscience has never been held captive by the state, nor can it be.

- Our Baptist mothers and fathers

fought any attempt of the state to administer private religious practices. It escapes me why people who argue that public schools have messed up our children's education want to see public schools in charge of our children's religion. Let me choose whom I want to teach my child about talking to God.

- So-called student-initiated prayers are rarely so. More often they are parental-induced attempts to return to an idealized world. The '50s may look good now, but they also brought us the John Birch Society, Joseph McCarthy, the Ku Klux Klan and Baptist churches riddled with overt racial prejudice. We had prayers in schools during those days.

- A pluralistic society must protect the rights of the minority against the majority, not vice-versa. Because majority rule is often heavy-handed, our federal Constitution protects minorities. I have lived elsewhere in the United States where Baptists and Christians are minorities, and the prospects of student-initiated prayers in those places was not pleasant for a Baptist Christian.

Prayers on the lips of zealous, majoritarian ideologues can be used to bludgeon sincere believers. A religious bully is no less a bully.

- Most prayers in the "public square" are innocuous, flaccid imitations of the real thing, often uttered for a human, not divine, audience. That goes for prayers in state legislatures and the U.S. Congress.

- Granting to one student the right to utter audible prayers violates another student's right not to listen. School prayer legislation addresses the right to pray, but ignores the right not to listen.

Most people disagree with me. Public opinion polls prove it. Lawmakers everywhere are passing this type of legislation. But that doesn't make it right, nor constitutional, nor Baptist. Δ

Michael J. Clingenpeel, editor of the Religious Herald, newsjournal of the Baptist General Association of Virginia, recently testified against school prayer proposals later approved by state lawmakers.

REPORT from the CAPITAL

James M. Dunn
Executive Director

Larry Chesser
Editor

Pam Parry
Associate Editor

J. Brent Walker
Book Reviews

REPORT (ISSN-0346-0661) is published 24 times each year by the Baptist Joint Committee.

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GUEST VIEWS



DAN BAGBY

Our concern in the religion in public schools debate is what will help our children gain a set of values that will strengthen them and this nation for the present and future challenges. Will a public prayer in school do that? I

doubt it seriously.

Why? First, because such uses of prayer are "magical" thinking, seducing people into the mistaken belief that if all our children are "prayed" over every morning, they will magically develop moral standards and high ideals.

We need to get away from a superstitious view of prayer as "covering all our sins." Rather than instill faith and affirm values, such rote exercises demean faith, rob prayer of its true meaning and teach a very shallow religious routine which betrays any biblical view of prayer.

Prayer is not magic, and its superficial parading (whether at a football game, a public gathering where it is immediately forgotten or with a crowd of people who have anything on their minds but worship) is a sacrilege.

Perhaps the greatest problem with public prayers in school, however, is the illusion they create that we have "given our children religion."

Such mistaken notions often free parents from the primary responsibility of teaching prayer and faith at home, where it rightly begins and belongs.

No public prayer in school will ever "teach" religion, and parents, educators and citizens can easily absolve themselves of the responsibility of communicating values to children when they've instituted a morning prayer in school. If that's what we're counting on to turn our children toward values — we are all in real trouble.

Parents who want prayer in school, yet rarely pray with their children, confess by their practices that they really don't believe very much in prayer. Values and beliefs are most significantly taught at homes; schools will never substitute the

home as the center for religious belief and values.

What opportunities arise out of this issue? I see these:

- Those who believe in providing values and religious direction in public schools can use the "equal access" legislation to provide student-led or church-led prayer gatherings and Bible studies in school buildings before or after school hours.

- Believers in the teaching of faith and values will be busy at home giving direction and modeling a life of values. If they go to church with their children, rather than drop them off, their lives will reflect what they claim is important.

- Church leaders and other believers who have strong convictions about the importance of instilling values in all children will spend time and energy praying for, and also becoming involved in, the lives of children and youth — at home and school.

Article is adapted from a column by Dan Bagby, pastor of Seventh and James Baptist Church, Waco, Texas, published Feb. 5 in the Waco Tribune-Herald.

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Robertson Trying Again To Put Prayer in Schools

NEW YORK TIMES

APRIL 16, 1993

By MICHAEL deCOURCY HINDS

At Blue Ridge High School in Farmer City, Ill., 63 of the 66 members of the Class of 1993 recently voted to say prayers during their graduation ceremony next month.

School officials in the tiny farming community turned them down.

But Pat Robertson, the television evangelist, is hoping to use Farmer City, 90 miles southeast of Peoria, as a test case in his campaign for prayer in public schools, an effort that has put the issue back on the agenda of school officials around the country as they plan for spring graduation ceremonies.

Threats From Both Sides

No matter what they decide, many schools might be drawn into an expensive legal battle. The advocates for prayer in schools, led by Mr. Robertson, are threatening to sue boards that ban prayer at graduation ceremonies. Mr. Robertson is seeking a showdown over an apparent inconsistency in recent Federal court decisions on the issue.

Opposing them are civil libertarians, led by the American Civil Liberties Union.

"We're really stuck in the middle," said Gwendolyn H. Gregory, deputy general counsel of the National School Boards Association in Washington.

What are school officials to do? Ms. Gregory's organization, which represents nearly all school districts, has advised members that the best way to avoid expensive litigation would be to allocate a moment of silence to "solemnize" the graduation ceremony. But Ms. Gregory said school officials must not suggest how people should use the time, as any reference to prayer would be unconstitutional.

The legal tangle that gave Mr. Robertson his opening began last June, when the United States Supreme Court ruled, in *Lee v. Weisman*, that a public school could not have a member of the clergy offer a school-approved prayer at a graduation. That, the Court ruled in a 5-4 decision, amounted to an unconstitutional endorsement of religion by the state.

Conflicting Appellate Decision

As part of that decision, the High Court vacated an appellate court ruling in a Texas case, *Jones v. Clear Creek*, that had permitted "non-sectarian, non-proselytizing" prayers initiated by students and led by students. The Supreme Court sent that case back to the appellate court for reconsideration. But the lower court, the United States Court of Appeals for the Fifth Circuit, in New Orleans, stood by its ruling.

The panel of three judges ruled unanimously last November that student-led prayer, unlike clergy-led prayer that the Supreme Court had banned, was constitutional. The decision has been appealed again to the Supreme Court. If the Court accepts the case, it would probably not issue a ruling until next year.

Several constitutional scholars said in interviews that despite the recent rulings, the Supreme Court had consistently forbidden public schools to authorize any kind of prayer. That prohibition, they said, would also prevent a school district from authorizing students to initiate a prayer at graduation ceremonies.

"The Supreme Court has taken the view for 30 years that you cannot turn any part of the activity of the school into a forum for prayer," said Stephen L. Carter, professor of law at Yale Law School and an expert on the separation of church and state.

Many religious organizations support keeping prayer out of public schools, and they were baffled by the Fifth Circuit decision permitting student-led prayer, said Douglas Laycock, a professor of law at the University of Texas Law School and a specialist in constitutional law and religious liberty.

In *Lee v. Weisman*, Professor Laycock filed a brief with the Supreme

Court opposing clergy-led prayer in schools on behalf of six major religious organizations, including the American Jewish Congress, the Baptist Joint Committee on Public Affairs and the National Council of Churches.

"It looks like the Fifth Circuit is thumbing its nose at the Supreme Court," Professor Laycock said. "It may be a bad decision, but it's a decision, and if I were Pat Robertson, I would run with it, too."

The Fifth Circuit's ruling has the force of law only in Texas, Mississippi and Louisiana.

'Misguided Zealotry'

Mr. Robertson, whose organization is based in Virginia Beach, Va., has promised to "insure that the rights of students are protected against school administrators or the misguided zealotry of the American Civil Liberties Union." The American Civil Liberties Union maintains that any school-approved prayer would be unconstitutional. "Mr. Robertson is blinded by the results he wants," said Robert S. Peck,

Reviving an issue in time for graduation.

the organization's legislative counsel in Washington.

In a mass mailing in February and March, Mr. Robertson's legal organization, the American Center for Law and Justice, distributed more than 300,000 copies of a three-page bulletin detailing the Fifth Circuit's decision regarding school prayer. Jay A. Sekulow, the center's chief counsel, said that among the recipients were the nation's 15,000 school districts.

The center, which has 13 staff lawyers and 75 affiliated lawyers around

the country, said on April 5 that it would send legal "SWAT teams" to communities around the country to inform officials that student-led prayer is a constitutional right.

Exceptions for Prayer

Mr. Peck of the civil liberties union said that students could pray in graduation ceremonies only if school officials had not been consulted beforehand. Students could pray silently, or a class valedictorian might include a prayer in his or her speech as long as the speech had not been approved by school officials. Or school officials might designate some portion of the graduation ceremony as a public forum to exercise free speech.

In Farmer City, where Mr. Robertson's group is hoping for its first test case, local religious leaders referred the students to Mr. Robertson's law center after school officials denied their request for student-led prayer. The center then dispatched two lawyers to the agricultural community population of 1,700 people, and they discussed the issue with school officials and students.

"From the materials they gave us, we gather we have the right to pray," said Chad Vance, the 18-year-old class treasurer. "They said they will support us in court if we decide to file a lawsuit. We're seeing the eroding away of our national heritage."

Lelan G. Beckley, a soybean farmer who is president of the school board, said he was sympathetic with the students' concern. "It's not what I believe in," he said, "it's the law that we have to govern ourselves by."

On Monday, the board plans to consider overruling the school officials' prayer decision.

The American Civil Liberties Union has also been in touch with the board through a letter. "It said if we have prayer, we'll be looking at a lawsuit," Mr. Beckley said.

News Release

IMMEDIATE RELEASE
FEBRUARY 16, 1994

CONTACT: GENE KAPP
(804) 523-7239

ATTORNEY GENERAL REQUESTED TO PROTECT STUDENTS' CIVIL RIGHTS

(Washington, D.C.) -- U.S. Attorney General Janet Reno and Secretary of Education Richard Riley have been asked to intervene in school districts across the country which are violating the federal civil rights of students who are being denied access to participate in constitutionally protected religious activities at school.

The request came today -- in a national news conference -- from the American Center for Law and Justice, a Virginia-based public interest law firm and educational organization which has initiated an aggressive legal campaign by filing lawsuits against offending school districts nationwide.

"School districts across America have developed a cavalier attitude toward the First Amendment rights of students on campus," said Jay Sekulow, Chief Counsel of the ACLJ. "There's an open hostility to constitutionally-protected religious activities in the schools, and we're asking the Justice and Education Departments to step-in and provide assistance to stop it."

At issue: a growing number of public school districts that refuse to permit students to participate in prayer groups or Bible clubs. In this school year alone, Sekulow says the ACLJ has received requests for assistance in 82 school districts in 28 states, and has now gone to court in Virginia and New York over the issue.

Sekulow said: "The number of violations which are cropping up around the country is alarming. It's time for the federal government to step-in and protect the free speech rights of all students -- including those with religious beliefs."

The ACLJ contends the federal civil rights of students are being violated in several ways:

1) SCHOOL DISTRICTS ARE IGNORING THE EQUAL ACCESS ACT. The Act makes it unlawful for any public school that receives federal funding, and allows non-curriculum clubs to meet on campus to deny equal access to any students who wish to conduct a meeting "on the basis of the religious, political, philosophical, or other content of the speech" at the meetings.

-MORE-

"To defend the rights of believers."



1000 Centerville Turnpike
P.O. Box 64429
Virginia Beach, VA 23467
804-523-7570
804-523-7546 (Facsimile)

ATTORNEY GENERAL ASKED TO PROTECT STUDENTS' CIVIL RIGHTS
PAGE 2/FEBRUARY 16, 1994

2) SCHOOL DISTRICTS ARE DENYING STUDENTS' FIRST AMENDMENT RIGHTS. In 1990, the U.S. Supreme Court upheld the constitutionality of the Equal Access Act in the case of *Westside Community Schools v. Mergens*, which allowed Bible clubs or prayer groups to meet on public school campuses.

"The growing wave of intolerance against people of faith must be stopped," said Keith Fournier, Executive Director of the ACLJ. "It's a threat to everyone -- even those who do not believe. It strikes at the heart of the nature of liberty in a constitutional democracy."

In a letter delivered today to Attorney General Reno and Education Secretary Riley, Sekulow -- who successfully argued the *Mergens* case before the Supreme Court -- urged the Civil Rights Division of the Justice Department to conduct an investigation, and appealed to the Education Department to make school districts who receive federal funds prove that they are complying with the Equal Access Act.

In the words of Sekulow: "If a school permits a French club or a science club to meet, they must permit the formation of a Bible club or a prayer group. It's that simple. And in too many school districts, that is not happening."

The ACLJ filed suit today in U.S. District Court in Norfolk, Va. and in U.S. District Court for the Eastern District of New York on behalf of high school students who have been denied permission to take part in Bible clubs in their schools.

In Virginia, the ACLJ is suing the Isle of Wight County School Board because two students from Smithfield High School were denied permission to form a Bible club. In New York, the case involves two students who were denied permission to start a Bible club at Roslyn High School in Roslyn Heights, New York. In both cases, the ACLJ is asking for injunctive relief to bring an end to the illegal actions of the school districts.

ACLJ Chief Counsel Sekulow says more lawsuits are likely: "There's a new belligerent attitude that defies the imagination. We will not hesitate to send legal SWAT teams anywhere in the country to protect the free speech rights of students."

ACLJ's Fournier says the request to get the federal government involved is an important move in protecting students' rights too: "One of the proper roles of government is to defend the constitutionally-protected rights of its citizenry. That's why we're asking the federal government to intervene on behalf of all students who, because of their religious beliefs, are being denied equal access."

-MORE-

ATTORNEY GENERAL ASKED TO PROTECT STUDENTS' CIVIL RIGHTS
PAGE 3/FEBRUARY 16, 1994

Both Sekulow and Fournier say they believe there are several reasons why there's a growing hostility toward religion in schools: first, students are becoming more aware of their First Amendment rights and exercising them; and secondly, there's an organized campaign of misinformation and disinformation to give both students and school administrators the wrong impression concerning the legality of student-led and student-initiated prayer in public schools.

In addition to supplying the Justice and Education Departments with information about the violations of the Equal Access Act, the ACLJ will send information to the White House and each member of Congress.

The American Center for Law and Justice is a public interest law firm and educational organization based in Virginia Beach, Va. The ACLJ has a national network of affiliate attorneys with offices in Washington, D.C., Atlanta, Phoenix, as well as New Hope, Kentucky and Mobile, Alabama.

For further information, contact: Gene Kapp at (804) 523-7239.

WALSH, ANDERSON, UNDERWOOD, SCHULZE & ALDRIDGE, P.C.
ATTORNEYS AT LAW

6300 La Calma Suite 200 Austin, Texas 78752

Austin Mailing Address:

P.O. Box 2156 Austin, Texas 78768
(512) 454-6864 FAX (512) 467-9318

Renaissance Plaza Suite 800 70 N.E. Loop 410
San Antonio, Texas 78216

San Antonio Mailing Address:
P.O. Box 460606 San Antonio, Texas 78246-0606

Jim Walsh
Denise Howell Anderson
Andy Underwood
Eric W. Schulze†
John S. Aldridge
Chris G. Elizalde
Paul W. Hunn
Elena M. Gallegos

Laurie Maniotis
Melissa Wiginton
Oscar G. Treviño
Dorcas Ann Green
Nan P. Seidenfeld
Jim Hollis
Therold I. Farmer
Bridget R. Robinson

Texas Board of Legal Specialization
†Board Certified Civil Appellate Law
*Board Certified Personal Injury Trial Law
*Board Certified Civil Trial Law

November 4, 1993

Of Counsel:
John Judge*

Stuart J. Roth
Special Trial Counsel
American Center for Law and Justice
P.O. Box 64429
Virginia Beach, VA 23467



VIA FEDERAL EXPRESS
AND FAX 804 523-7546

Re: Matter of Amber B. and Mineral Wells Independent School District

Dear Mr. Roth:

The School's Curricular Obligation under Federal Law

As the American Center for Law and Justice's (ACLJ) team of lawyers is undoubtedly aware, the federal Drug-Free Schools and Communities Act, 20 USC §1371 et seq., requires each public school recipient of federal funds annually to incorporate as part of its curriculum an educational program that discourages drug use among its students. In Texas, many public schools, including Mineral Wells Independent School District, fulfill these requirements of federal law by cooperating with certain state-based programs such as "Texans' War on Drugs Week," and "Red Ribbon Week." These programs, which are adopted by, endorsed by, sponsored by, and carried out by the school district, include a variety of activities, many of which encourage student participation. The thematic decoration of the classroom door by the fifth-grade science class at Travis Elementary School is one of those activities.

An Outline of the Constitutional Basis
for the District's Actions

Starting with basic constitutional principles, we know from Perry Educ. Assn. v. Perry Local Educators' Assn., 103 S.Ct. 956 (1983) and its progeny that an elementary school is presumed to be a non-public forum until and unless school authorities have opened its facilities for the "indiscriminate use by the general public." Mineral Wells Independent School District officials have not designated the hallways, the classrooms, or the classroom doors of

Travis Elementary School or any other of its campuses as public fora either by official act or by custom and practice.

The designation by school officials of the top science students and the assignment made to decorate the classroom door form an integral part of the school's celebration of Red Ribbon Week. The designation of the students and the assignment simply do not constitute the opening of any part of the school's facilities as a public forum. The requirement by federal law, the sponsorship by the school, and the school's assignment to the students bring the facts under Hazelwood School Dist. v. Kuhlmeier, 108 S.Ct. 562 (1988). Although I have never seen the Kuhlmeier case cited in ACLJ literature, articles, or demand letters, I have no doubt that your well-financed legal team will be able to locate, read, and assimilate this very significant Supreme Court opinion.

Although we appear to have no reported cases directly on point in the Fifth Circuit, the federal district courts in other jurisdictions that have faced similar facts have consistently upheld the position that schools may--with respect to student projects that are part of curriculum or that are school-sponsored--exercise their obligations under the Establishment Clause to avoid the appearance to their impressionable young charges that religious messages carry the imprimatur of the governmental entity. See, e.g., Duran by and through Duran v. Nitsche, 780 F.Supp. 1048 (E.D. Pa. 1991).

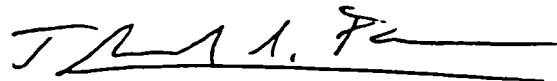
School authorities indisputably possess under Kuhlmeier the discretion to make restrictions that are reasonably related to legitimate pedagogic concerns. Mineral Wells Independent School District bears responsibility under Kuhlmeier and under Establishment Clause jurisprudence to ensure that students' religious messages on the classroom door projects, including Amber B.'s, are not erroneously attributed to the school. Amber B.'s school-sponsored door decoration cannot be accurately characterized as personal religious expression or private religious activity. The activity that Mineral Wells Independent School District has restricted cannot be characterized as analytically similar to private prayer, to religious discussions with fellow-Christians, or to individual distribution of religious literature within the school's time, place and manner regulations--all of which activities the school district protects under the Free Exercise clause. ACLJ's demand letter confuses the issue by pretending that Mineral Wells Independent School District's concern is that Amber B. has violated the Establishment Clause. We both know that is a false issue.

Mr. Stuart Roth
American Center of Law and Justice
November 4, 1993
Page 3

A Legally-Irrelevant Conclusion

On a legally-irrelevant personal note, I offer this observation: the overwhelming majority of public school administrators and of school board members in the state of Texas are evangelical, fundamentalist, or conservative Christians. Far from having given up on the public schools, they struggle to conserve the resources that state and local tax bases provide for the education of girls and boys. They are acutely aware of the careful balance they must constantly maintain in order to avoid getting caught between warring special interest groups. The risk they run of squandering their meager resources on litigation is ever-present to them. The ACLJ's heavy-handed and confrontational tactics have not gone unnoticed among the vast number of persons who are its potential allies. Nor has ACLJ's \$9 billion budget. I am presumptuous enough to urge the ACLJ to give some thought both to its deteriorating public relations in this state and to the inadequate legal analysis upon which it appears to rely in its demand letters. I trust that the ACLJ shall find a more appropriate use for its \$9 billion dollars than to sue Mineral Wells Independent School District over an issue in which the District clearly acted under established constitutional principles and for which--had it acted otherwise--would today find itself under threat from the ACLJ's liberal counterpart.

Sincerely,



Therold I. Farmer

TIF/gla

xc: Mr. Michael R. Hirsh,
Staff Counsel
American Center for Law and Justice
P.O. Box 64429
Virginia Beach, VA 23467

Via Certified Mail/RRR

Dr. Ron Munday
Superintendent of Schools
Mineral Wells Independent School District
District Services Complex
906 S.W. Fifth Avenue
Mineral Wells, Texas 76067



Via Fax (817) 325-6378

NSBA news

National School Boards Association / 1880 Duke Street, Alexandria, Virginia 22314 / (703) 838-6722
For Immediate Release

March 3, 1994

Contact: Gus Steinhilber
Phone: 703-838-6710

CHRISTIAN LEGAL GROUP IMPROPERLY THREATENING SCHOOL DISTRICTS ON CLUB ACCESS, NSBA CHARGES

Alexandria, VA - March 3, 1994 - The National School Boards Association (NSBA) today charged that the American Center for Law and Justice (ACLJ) is improperly threatening school districts with lawsuits over compliance with the Equal Access Act.

The ACLJ has identified more than 80 school districts as having violated the Act, which concerns meetings by student groups that are not related to the school curriculum at public high schools.

In a letter to ACLJ Director Jay Sekulow, NSBA General Counsel August Steinhilber accused the ACLJ of distorting both the Act and the Supreme Court decision interpreting it.

"The ACLJ is plain wrong when they tell administrators that every public school is covered and they are wrong when they characterize school districts as intolerant to people of faith," Steinhilber said. "The act only applies to secondary schools and as the ACLJ knows, public schools promote tolerance of every student's beliefs."

Steinhilber said that the ACLJ campaign to pressure school districts to permit use of their facilities for Bible clubs or prayer groups is destined to create confusion and misunderstanding among school administrators.

"Schools and students would be better served if the ACLJ would work with us and the local school boards instead of using their self-styled 'SWAT' teams to promote controversy," Steinhilber said. "We are forced to spend valuable time and money addressing the ACLJ's erroneous threats than we are assisting school boards in complying with the law."

Steinhilber called on the ACLJ to work with school districts and the NSBA in a spirit of cooperation and not confrontation.

"With all of the problems facing schools -- from crime and violence to the lack of money to deal with the huge influx of immigrant students -- the last thing we need is a war over religion promoted by the ACLJ," Steinhilber said.

NATIONAL SCHOOL BOARDS ASSOCIATION

OFFICE OF GENERAL COUNSEL

August W. Steinhilber
General Counsel

Gwendolyn H. Gregory
Deputy General Counsel

Naomi E. Gitzins
Staff Attorney

R. Butler
Director of Administration

A. Williamson
Legal Services

March 2, 1994

William M. Sault
NSBA President

Thomas A. Shannon
NSBA Executive Director

Harold P. Seamon
NSBA Deputy Executive
Director

Jay Alan Sekulow, Esq.
Chief Counsel
The American Center for Law and Justice
1000 Centerville Turnpike
P.O. Box 64429
Virginia Beach, VA 23467

Dear Mr. Sekulow:

Several school districts have forwarded to this office copies of your statement on the Equal Access Act and your intent to send legal SWAT teams after any school district that does not comply with your reading of the Act.

Your documents contain numerous misstatements about the law and can only lead to more confusion at the local level.

- The Act only applies to secondary schools -- not all schools.
- The Act only applies to those public secondary schools that permit non-curriculum-related student groups to meet before or after instructional time.
- Curriculum-related student groups which do not trigger the Act include, contrary to your statement, French Clubs and Science Clubs where the schools offer classes in these subjects, as the U.S. Supreme Court noted in *Board of Education of Westside Community Schools v. Mergens*, 496 U.S. 226 (1990).
- Your calls for the U.S. Department of Justice or the U.S. Department of Education to intervene are misleading at best. The law does not give the federal government that authority. Indeed, the law specifically precludes the federal government from withholding or denying any federal funds for failure to comply.



1680 Duke Street, Alexandria, Virginia 22314 • (703) 838-6722
FAX • (703) 683-7590

Immediately after the U.S. Supreme Court decision in *Mergens*, a number of religious education and civil rights groups sat down to draft guidelines to help school districts comply with the Act. NSBA was part of that effort. Those guidelines were deemed to be critical because school districts need to obey the law precisely and not be subject to legal attack, either by those claiming violation of the Equal Access Act or those claiming violation of the establishment clause.

Local school boards have to face a myriad of education and social problems and should not be brought into a religious war. It is unfair and deceptive to characterize school districts as "hostile" to religion, given the rapid changing scope of the First Amendment as it applies to schools. Therefore, I call on ACLJ to work with school districts, NSBA and other interested groups in a spirit of cooperation, not confrontation.

Sincerely,



August W. Steinhilber
General Counsel

c: Attorney General Janet Reno
Secretary of Education Richard W. Riley

News Release

IMMEDIATE RELEASE
FEBRUARY 4, 1994

CONTACT: GENE KAPP
(804) 523-7111

LEGAL GROUP APPLAUDS SENATE ACTION ON PRAYER

(Virginia Beach, Va.) -- The Chief Counsel of the American Center for Law and Justice, which has been in the forefront of the legal battle to protect student-initiated prayer in public schools, said the action taken by the U.S. Senate on school prayer is "encouraging and should help end the confusion" surrounding the rights of students.

The Senate yesterday passed an amendment offered by Senators Jesse Helms and Trent Lott which would deny federal funds to school districts that prohibit constitutionally protected voluntary prayer.

And today, in a non-binding resolution, the Senate voted in favor of encouraging educators to allow students a brief period of silence every day that supporters say could be used for silent prayer.

"There is definitely a prayerful spirit on the floor of the Senate these days," said Jay Sekulow, Chief Counsel of the ACLJ. "It's nice to see that legislators are beginning to recognize that people of faith have rights too."

Saying he's encouraged by the move to penalize school districts that don't permit constitutionally protected student prayer, Sekulow said: "Religious speech and student speech are constitutionally protected. Tying funding to a respect for freedom of speech and freedom of religion will not hurt those school districts that recognize that their student populations are citizens too, and not merely pupils."

Sekulow served as counsel in the U.S. Supreme Court case *Westside Community Schools v. Bridget Mergens*, in which the high court ruled that students who wish to form bible clubs and prayer groups on campus enjoyed protection under the First Amendment and federal law.

Sekulow said: "There has been a mistaken belief that individual student prayer, initiated and led by students, somehow violates the Constitution and is contrary to the Supreme Court's decisions from the 1960's striking down compulsory prayer requirements in public school settings. Nothing could be further from the truth. In fact, the proud tradition of the Court has been to carefully protect students' speech rights while respecting the need of public school officials to prevent disruption of the school."

-MORE-



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1000 Centerville Turnpike
P.O. Box 64429
Virginia Beach, VA 23467
804-323-7570

LEGAL GROUP APPLAUDS SENATE ACTION ON PRAYER

PAGE 2

FEBRUARY 4, 1994

The Executive Director of the ACLJ, Keith Fournier, expressed pleasure with the Senate's action: "One of the key responsibilities of Congress, under our Constitution, is to promote the general welfare through its exercise of the spending power. The Senate has sent a strong message warning school districts that religious intolerance won't be ignored. I trust this legislation will take us a long way toward the day when a student who bows her head to pray before lunch will not be treated as though she were using a controlled substance."

The American Center for Law and Justice is a public interest law firm and education group based in Virginia Beach, Va. The ACLJ has a nationwide network of affiliate attorneys and has offices in Washington, D.C., Atlanta, Phoenix, as well as New Hope, Kentucky and Mobile, Alabama.

Excerpts from the ACLJ Press Conference
February 16, 1994

Q- A couple of weeks ago, the Senate passed a Helms amendment relating to school prayer. How does it relate to all this?

Jay Sekulow- I think it could be very, very helpful. You know, Senator Helms' bill, which was modified and co-sponsored by Senator Kennedy, provides that if "constitutionally-protected" prayer activities are interfered with by school administrators, they're subject to losing their federal funding. That would be a very, very important weapon that we would have in this ongoing struggle for student free speech in this country, is that (if) one of these school systems violates the Equal Access Act, and denies a prayer group from meeting, that they could be subject to losing federal funding. Couple that with a lawsuit, and I think we'd have a tremendous opportunity to resolve this case in the courts.

EXCERPTS FROM "A CALL TO ACTION"

MARCH 28, 1994

Sekulow:

"If a school district denies students the right to pray. constitutionally protected prayer activities. whether it's around the school board or graduation prayer. If that right is denied -- and everybody needs to hear this -- then the school board who's been violating the law will lose federal funding...And that's a very, very important aspect. an additional tool that will give us to really go after these school boards. in addition to law suit."

Ty Bragg, field producer of "A Call to Action" went even further:

Bragg:

"Recent rulings from the federal courts have made it clear that public school students' speech rights accompany them when they enter the schools. That includes voluntary prayer. Should this [Helms'] Amendment become law, it would seem that the battle to protect student Bible and prayer clubs, prayer at graduation exercises, or the battle over Christian groups gaining access to public school facilities would pretty much become a thing of the past."

Also, on NET's Family Forum Live from 3-15, Rep. Sam Johnson (R-TX) discussed the prayer bill he introduced in the House. He says his bill, which is identical to the Helms Amendment, would protect all constitutional prayer. The problem, of course, is determining what is constitutional prayer. Here, Johnson claims that the infamous prayer over the P.A. system in Jackson, Mississippi would have been protected by his legislation.

Paul Weyrich:

"I was in Jackson, Mississippi this past week and did a broadcast from there. One of the people I had on the show was Bishop Knox...Would your amendment help him?"

Johnson:

"Certainly. Most certainly. It protects constitutional right of prayer in school. It would help him if they were getting federal funding in any way, shape or form"

More Johnson:

"...Everything boils down to dollars. And when you start pulling the dollars from schools, they're going to sit up and take notice because they want the money. And if they have to allow prayer to get the dollars, they're going to do it. So I think whatever we have to do to get prayer back in school and make sure that our kids are protected when they want to pray, we ought to do it."

THE RUTHERFORD INSTITUTE

JOHN W. WHITEHEAD
Founder and President

REGIONAL OFFICES

Stockton, California
Atlanta, Georgia
Grand Rapids, Michigan
Dallas, Texas
Fredericksburg, Virginia

INTERNATIONAL HEADQUARTERS
Post Office Box 7482
Charlottesville, Virginia 22906-7482
U.S.A.

TELEPHONE 804 • 978 • 3865
FACSIMILE 804 • 978 • 1789

May 19, 1994

INTERNATIONAL OFFICES

The Rutherford Institute
of the Hispanic and
Asian Communities
Miami, Florida
The Rutherford Institute
of Bolivia, La Paz, Bolivia
The Rutherford Institute
of Central and Eastern Europe
Budapest, Hungary
The Rutherford Institute
of the United Kingdom
Nottingham, England

Mr. Timothy Morrell
Superintendent of Schools
501 Glebe Street
Johnstown, New York 12095

Dear Mr. Morrell:

It has been brought to the attention of The Rutherford Institute, a nonprofit legal defense organization dedicated to protecting religious liberty, that seniors at Johnstown High School have been denied student-initiated prayer during the graduation ceremony. We further understand that this decision was made in spite of a majority vote by the students favoring graduation prayer.

The Rutherford Institute has determined your denial to be in violation of the students First Amendment Rights of Free Speech. It is a long established principle that "students do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." Tinker v. Des Moines School District, 393 U.S. 503 (1969). Student expression cannot be confined to viewpoints that are officially approved. Id. at 511.

The Supreme Court ruled in Lee v. Weisman, 112 S.Ct. 2649 (1992), only when a public school official invites a member of the clergy to deliver graduation prayers, and when the official advises the member of clergy on how to deliver the prayers, the Establishment Clause is violated.

It is important to recognize the three instances of government involvement that the Supreme Court found problematic. First, the principal in that case mandated that an invocation and benediction should be given. Id. at 2655. This, the Court found, was just as problematic as if there were a state statute mandating the prayer. Second, the principal chose the religious participant. Id. Third,

the principal further controlled the ceremonies by providing the speaker with Guidelines on what to say. Id. at 2656.

Note the level of school involvement exhibited in this case. Justice Kennedy, who wrote the opinion, was apparently very concerned that the effort by the school administrators in this case to monitor prayer would be perceived by the students as inducing a participation they might otherwise reject. Id. at 2651. He felt that the students faced "subtle coercive pressures" which amounted to peer pressure. Id. at 2658. He stated: "The undeniable fact is that the school district's supervision and control of a high school graduation ceremony places public pressure, as well as peer pressure, on attending students to stand as a group or, at least, maintain respectful silence during the Invocation and Benediction. This pressure, though subtle and indirect, can be as real as any overt compulsion." Id. (emphasis added).

The Court did not rule that all types of prayer were forbidden at graduation ceremonies. Only those prayers which are replace with official school involvement (for that could constitute undue coercion) are prohibited by this decision. However, there are other situations where prayers would still be constitutional.

One of these would be student planned graduation ceremonies. In many high schools, student representative bodies are responsible for planning the program, within content-neutral guidelines, and selecting one or more student speakers for their graduation ceremonies. If one of the student speakers offers an invocation or benediction on their own initiative--especially with written and verbal disclaimers to the effect that the speeches, opinions and topics offered by the students are not endorsed by the school--then the three elements of Lee v. Weisman are missing: first, no school official is involved in selecting or advising the speaker, second, the person offering the prayer is a student rather than a local member of the clergy, and third, there is no coercion or endorsement.

This was the situation in Jones v. Clear Creek Independent School Dist., 977 F.2d 963 (5th Cir. 1992), the first case to be decided in light of Lee v. Weisman. In that case, the Fifth Circuit Court of Appeals held that the "coercion" that the Weisman Court was so concerned about vanished if school officials merely permitted the graduating class to choose, by majority vote, to include a student's non-sectarian, non-proselytizing prayer. Id. The federal appeals court held that the school did not unconstitutionally endorse religion if it submitted the decision of graduation invocation content, if any, to the majority vote of the senior class. Id. at 969.

The policy at issue in Jones expressly mentioned prayer, stating that "the use of an invocation and/or benediction at high school graduation exercise shall rest within the discretion of the graduating senior class, with the advice and counsel of the senior class principal." Id. at 964 n.1. Nevertheless, the court found

this policy to be constitutional. However, to further distance the school's involvement, a school could create a policy allowing for the students to choose a special student speaker to present a speech of any type or, as mentioned above, to place the entire program within content-neutral guidelines. These could include specific exclusions of obscenity, "fighting words," commercial advertisements, advocacy of illegal acts or slanderous statements. The policy, in any event, should be content-neutral and need not even mention the possibility of an invocation or benediction. If the student speaker then chose to give a prayer, there would be no school involvement. To ensure order, the school could review the speaker's intended words for certain restricted areas of speech as mentioned above. The Supreme Court has allowed content-based restrictions on speech in these categories. See, e.g. Roth v. United States, 354 U.S. 476 (1957), New York Times v. Sullivan, 376 U.S. 254 (1964), Board of Trustees of State University of New York v. Fox, 492 U.S. 469 (1989).

In addition, schools could sponsor a moment of silence at the beginning, end, and/or during graduation ceremonies. If members of the audience prayed silently in their own individual discretion during this time, then no government approval or coercion may be found.

By preventing student-initiated prayer, the Johnstown School Board risks violating the Establishment Clause, in addition to the Free Speech Clause, because such prevention demonstrates government hostility to religion. See Zorach v. Clauson, 343 U.S. 306, 314, 315, (1952); McCollum v. Board of Education, 333 U.S. 203, 211 (1948); Lynch v. Donnelly, 465 U.S. 668, 681 (1984).

In addition, the recently enacted Education Reform Act, Public Law 103-227, 1994 HR 1804, Section 1001, makes clear Congress' intent to protect such prayer. According to the law:

No funds authorized to be appropriated under [the] Act may be used by any State or local educational agency to adopt policies that prevent voluntary prayer and meditation in public schools.

Id. Therefore, schools which specifically prevent student-initiated prayer not only currently risk suits for constitutional violations, but also risk forfeiture of federal funds after July 1, 1994.

The Rutherford Institute believes the Johnstown School Board desires to abide by the law and wishes to avoid infringement on students' constitutional rights and the risk of forfeiting federal funds.

We therefore request that you notify this office within eight (8) days that appropriate action has been taken allowing the senior class to commence with student-initiated prayer.

We plan on monitoring this situation very closely and will take whatever action is necessary to ensure that these matters are resolved constitutionally and expeditiously.

Sincerely yours,

THE RUTHERFORD INSTITUTE

Alex Crow

Alexis L. Crow, Esq.

cc: Mr. Woodcock, principal
Johnstown High School

GOVERNMENTAL ENCROACHMENT ON THE CHURCH

Few American Christians realize how seriously our children's religious freedoms have been eroded on the public school campus in recent years. Increasingly, school administrators have been intimidated into taking repressive measures in order to observe "separation of church and state." The tide is turning through legal efforts. But believers must get involved by fighting to restore religious liberty to the classroom so that our children will be free to express their faith.



BY JAY
SEKULOW

Possession! The word echoed, hauntingly. Never had Matt dreamed he would be caught. Yet here he sat reading the charges. The young man shook his head to clear out the cobwebs of fear. How would he tell his family? Would they still support him? Countless other high school students had been through the trauma of a possession charge, but this time it was too close to home.

Matt read the charges once more. Yes, it was true. "Any further occurrence in possession of Christian materials could lead to a suspension of some type."

A suspension from school for possession of Christian literature would not be hard to believe in Soviet Georgia. Unfortunately, the student being threatened was in Atlanta, Georgia. He is Matt Hinton, a public school sophomore in the buckle of the Bible Belt.

Today, Bibles are shipped into the Soviet Union without Brother Andrew having to sneak them past border guards. Eastern Europe is experiencing revival to the extent that communist governments are toppling left and right. Yet in "the land of the free and the home of the brave," religious freedom is being eroded by government intervention. Little by little, the church is losing freedoms that it has enjoyed for centuries.

GOVERNMENT INTERVENTION

One of the areas of greatest government intervention into religion is our public schools, particularly high schools. Since 1963, the Supreme Court and other government bodies have been slowly tightening their control over public education. This is not surprising considering the widespread acceptance of John Dewey, author of *The Humanist Manifesto*, as the father of American education.

How has the government tightened control of education? School administrators have told me they would allow students in their schools to share their Christianity except that "separation of church and state does not allow that." Too many school officials do not, or will not, understand the Constitution, so schools have become totally secular.

For example, from January through May 1990:

- Atlanta, Georgia, high school students were told that

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The Supreme Court also reinforced the rights of students to evangelize on campus. They upheld students' First Amendment rights of free speech and religion. As long as high school students do not disrupt the school, they have the right to share the gospel with their friends—even while they are on campus.

The church has fallen asleep. *Now is the time to awake!* In decisions like *Mergens*, we are seeing the foundation repaired. A foundation God began. A foundation our forefathers established in the Constitution. A foundation eroded by modern humanism and secularism.

Christians are indeed beginning to wake up. We must put on the armor of God to fight in His holiness. Our best solutions are to pray and to fight where God tells us to fight. We must support our children as they begin to be a light to their community—the schools of our nation. For too long we have separated the religious from the secular. Now we must convert the secular to the religious. Our public schools began as ministries of the church; now it is time to return them to the Lord.

Passive Christians allow the world to set society's standards. If we are to turn the tide and win the war, we must begin to do battle now.

What can one person do? No doubt our land cannot be changed when the battle is fought by the natural power of only one person against the world. Yet one man or woman or young person who will pray can bring revival. The devil is harmed when we pray with a knowledge of God's will. Informed prayer is our greatest ally.

We must get involved! For too long we have let the world tell our children whom to worship. It is time we showed the world whom they will worship. Christians must use the freedoms they still have to restore the freedoms they have lost. ■

Jay Sekulow is general counsel for Christian Advocates Serving Evangelism (CASE), in Atlanta, Georgia. He obtained a 9-0 victory before the U.S. Supreme Court that upheld the right of Jews for Jesus (and others) to pass out religious literature in airports, and he won an 8-1 decision about Bible clubs in *Westside Community Schools v. Mergens*.

Despite legal questions, some students hold prayer before games

DECATUR (AP) — Officials at some Alabama high schools are allowing student-led prayers before football games, despite legal questions.

Martin McCaffery, president of the Alabama chapter of the American Civil Liberties Union, said Tuesday that pre-game prayers on public address systems at high school events are not legal.

But Austin High School Principal Richard Pace said officials believe prayer initiated by and led by students is OK. He said superintendent Dr. Buddy Davis has left the decision about pregame prayers to principals.

Decatur High School Assistant Principal Mike Ward said Decatur expects to have a student-led prayer at its first home game of the season Friday.

Morgan County schools and some Lawrence County schools are allowing students to lead prayers before football games. Athens city schools are allowing an "inspirational" before games.

Morgan County principals received permission for student-led prayers from the school board at a work session last week, officials said.

Several school officials told *The Decatur Daily* they thought the pregame prayers are permitted by a federal appeals court decision in a Texas

case that allowed student-initiated prayers at graduation ceremonies.

McCaffery said the Texas case has nothing to do with Alabama.

The Lawrence County school board on Monday night reviewed a letter from board lawyer Jimmy Speake telling them they could be liable as a board and as individuals. McCaffery said school officials could be sued for damages.

The case cited in Speake's letter was a federal judge's order to Montgomery Mayor Emory Folmar that stopped public prayers before high school football games by Folmar and other public officials. The judge cited a ruling by the 11th Circuit Court of Appeals in Atlanta that public prayers before high school football games are unconstitutional.

A lawyer for the state Department of Education in Montgomery said Tuesday that the 11th Circuit Court's ruling remains the law in Alabama.

Jim Ippolito, a staff lawyer with the state, said the U.S. Supreme Court did not hear the Texas case. That allowed the 5th Circuit Court of Appeals' decision to stand. But, Ippolito said, the Supreme Court's decision not to hear the case

doesn't mean the high court approves of the ruling. Besides, he said, the 5th Circuit's decision does not affect Alabama.

Ippolito said the 11th Circuit's 1989 decision did not address student-led prayer, and that makes the issue "fuzzy." He said that's what the state has told superintendents who have asked if pregame prayers are OK.

Lawrence County Board of Education member Charles Satchel asked the board what it would do about the issue.

"Do we advise the principals to stop it or allow it go on until someone sues us?" Satchel asked.

Board Chairman Roy Loosier said the board would need to pass a resolution against the practice to relieve the board of liability.

"The other side to this is if we say students can't pray, we violate their rights," said Superintendent Patrick Graham, who led prayers over the intercom as principal at Hubbard Elementary School before former Superintendent DeWayne Key asked him to stop.

Principals at Hazlewood, East Lawrence and Lawrence County high schools said that they have had student-led prayers before home games this season. The principals said they would not hold pregame prayers if told to stop.

Holiday cheer stretches thi

Jewish girl: I'm being harassed

By JULES CRITTENDEN

Three days before Christmas, a 13-year-old Jewish girl who wants religion out of her public school says she was shoved and threatened with cross burnings by angry young Christmas revelers.

"One girl said to me, 'It's a holiday of peace, caring and love.' And then she pushes me into a locker," said Tiffany Tropp of Concord, N.H., an eighth-grader at Rundlett Junior High School.

This holiday season, Tropp has complained repeatedly about Christmas decorations in the cafeteria, students' caroling and the wearing of Santa hats in violation of the school's no-hat rule. She wants it all to stop, and she is trying to enlist the New Hampshire Civil Liberties Union into her cause.

"This is a public school. All this tells me they are favoring the Christian religion," said Tropp, who estimated that she is one of about 10 Jewish students among 1,500 students at the school.

After she complained to



HOLIDAY WAR: Tiffany Tropp, 13, looks out the window of her Concord, N.H., home yesterday. She has received verbal and physical threats since she asked her principal to end Christmas celebrations in school.

her principal and the Christmas celebrations were scaled back, Tropp said, students began taunting her by saying snidely, "Merry Christmas, Tiffany." She said other children told her "there'll be a cross burned on your lawn before the New Year."

Yesterday, Tropp took her complaint to the New Hampshire Civil Liberties Union, where Claire Ebel said, "It is certainly something I intend to discuss with my legal panel. I'm excited that an eighth-grade

student is that aware and perceptive."

Annick Tropp, Tiffany's mother, said the whole thing started two months ago when she told her daughter she could not raise money at the public school for her synagogue — be-

cause religion doesn't belong in the public schools.

"People have the idea that she's being a Grinch, anti-Christmas," Annick Tropp said. "It isn't that at all ... she's always had a really strong sense of standing up when she perceives

an injustice."

So this month, when Tiffany Tropp saw Merry Christmas signs and Santa Claus cutouts in the cafeteria, she researched the issue of separation of church and state in the library and then made her complaint to Principal Pam Melanson. The signs came down but Santa stayed.

The school principal said there were also Hanukkah displays in classrooms.

Then Tropp heard students in Victorian costumes singing "Silent Night" in the hall as part of a on Charles Dickens. Melanson squelched the caroling, but Tropp found herself on the receiving end of some Christmas ill will.

Concord School Superintendent Curt Bokness said the issue must be addressed, and he will begin formulating a policy on the celebration of both religious and non-religious holidays on school grounds to present to the School Committee.

But he said he want to ban all religious symbols from the schools. "We need to reflect a sensitivity to all religions," Bokness said.

At the New Hampshire Council of Churches, executive secretary David Lamarre-Vincent said the entire community of Concord should have taken up the issue as soon as Tropp's complaints became public in early December.

Warrior Run's Bible readings violate First Amendment rights

What would you do if you discovered that your school district had a policy advocating student thievery?

For example, if the parents of a 16-year-old couldn't afford to buy him a \$100 pair of Air Jordan sneakers, a teacher or counselor could advise the boy to steal them.

As you might imagine, the authorities would strain to hold the crowd at the next school director's meeting.

Well, that isn't content in the Warrior Run School District. But officials there have chosen to ignore another federal law.

Every morning in the Warrior Run middle school and high school, the Bible is read over the PA system as part of morning exercises.

At the elementary level, Bible reading for reasons other than literary purposes takes place in some classrooms.

So far, no one has appeared before the school board to complain.

The practice has been questioned by telephone, anonymously, because the calls fear repercussions either in the schools, from the community, or both.

When asked about this daily routine, a school board member and two administrators did not deny it. All said it is a tradition that has been around



Nixon

forever, or words to that effect.

They said it has been a frequent topic of discussion, "and will come up again," but there was no expressed concern on legal grounds.

There should be. Allowing portions of the Bible to be read to public school classes or permitting prayers, or moments of silence in which students can pray, are violations of the establishment clause of the First Amendment to the Constitution.

This has been the Supreme Court ruling in several challenges, including *Engle v Vitale* (1962), *School District of Abington Township v Schempp* (1963), and *Wallace v Jaffee* (1965).

Most applicable to Warrior Run is *Abington v Schempp*.

In that case, the court struck down a state statute which "required that at least 10 verses from the Bible be read, without comment, at the opening of each public school on each school day, while allowing individual children to be excused from participating in or attending such readings upon written request of parents."

... and a municipal school board which similarly required the reading, without comment, of a chapter from the Bible, or of the Lord Prayer, or both. (All citations are from U.S. Supreme Court Reports-Lawyer's Edition, 36 L. Ed. 2d U.S. 423.)

In the *Engle v Vitale* ruling, the high court "noted that the English practice of establishing governmentally composed prayers had been one of the things which drove colonists to seek religious freedom in America."

It also cited "James Madison's comment that the time to take alarm is at the first experiment with our liberties."

JAY NIXON

In supporting the readings in his district, one Warrior Run administrator pointed out that the Middle States Accreditation Committee commended the policy as contributing to the development of a sound moral climate among the students.

One raises several questions: How can a sound moral climate be developed when the effort is partly based on immorality: disobeying a federal law?

How is that contradiction resolved in the minds of the students?

How do school officials decide which laws they will adhere to and which they will ignore?

And finally, to the best of my knowledge, this is the only school district in the area that includes Bible reading in its morning exercises. Is there any evidence that the moral climate in the other local districts is inferior to that in Warrior Run?

This discussion will surely draw fire from within that district, and from supporters without. Charges that I'm anti-Christian will be renewed. (I'm not.)

But I think these are legitimate questions of universal concern that transcend a single community and address the place of religious training and practice in our religiously pluralistic society.

In *Abington v Schempp* the Supreme Court said that "whether the state nor the Federal Government may set up a church, or pass laws

which aid one religion, aid all religions, or prefer one religion over another."

By permitting use of the Bible, an undeniably religious symbol, in the way that it does, Warrior Run is doing just that.

And no school district, regardless of how well intentioned, should be allowed to arbitrarily claim exemption from the law.

Nor should it want to, since doing so creates an insurmountable moral position and opens the door to chaos.

In the United States it's not the business of government or advocates of a particular faith to decide an individual's spiritual direction, or declare one way superior to another.

Religious training is available to us all in parochial schools; in the various churches, synagogues, and mosques, and in the home. These are the places where it is right and appropriate.

This was the reasoning of the Supreme Court when, in *Engle v Vitale*, it said that the main purpose of the establishment clause "is to prevent a union between government and religion that can only ruin the integrity of both."

With this in mind, someone or some group in Warrior Run should seek a dissolution of the policy existing there. Or, if they think the law is bad, petition for a change.

As it is, the district is in violation of federal statutes and is sitting on the horns of a moral dilemma.

Jay Nixon is a public school educator who lives near Allentown. His column appears every other Wednesday.



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NEWS RELEASE

NR-0294

MCLU OFFICE: 1021 West Broadway - Minneapolis, Minnesota 55411

FOR FURTHER INFORMATION, OR FOR TELEPHONE REMOTES, OR FOR TELEPHONE ACTUALITIES, PLEASE CALL 522-2824

TO: All News Media
FROM: William Roath, Executive Director
DATE: February 9, 1994
RE: Bristor v. Minneapolis Public Schools, the classroom prayer case

FOR MORE INFORMATION CONTACT: William Roath, Executive Director
office: 612/522-2824 home: 636-0752

MICHAEL & MARY LUE BRISTOR & MCLU
WIN IN CLASSROOM PRAYER CASE

On Thursday, February 3, 1994, Mary Lue Bristor received a check for \$10,000, and Michael Bristor, now age 9, received his honor roll certificate from first grade, both from the Minneapolis Public School District. And last night, February 8, Ms. Bristor told the School Board of the needless hurt and expense which resulted from the Board's and the school administration's inaction and stonewalling. Finally, Superintendent Peter Hutchinson apologized to the Bristor's. This completed the settlement attained by the Minnesota Civil Liberties Union (MCLU), and its volunteer attorney, William Lindman of Minneapolis.

As Ms. Bristor was quick to point out, an apology four years ago from the Principal of the Wilder Elementary would have ended the matter then.

Background

The Bristor's describe themselves as freethinkers. In the fall of 1990, Michael told his mother that he was being put on "time out", sitting with his head down on his desk, because he refused to participate in the daily prayers led by his first-grade teacher, Shirley Asuncion. Ms. Bristor did not believe him at first, but verified her son's story by confronting Asuncion. The School Principal was unresponsive to Bristor's complaints, and refused to transfer Michael to another classroom, Bristor's first attempt at resolution. Later, in spring, 1993, the same Principal would order Bristor and her children out of the school altogether, over their objections, in spite of Ms. Bristor's many hours of volunteer work for the School.

But the Wilder administration was responsive in another way: Michael suddenly became a "problem" child, receiving sanctions in

excess of those prescribed by the District's policies. In fact, Michael was the butt of classroom jokes for his nonconformity, a status often pointed to by Asuncion for the class. The school used this "behavior problem" to deny Michael the year-end Honor Roll position which he had earned academically.

On May 21, 1991, Ms. Bristor filed a religious discrimination complaint against the School District with the Minneapolis Department of Civil Rights. Their investigation dragged on for two years, until September, 1993, when the Department found probable cause to believe that the School had discriminated against the Bristor's.

Meanwhile, in July, 1993, Ms. Bristor had approached the Twin Cities Athiests for help, and they referred her to the MCLU, which agreed to represent her. Early negotiations were difficult, when MCLU volunteer attorney Lindman informed the School Board attorney that an apology and restoration of the honor roll would no longer do; the case had dragged on too long; the Bristor's had been made to fight every step; and now they felt they had to move from their lifelong Minneapolis neighborhood to Wisconsin to escape abuse from neighbors and discrimination by their school. An initial offer of \$3,500 from the School Board was rejected since it was not accompanied by any admission of wrongdoing.

The Settlement

The settlement was negotiated in late December, 1993. Under it the Minneapolis School District has:

- Paid Ms. Bristor \$10,000, out of which the MCLU will be paid for expenses.
- Restored Michael Bristor to the 1990-91 Wilder Honor Roll.
- Agreed to distribute a statement of district policy on issues of religion, which explicitly forbids classroom prayer led by school personnel or anyone else (students may, of course, pray on their own at any time).

The MCLU believes that this settlement upholds the First Amendment protections of both free expression of religion, and of separation of church and state.

Finding a proper role

► The struggle continues at America's public schools

By **BRETT J. BLACKLEDGE**
and **PARKER HOLMES**
Staff Reporters

Every morning before school, Hillsdale Middle School teacher Winifred Stiles Bell invites students into her classroom to pray and read from the Bible.

Nearly 10 miles away in Prichard, 18-year-old Vigor High School senior Chris Tanner occasionally reads his Bible during study breaks at school and regularly prays silently before taking a test.

These are examples that reli-

gion is alive and well in Mobile's public schools. But they also point out continuing confusion over religion's place in the classroom after more than 30 years of U.S. Supreme Court rulings.

Even the most ardent advocates of religious freedom in schools point out that Ms. Bell's Bible club violates court rulings and constitutional principles against state-supported religious activity.

"Teachers should not be leading prayer groups," said Stuart Roth, an attorney with the American Center for Law and Justice, a religious advocacy group founded by evangelist Pat Robertson's Christian Coalition.

Ms. Bell's extensive involve-

Please see RELIGION on 18A ►



KIICHIRO SATO/Staff Pho

Winifred Stiles Bell leads Hillsdale Middle School students in prayer at a Bible club. "The Lord is with us and I don't want anybody coming against us," said Ms. Bell.

Religion

► Continued from 1A

ment in the group — she helped organize it, helped recruit student members and even buys doughnuts for students who attend — makes it more of a school-related activity.

Tanner's private religious reflection at Vigor, however, is recognized as constitutionally protected religious expression in school.

"Anything that is a purely private activity is permissible," said Marc Stern, co-director of the American Jewish Congress legal department.

In Mobile and nearly every school system in the country, officials are struggling to define religion's proper role in education without appearing to promote it.

And the confusion works both ways: Schools have been guilty of being both too supportive and too afraid of religion.

"There's a tendency among education officials to read headlines about court decisions, but not have anyone look at the decision to see what it says," Stern said.

Religion's proper place

Both Roth and Stern, whose groups often clash in court over the issue, agree there is a place for religion in public schools.

In Mobile, for example, student Christian groups meet in classrooms before and after school, and some students find time to privately practice their faith.

Tanner is not shy about reading his Bible when he's completed his class assignments, so he brings it to school.

"I believe the Bible is your sword. In the old times, you wouldn't leave your house without



Bell

your sword," he said.

But not every student can feel as comfortable about private religious expression in class, Roth said.

"There's been an incredible amount of harassment... the ignorance is so widespread," said Roth, who last week filed lawsuits in Massachusetts and New York demanding equal access for Christian student groups at high schools in those states.

Some Mobile County high schools, for example, do not allow student-led Christian groups to announce their meetings on bulletin boards or over the intercom as other student groups do, some students say.

The Supreme Court ruled in 1960 such access for religious high school groups must be granted when other student service groups are allowed to meet and advertise at school.

The court also has ruled that religion can be used for instructional purposes in the classroom. A history teacher, for instance, can teach students about the influence of Islam and Christianity on the world, while an English class can study the Bible as literature.

Religion's appearance in some history textbooks has puzzled some parents and students, who have complained to Mobile County school officials about the material because they didn't understand the religious references can be used in an objective academic context.

Schools going too far

Much of the recent controversy over religion in schools has stemmed from school officials going too far in promoting religious activities.

Jackson, Miss., school officials fired Principal Bishop Knox last November because he allowed a student to read a daily prayer over the school's Intercom system.

Reaction by administrators last November to a similar problem was less dramatic in Mobile, where officials have historically defied Supreme Court rulings banning school prayer. Principals were asked to stop allowing students to read Bible passages over the intercom.

That request came about six months after elementary school principals were asked to stop allowing the Gideons to distribute Bibles to students during class.

Even today, Mobile school administrators aware of Ms. Bell's Bible club at Hillsdale Middle School say they see nothing wrong.

"It doesn't have anything to do with the school," said Principal George Holcomb.

But that's not how the courts see

it. The Supreme Court consistently has ruled that governmental institutions must remain neutral on matters of religion so it doesn't appear they are promoting or hindering religious activity.

Roth said the only way the Hillsdale group might pass constitutional muster is if students met on their own and Ms. Bell served only as a monitor to ensure that school policies were followed.

While opinion polls show most Americans disagree with the Supreme Court's limitations on prayer and religion in schools, justices have argued the importance of keeping religion out of government-sponsored activities.

"The lesson of history... (is) that in the hands of government what might begin as a tolerant expression of religious views may end in a policy to indoctrinate and coerce," Supreme Court Justice Anthony Kennedy wrote in a 1992 court opinion limiting voluntary prayer at school events.

In a landmark 1963 case, the court explained its rationale for prohibiting Bible readings in school as an effort to preserve the sanctity of religion.

Illegal religious activity continues

By BRETT J. BLACKLEDGE
Staff Reporter

Mobile County schools continue to allow illegal religious activity five months after Superintendent Paul Sousa and his top aides vowed to make certain principals knew "what's legal and what's not."

Sousa in October ordered principals at Grand Bay and Davidson high schools to stop allowing students to read Bible passages over the intercom. But since then, students of all ages have been involved in religious activity that also appear to be in violation of federal law and the U.S. Constitution, including:

- A daily Bible club before school led by Hillsdale Middle School teacher Winifred Stiles Bell for sixth-, seventh- and eighth-graders.

- A weekly Bible club sponsored by Vigor High School teacher Peggy Harbin, who sometimes leads prayer, Bible discussion and group meetings.

- Student religious clubs led by teachers at Azalea, Semmes and Theodore middle schools.

Other questionable school activities include teacher involvement in student Christian groups in 10 high schools. Federal law and the Constitution prohibit involvement of teachers in student religious groups.

School officials said in October they would inform principals about what type of religious activity is allowed and to what extent school personnel could be involved.

While principals met for about two hours with school system attorney Robert Campbell in November for general advice about the issue, they have received no other guidance about how to handle religion in schools, school spokesman Randy Davis said.

"As a new principal, I think what we need is to have the guidelines of what you can and can't do, to have it spelled out," said B.C. Rain High School Principal Thomas Reed.

Sousa said last week he sees no need at this time to issue specific guidelines to principals.

"As far as I know, nobody's contacted me ... that there's something going on contrary to what's required," he said.

But at least one parent has complained to Sousa about the school-supported religious activity and Ms. Bell said Sousa personally gave her permission to hold her Hillsdale Bible club meetings for students.

"The Lord led us to do this club and I don't want anybody coming against us," Ms. Bell said, adding that she has not been given specific instructions from superiors about the group.

"They haven't given us any guidelines like that," she said. "It would be helpful because it would clear up a lot of misunderstandings."

While the Vigor group depends less on a teacher's leadership than the Hillsdale group, Ms. Harbin likely is violating the federal Equal Access Act and constitutional prohibitions against school-supported religious activity when she joins students in prayer and leads group discussions, experts said.

"It's flat-out illegal," said Marc Stern, a lawyer with the New York-based American Jewish Congress.

Bible clubs at middle schools also could pose a legal problem for the school system because the federal law and U.S. Supreme Court decisions do not address whether younger students should be given the same equal access for religious groups as teen-agers.

"The issue sort of gets muddled as your students get younger," said Stuart Roth, an attorney with the Virginia-based American Center for Law and Justice.

Some Mobile teachers also may be pushing the limits of how religion can be used as an instructional tool in the classroom.

Baker High School teacher Fannie Wright said she has used a Spanish version of the Lord's Prayer for 26 years to help her students learn the language.

"This is sort of a borderline case," admits Anne-Marie Amiel, an attorney with the Virginia-based Rutherford Institute, a conservative religion advocacy group.

"The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of the government to invade that citadel, whether its purpose or effect be to aid or oppose, to advance or retard," the court's opinion states.

Battle continues

What's not clear from Supreme Court rulings is where a student's right to religious expression ends and a school's promotion of religion begins. For example, is it appropriate for students to voluntarily pray as a group at their public school graduation ceremony?

That issue remains unsettled because the high court has prohibited only the actions of school officials organizing such prayers. The court said nothing about group prayer initiated by students.

Lower courts have issued conflicting rulings on such student-led voluntary prayer at school events, leaving states on their own to decide how to deal with the issue.

"Until the U.S. Supreme Court reconciles these conflicting opinions, school boards are left in a difficult, ambiguous situation," attorney Donald Sweeney wrote in an August 1993 issue of Alabama School Boards.

Indeed, although the 11th U.S. Circuit Court of Appeals in Atlanta declared such student-led graduation prayers unconstitutional in 1989, Alabama lawmakers adopted a law allowing it last year. Alabama is under the 11th Circuit's jurisdiction.

Alabama lawmakers justified the law after the 5th U.S. Circuit Court of Appeals in New Orleans approved a similar law in Texas.

Virginia lawmakers last week also adopted a similar law, although that law would go one step further in giving students a broad right to "voluntarily engage in student-initiated prayer" without defining when or where.

Legal experts expect the Supreme Court to rule on the issue soon because of the conflicting federal appeals court rulings and the flurry of new state laws condoning the practice.

Prayer at Public School Graduation: A Survey

By LARRY W. BARBER

P RAYER at school-sponsored events became a significant issue in many communities throughout the U.S. in the wake of the Supreme Court's 1992 decision in *Lee v. Weisman*. Many school districts found themselves caught between conflicting forces in their communities regarding this sensitive issue. Phi Delta Kappa and the Gallup Organization asked the public one question on prayer at school-sponsored events in the 1993 Phi Delta Kappa/Gallup education poll, which begins on page 137 of this *Kappan*. However, Phi Delta Kappa also wanted to obtain information about how school districts dealt during 1993 with the issue of prayer at graduation.

On 10 June 1993 Phi Delta Kappa mailed eight-item questionnaires to 4,231 members who are superintendents of school districts in the U.S. The questionnaires were accompanied by a cover letter from the executive director of Phi Delta Kappa, requesting that the superintendents complete the questionnaires and return them by 21 June 1993. Anonymity was guaranteed, except that the su-

perintendents were told that the states in which their districts are located could be identified.

By the end of June, 1,491 district superintendents (35%) had returned completed questionnaires, covering a total of 2,217 high schools. All 50 states and Puerto Rico were represented.

The questionnaires were analyzed first by simple frequency counts. (The totals do not equal 1,491 because respondents frequently chose not to respond.) Then a separate analysis was conducted to determine whether there were any regional differences in the responses. The state data were compressed into the four geographical regions (East, Midwest, South, and West) used by the Gallup Organization in its data analysis.

THE FINDINGS

Six hundred fifty-four school districts said that a separate baccalaureate ceremony, not sponsored by the school district, had been held in 1993; 833 said that such an event did not take place. At the same time, 684 districts said that prayer had occurred at their official commencement exercises; this figure includes 272 districts that had prayer both at commencement and at a separate baccalaure-

ate ceremony. Thus 1,066 districts (71%) included prayer in some form at least once during activities associated with high school graduation.

One hundred sixty-one school districts reported inviting an adult to offer a prayer at commencement, and 526 districts said that a student had offered a commencement prayer. Thus a total of 46% of the responding districts included prayer in some form at the formal commencement exercises. Of those districts, 101 (7% of the total responding districts) reported that the student prayer came as a "surprise" to the superintendent. Only 92 of the districts (6% of the total) approved in advance the wording of the prayers offered by students.

Six hundred seventy-three superintendents reported that they had sought legal counsel on the issue of prayer at graduation, while 679 said that they had not sought such advice. Only 114 districts had a written policy on prayer at graduation, while 1,279 districts did not.

Regional differences appeared primarily with regard to the overall frequency of prayer at commencement and the frequency of prayer offered by students. Significantly more prayer at commencement (offered by students or adults) was reported in the South (76%) than in the East (34%), the Midwest (40%), or the West (36%). Of districts reporting that prayer occurred at commencement, significantly more student prayer was reported in the South (86%) and Midwest (75%) than in the East (65%) or West (54%).

It is clear from this survey that court decisions seeking to limit prayer at formal public school commencements have not fully succeeded in doing so. K

LARRY W. BARBER (*Indiana University Chapter*) is director of the Phi Delta Kappa Center for Evaluation, Development, and Research, Bloomington, Ind.

AFFIDAVIT BY ANNE ELIZABETH GREEN

ANNE ELIZABETH GREEN, being duly sworn, deposes and states as follows:

1. I have been employed by People For the American Way since February, 1994 as a legal intern. At the beginning of April, 1994, I was assigned to investigate a statement made by Senator Dan Coats (R-IN) concerning seven alleged lawsuits filed by students against their schools for violating their constitutional rights to pray. Attached is a copy of Senator Coats' statements from the Congressional Record of March 25, 1994.

2. I began my research by telephoning the school districts in the geographic areas cited by Senator Coats. If the district confirmed that the said student existed and was the only one by that name, I asked for the school where s/he was located or for a person who could answer my questions about the alleged incidents. Next I telephoned the school's principal or the person to contact and asked if there had been any lawsuit filed or incident related to prayer involving the named student.

3. The first alleged lawsuit was supposedly brought by J.J. Music of Prestonsberg, Kentucky. On April 11, 1994, I telephoned Adams Middle School where J.J. Music is a student. My call was directed to the principal, Mr. Dingus. When I asked if J.J. Music had filed a lawsuit against the school, Mr. Dingus said that he was not aware of any such case. Mr. Dingus further explained that J.J. organized a prayer session at school without a supervisor. Mr. Dingus told J.J. that he could organize students to pray at school from 7:15 - 7:30 a.m., but school

policy required him to have a supervisor at the meeting. This was the only incident involving J.J. Music and no lawsuit was filed. Attached is a confirmation letter I faxed and mailed to Mr. Dingus on June 3, 1994.

4. The second alleged lawsuit was supposedly brought by Eileen Unander of Champaign, Illinois. On April 7, 1994, I spoke with Genie Smith, Assistant of the Superintendent of the Champaign school district ("district"), who directed me to Arlene Blank, Assistant Superintendent for Support Services. I telephoned Ms. Blank on April 11, 1994 and asked whether a lawsuit had been filed by Eileen Unander. She stated that there was no court case pending and that Eileen Unander was not a student, but a parent in the district. She further stated that Ms. Unander herself, not her child, participated in a "See You At The Pole" activity at one of the district's middle schools on September 15, 1994. Although the "See You at the Pole" gatherings were permitted at the district's high schools, the middle schools were not subject to the Equal Access Act and did not have a limited open forum. The school officials asked the groups at the middle schools to move off the schools' property. Since the incident, the district's Board of Education has not changed its policy and it has not been challenged in court. Attached is a letter from Arlene Blank explaining what happened in the district, along with pertinent articles published in the local Champaign newspaper.

5. The third alleged lawsuit was supposedly brought by Becky Renshaw of Kremmling, Colorado. On April 11, 1994, I

telephoned Mr. Paul Reece ("Reece"), the principal of Kremmling Elementary School. He explained that Becky Renshaw is the mother of Devin Renshaw ("Devin"), a student enrolled in his school. He stated that there had never been a lawsuit filed against the school and that Devin had never been told that he must not say the word "Jesus". Reece explained that Devin had been aggressively proselytizing other kindergartners and telling them that they would go to hell if they did not believe in Jesus. In response to complaints from other parents that Devin's statements were frightening their children, Reece asked Devin's parents to stop their son from scaring the other children. Attached is a confirmation letter I faxed to Reece on May 12, 1994, and mailed to him on June 1, 1994.

6. The fourth alleged lawsuit was supposedly brought by Nathan Lewis of Hatfield, Pennsylvania. On April 11, 1994, I telephoned Gail Tatum ("Tatum"), Assistant Director of School Community Services for North Penn School District. Tatum was unable to locate a Nathan Lewis within her district and stated that a student from Hatfield may also attend school in the North Penn or Satterdon school districts. When I called her back later in the day, Ms. Tatum stated that she could not locate Nathan Hatfield in any of the districts. Attached is a confirmation letter I faxed the letter to Gail Tatum on May 25, 1994, and mailed it to her on June 1, 1994.

7. The fifth alleged lawsuit was supposedly brought by James Amyx ("Amyx") of Brodhead, Kentucky. On April 11, 1994 I telephoned the Rock Castle Board of Education to locate James

Amyx ("Amyx") and was directed to Mark McKinney ("McKinney"), the principal of Brodhead Elementary. On April 19, 1994, I spoke to McKinney who stated that he did not have Amyx as a student and directed me to Ronnie Cash ("Cash"), the principal of Rockcastle ("Rockcastle") County High School. On May 10, 1994, I contacted Cash who stated that Amyx was a student at his school but he had never been denied the right to plan a prayer at graduation. Amyx is only a sophomore at Rockcastle and under-classmen do not participate in the graduation ceremony. On June 3, 1994, I talked to Cash again and he stated that Amyx denied this incident's occurrence. Cash also stated that there had never been a lawsuit filed. Attached is a confirmation letter I faxed and mailed to Mr. Cash on June 3, 1994.

8. The sixth alleged lawsuit was supposedly brought by Adam Greco ("Greco") of Derby, Connecticut. I contacted Mr. Charles DiCenso ("DiCenso"), the principal of Derby High School ("Derby"). Upon my inquiry, Mr. DiCenso stated that no lawsuit had been filed by Greco. He explained that Greco had been bringing his bible to school and was proselytizing to students during lunch. Although Greco was being sincere, his actions were disruptive because many students were making fun of him. DiCenso offered to set aside a room for Greco to create a club. Although Greco did not accept this offer, he is still allowed and continues to bring his bible to school. Attached is a letter from DiCenso explaining the incident with Greco.

9. The seventh alleged incident was supposedly brought by Bethany Null ("Null") of Panama City, Florida. On April 7, 1994,

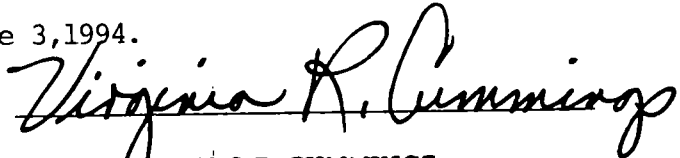
I telephoned Mr. Jim Hughes ("Hughes"), Assistant Superintendent of the Bay District School Board. When I asked if Null was a student in his district Hughes responded affirmatively. He stated that the fourth grader had transferred among four different schools in the district in the past four years, but he was not aware a lawsuit filed by Null pending at any of these schools. When I asked if any of the schools had forbidden Null from praying over her lunch, he stated that no formal complaint had ever been filed. Attached is a letter from Mr. Hughes confirming our conversation.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 3, 1994.



Anne Elizabeth Green

SWORN TO AND SUBSCRIBED this June 3, 1994.



VIRGINIA R. CUMMINGS
Notary Public, District of Columbia
My Commission Expires July 31, 1994

tions against intrusions into their constitutional rights of privacy. The bill specifically states:

All instructional materials, including teachers' manuals, films, tapes, or other supplementary material which will be used in connection with any survey, analysis, or evaluation as part of any applicable program shall be available for inspections by the parents or guardians of the children.

The bill requires prior parental approval before students are subjected to certain types of surveys, analyses, or evaluations. This gives parents and students specific guaranteed protections for their rights and beliefs.

Madam President, the Goals 2000 legislation moves the education reform debate forward in a manner that is more positive than negative. I do not believe, as some Members do, that this bill is a perfect answer to the grassroots pleas for education reform; it does, however, develop a framework under which local education reform can advance in a positive manner.

We in this body should not be overly optimistic that this one relatively modest sum of money will overhaul America's weakened public education system. True education reform will not happen at the Federal level; rather, it will only occur at the local level where parents, students and educators have the most input. It should be the role of the Federal Government to encourage and assist these reforms, but not to control the content or structure of these reforms. There are more reforms that need to take place and we should be prepared to assist the States and local educators in implementing those reforms.

Thus, while I do not support this bill wholeheartedly, I do believe that it is important for the Congress to move forward in developing an infrastructure that will assist the States in the reform efforts. I vote for this bill on behalf of the many people of Washington State who so desperately want to see a change from the status quo in the way our public school systems are run.

The PRESIDING OFFICER (Mr. CONRAD). Who seeks recognition?

The Senator from Indiana.

Mr. COATS. Mr. President, I do not think any of us anticipated we would still be debating at the beginning of this Easter recess. I regret that we are, and I know many Members regret we are. Many have had to cancel plans made long ago. I had plans I made a year ago which I reluctantly canceled this morning.

That is the nature of the way the Senate works, and we all understand that. The one issue that has kept us here is an issue involving school prayer.

Members will recall that we had extensive debate on that when the Goals 2000 bill came through the Senate initially. The core amendment was one offered by Senator HELMS, which was modified by Senator PACKWOOD from Oregon. That amendment, as modified,

was accepted and supported by 75 members of the U.S. Senate.

The language said that, "No funds made available through the Department of Education under this act or any other act shall be available to any State or local educational agency which has a policy of denying, or which effectively prevents participation in constitutionally protected prayer"—that is the key phrase—"constitutionally protected prayer in public schools by individuals on a voluntary basis."

So, any individual or student exercising their first amendment rights of freedom of expression of their religion or of their faith, if it was done on a voluntary basis, and if the action was constitutionally protected—that is, the courts had ruled that that particular action was acceptable under first amendment prohibitions against church and State interference—that would be allowed.

The amendment includes an additional clause which I think is important because it prohibits the United States or any State or any local educational agency—in other words, any governmental entity—it prohibits that entity from participating in that prayer, requiring anybody to participate in that prayer, or to influence the form or content of that prayer.

In other words, keep the State out of it. Keep this strictly voluntary. But do not deny—in fact it would be unconstitutional to deny—an individual the right to freedom of expression of their faith and religion, and in an attempt to state that any school agencies or districts or governmental authorities who prevented that would lose their funds under grants or distribution through the Department of Education.

So, as I said, the Senate, after some lengthy debate with alternatives and others, finally voted on that core amendment, and 75 Members of the Senate on a bipartisan basis agreed to that language.

In fact, Senator KENNEDY as chairman of the House Labor and Human Resources Committee, and directing the efforts on the floor, indicated that it was an acceptable amendment to him. I quote from the RECORD in which he said:

This amendment has been changed now for constitutionally protected speech. Basically we are just saying if the school board is going to violate that as a matter of policy, it would be ineligible to receive money under this provision. As one who has supported that position with regard to race and religion and disability, I think the amendment is not inconsistent with that policy. So when the time comes to vote, I will vote in favor of the amendment.

When the bill went to conference with the House to be reconciled between the two differences in the bill on a whole number of measures, that amendment adopted by the Senate was changed. The House did not include similar language. But the House wanted the conferees to accept the Senate language. And, in fact, they went

through a procedure called "a motion to instruct." And they actually had a vote on the matter which essentially said we instruct our representatives of this House in the conference to agree to the Senate language. That vote was 367 to 55.

So there can be no question that the amendment, as proposed by Senator HELMS and modified by Senator PACKWOOD, enjoys solid majority bipartisan support in both the Senate and the House of Representatives.

Most of us thought at that point the battle was over; that given the statements that were made on the floor, given the vote that was taken here in the Senate and the vote that was taken in the House of Representatives, that the language which we adopted would be included in the Goals 2000 bill.

Unfortunately, it was not. It was stricken, and a substitute was made, a substitute that many of us feel is totally inadequate. It is far more limiting. It deals only with withholding funds from school districts or educational agencies; from implementing a policy to deny that prayer. But it does nothing with those schools which are already enforcing the policies. For those who say, "Oh, well, that does make any difference," it makes a very, very substantial difference.

As Senator LOTT indicated on the Senate floor during the debate, a untary prayer in the Mississippi school, and I quote that prayer by a student on a voluntary basis:

Almighty God, we ask that You bless parents, teachers, and country throughout this day. In Your name we pray. Amen.

That prayer was deemed offensive. That prayer was deemed out of bounds. That prayer was stricken, and that student who offered that prayer was suspended.

The principal of that school, which was Wingfield High School in Jackson, MS, essentially said that he saw nothing wrong with that prayer, and he suspended. Students from that school in protest of those suspensions were subsequently suspended themselves.

So for an individual student to a prayer which said, "Almighty God, we ask that You bless our parents, teachers, and country throughout this day. In Your name we pray, amen," we had the suspension of that student, the suspension of the principal of that school, and the suspension of students who protested that. That then led to a rally at the statehouse in Jackson, where 4,000 people arrived and basically said, "This is crazy. This is the al of the individual rights of freedom of expression guaranteed under the Constitution."

So the Senate was dealing with that type of issue. Those are policies that are being enforced throughout the country.

I have a list here of cases that are now in the courts brought by students who have been denied their right to free expression of their faith.

J.J. Music from Prestonsburg, KY, is a sixth grade student who was denied the right to pray with friends before school, not in class, but before school.

Eileen Unander of Champaign, IL, was denied the right to participate in a "See You at the Pole" type of activity, which was an activity which took place in some of our public schools around the country on a designated time at which they met at the flagpole before the school day and joined in prayer for their school, their teachers, or whatever. Case was brought. That individual was denied the right to participate in that particular activity.

Becky Renshaw of Kremmling, CO, has been told not to mention the word "Jesus" in school.

Nathan Lewis of Hatfield, PA, was selected to speak at the graduation but they said he cannot offer a prayer as part of his speech.

James Amyx of Brodhead, KY, is a student who was denied the right to plan a prayer at graduation, and he has been further threatened with denial of the right to pray with other students before school if he pursues the graduation issue further.

Adam Grecco of Derby, CT, was a student denied the right to speak to another student about God at school.

These are all cases now in the courts.

Bethany Null of Panama City, FL, was a special education student who was told she could not pray over her lunch.

And on and on we go as school districts, educational authorities, and others are simply denying this right of freedom of expression of faith in a public school on a voluntary basis without any teacher coercion, without any State coercion, without any State influence as to what that prayer might be.

That is what Senator HELMS and Senator PACKWOOD were attempting to address when they offered this amendment. That is what the Senate agreed to. That is what the House of Representatives agreed to in an overwhelming fashion, 367 to 55 in instructing their conferees. Yet we enter a conference and suddenly the bill came back with substitute language, which most of us feel is totally inadequate to address the situation.

So people are saying, how can it be? How can the Senate vote by a 3-to-1 margin, almost 4-to-1 margin and the House vote by a 4- or 5-to-1 margin to do the same thing and the conferees, the people selected to reconcile the two bills, come back with something entirely different?

Senator HELMS has protested going forward with this bill because of the actions that were taking place that were contrary to what the majority of this body and the majority of the House of Representatives sought to do. He has, on many occasions, invoked his rights as a minority Member to filibuster or to delay consideration of legislation, because he did not agree with what the majority was doing. That is

certainly within his rights, and probably every Member of the Senate has done that at one time or another.

But what Senator HELMS is doing this time is not filibustering because he does not agree with the majority; he is filibustering because a minority has contravened and intervened and denied the rights of the majority. It is their right to do that. They can meet in conference and strike that language. It is not representative; it is not indicative of or carrying forward the wishes of the majority, which they are supposed to represent; but that is what was done.

So we have an interesting reversal here, an interesting flip-flop. We have a Member of the Senate who is filibustering, not to protect the rights of a minority or his own individual rights; we have a Member filibustering to try to protect the rights of the majority.

I suggest that there is a very substantial difference between that type of filibuster and the type of filibuster designed to protect the rights of the minority. It is the majority of the Senate and majority of the House of Representatives, by a very substantial margin, that wants the Helms-Packwood language left in this Goals 2000 bill. It is only a minority that does not want it. Unfortunately, that minority controlled the conference.

Senator HELMS has talked about the procedures of the conference, how the issue was not debated for more than 60 seconds at a time at all, and was done right at the end of the conference. I do not believe it had a fair hearing at the conference. I was not there. In fact, I was on the way to that conference, because I was told that that is when we were going to take up the prayer issue, which was my main concern. I met my aide halfway there, and she said, "It is done, the conference is over." I said, "What about the prayer amendment?" She said, "They dropped the language and added something else and did it all in 60 seconds."

So I think many of us feel that we did not have a fair shot at this. The only way we are going to get a fair shot at this is to deny the minority the right to push this thing through, which I think is in direct contravention to the vast majority of us who supported and voted for this.

I regret that we are in this situation. I regret that Members are left here when we should have finished last evening. I regret it partly because I have had to change my own plans—something I had planned for a year. I know other Members have other considerations. But the reason we are here is not because Senator HELMS or any other Senator is trying to defend a position that is not shared by the majority. The reason we are here is because a very small minority is trying to have their way and deny what the majority has already agreed to do. That is significantly different than what we normally encounter during a filibuster situation.

So it appears that we are going to be here debating until at least 12:01 a.m. Saturday, and perhaps beyond that. That is the unfortunate situation in which we find ourselves. I regret it, and I know other Senators regret it. But it was not a minority that put us here. We are trying to defend the rights of the majority, which have been denied by the result of this conference.

I yield the floor.

Mr. KENNEDY. Mr. President, I will not take much time to comment in addition to what I mentioned earlier. Of course, my good friend from Indiana failed to mention that there were other provisions relating to school prayer that were included in the Goals 2000. The Helms amendment was accepted 75-22. The Danforth amendment was accepted 97-0.

Let me read the Danforth amendment. It expresses the sense that:

The schools should encourage a period of daily silence for students for the purpose of contemplating their aspirations, for considering what they hope and plan to accomplish that day, for considering how their own actions of that day will affect themselves and others around them, including their schoolmates, friends, and families, for drawing strength for whatever personal, moral, or religious beliefs, or positive values they hold, and for such other introspection and reflection as will help them develop and prepare them for achieving the goals of this act.

That is what the Danforth amendment said.

The Helms language is:

No funds available through the Department of Education under this act, or any other act, shall be available to any State or local education agency which has a policy of denying, or which effectively prevents participation in, constitutionally protected prayer in public schools by individuals on a voluntary basis. Neither the United States nor any other local education agency shall require any person to participate in prayer or influence the form or content or any constitutionally protected prayer in such schools.

Mr. COATS. Will the Senator yield?

Mr. KENNEDY. I will yield in just a moment.

The LEVIN amendment says:

Notwithstanding other provisions of the act, no funds available through the Department of Education under this act, or any other act, shall be denied to any State or local education agency because it has adopted a constitutional policy relative to school prayer.

Those are three different amendments. So we come back in the conference report with this language: No funds authorized to be appropriated under this act may be used by any State or local educational agency to adopt policies that prevent voluntary prayer and meditation in public schools.

You have three different languages, three different amendments. At the end of the day, we come back and say:

No funds authorized to be appropriated under this act may be used by any State or local educational agency to adopt policies that prevent voluntary prayer and meditation in public schools.



PEOPLE FOR THE AMERICAN WAY ACTION FUND

Your Voice Against Intolerance

June 3, 1994

Arthur J. Kropp
President

Principal Dingus
Adams Middle School
2065 South Lake Drive
Prestonsberg, Kentucky
41653

Dear Mr. Dingus,

I am writing to confirm our conversation of April 11, 1994, concerning Senator Coats' assertion that there had been a lawsuit filed against your school by J.J. Music, because he had been denied the right to pray before class. Senator Coats made the statement regarding the alleged incident on the Senate floor, March 25, 1994. 140 Cong. Rec. S3870 (daily ed. March 25, 1994 (statement of Sen Coats)).

I understand that J.J. Music organized a prayer session at school without a supervisor and that you told him that school policy required him to have the session before school from 7:15 - 7:30 and with a supervisor.

I further understand from our conversation that there was never a lawsuit filed. Please let me know immediately if I have improperly restated the facts as you related them to me. Thank you for your cooperation.

Sincerely,



Anne Green

Champaign Community Schools

Unit School District No. 4 • 703 South New • Champaign, Illinois • 61820-5899 • (217) 351-3800



**Better
Schools
Build
Better
Communities**

May 3, 1994

TO: Ann Green, People For the American Way

FROM: Arlene M. Blank, Assistant Superintendent
for Support Services

RE: Senator Coats Congressional Record Comment

After I read Mr. Coats' comments in the March 25, 1994 Congressional Record, I feel I need to clarify the situation.

The incident mentioned in Mr. Coats' comments is related to a limited open forum equal access situation. The individual cited, Eileen Unander, is a parent not a student in one of the district's middle schools (grades 6-8). The limited open forum, equal access policy of the district applies to students in grades 9-12.

The day prior to the national "See You at the Pole" rally, middle school students approached their principals to inform them that they intended to hold a prayer rally the next morning. The principals contacted me for advice, I informed them that I believed that middle school students are not covered by the federal limited open forum law or by Board of Education policy. In fact, the students, if they went ahead with the rally, would be violating school district policy. The middle school students were so informed.

The rally took place at both the district's high schools and started at the three middle schools. Staff members and parents were involved at all 5 sites. At the middle schools the groups were asked to move off of the district's property. In one instance, the group was blocking the driveway preventing school buses from dropping off students.

At two middle schools, the groups moved off of school property. At the third, the group ignored the request to move and remained at the flag pole and had the prayer service.

The District's Board of Education took up the question of possibly extending the limited open forum to the lower grades. After several meetings with members of the community, on both sides of the issue, having the opportunity to express opinions the Board reaffirmed its existing policy which follows federal law.

I trust this puts Mr. Coats' statements in context.

AMB:hd

Students gather at flags to pray

School officials won't discipline participants

By LYNDA ZIMMER

News Gazette Staff Writer

Dozens of students in the Champaign-Urbana schools prayed near their school flag poles this morning as part of the national "See You at the Pole" event.

Spy checks at schools showed between a dozen and 30 students gathered to pray before school started. The event was started three years ago in Texas and is now promoted nationally.

In Champaign, 25 students at Edison Middle School left the school grounds after Principal Fred McNary told them such an assembly violated school board policy. The students moved across the street.

Champaign Assistant Superintendent Arlene Blank said board policy allows such groups to assemble only at district high schools.

Urbana Superintendent Gene Amberg said he assumed his districts equal access policy allows such groups to meet at any school.

At Franklin Middle School in Champaign another group of 29 students and five or six teachers chose to stay on school grounds after Principal U.S. Davidson told them of the board policy.

"WE HAVE KIDS with knives and guns in our school, and they are trying to arrest the Christians," said A.J. Lammie, 13, one of the organizers of the prayer event at Edison.

The Edison students, accompanied by about 10 adults, held hands in a circle across from the school and tearfully prayed for about 15 minutes.

"Tells the school board of Champaign realize what they've done," prayed Michelle Chisholm, 12.

"Help us when we go in that school," prayed Micki Pawlino, 13. "We may get laughed at, we may get disciplined."

"As an administrator," Principal McNary said, "I'm in a tug of war."



Franklin Middle School Principal U.S. Davidson, right, stands by as students and teachers gather for prayer outside the Champaign

At Jefferson Middle School in Champaign, where about 25 students assembled to pray, Principal Marty Sierra-Perry said she stated the board's policy and then suggested they move to Centennial High School, which she called an "open forum."

She said some of the students reassembled under a tree near the middle school.

At Urbana High School, about 50 people prayed around the flag pole this morning including four teachers, two adults and state Rep. Tim Johnson R-Urbana.

"I think the Urbana school district is to be commended for restricting this to a free expression," Johnson said. "It's unfortunate that the Champaign school district is apparently a zone

in that regard."

Champaign school board President Joseph Stucki said he couldn't see the justification for forbidding the prayer vigil at the middle or elementary schools.

"On the surface of it I don't see any reason why we should be making a big fuss about it," he said.

STUCKI SAID HE tried to contact school district administrators Tuesday for clarification of the district's open access policy.

At Champaign Central High School, 33 people — three parents and 30 students — showed up at 7:25 a.m. today to pray and sing in front of the school.

Milary Hayes, 17, a senior, congratulated everyone for having

the guts to come, even though their friends might make fun of them and the administration might get upset.

University of Illinois law Professor Ronald Rotunda said a school flag pole area is public space and that students do not give up their First Amendment rights to free speech by attending school.

Statements read at the Champaign middle schools Tuesday mentioned that students who assembled around flag poles to pray this morning might be subject to disciplinary action.

Blank, the district's assistant superintendent, said today no students would be disciplined.

Debby Nabors of 2686 Galen Drive, C, the mother of two stu-

dents who prayed at Central High and Edison Middle School, called the policy announcement at middle schools on Tuesday "an elevator-hour action by school officials."

STUDENTS, SHE SAID, had been talking about the event for at least one week.

"Everybody else has freedoms, but we're not allowed to stand in the school grounds and pray," Nabors said, adding she'd helped organize a similar activity in Dublin, Ohio, last year.

In Urbana, students at the high school were allowed to announce their "see you at the pole" activities, distribute brochures and put up posters, according to Junior Esther Ferguson.

NEWS GAZETTE
SEPTEMBER 15, 1983

school policy on assembly

By LYNN CHAMBER

News-Gazette Staff Writer

CHAMPAIGN — In another prayer at the flagpole event was staged at Champaign's middle schools and elementary schools today, the controversy likely would start all over.

Hours of discussion during the last four months — about modifying school district policy to allow younger students to assemble on school grounds — resulted in no policy change at Monday night's school board meeting.

Asked afterward what he would do if another flagpole prayer session were announced for today, Superintendent Tim Hyland said:

"That's a good question. At the middle school, if two students walked up the path and spontaneously uttered a prayer, I'm not going to stay up tonight and worry about it."

"But if it was organized, with signs advertising it, I'd pursue the same policy."

The reply from Arlene Blank, the assistant superintendent for support services, was "it would be handled the same way as in September, 1993."

The answer from the other assistant superintendent, Mike Criss, who is in charge of curriculum, was "I'm following it."

District administrators Monday refused to extend the "equal-access" policy — allowing gatherings on school grounds outside of instruction time — from just high schools, to middle schools.

BUT SCHOOL BOARD member Joe Struck proposed reaffirming the current policy of formally allowing gatherings just at high schools and "discouraging the administration but to interfere with students who meet peacefully anywhere else."

Nine of the seven school board members voted to vote on the administration policy. And Chet Zech was the only board member to support Struck's motion.

Struck said he made his proposal because "I think it's an issue blown way out of proportion. We can sit in the trees and can get lost in minutiae."

Charles Rose, a Chicago attorney who has been advising the board on the issue, said approval of Struck's motion would result in the district losing its ability to restrict any activity unless it was disruptive.

Rose said one danger is that a staff member would not be present to check on the safety of children involved. The school district is responsible for safety, he said.

But putting staff members in a monitoring position might cause younger children to think the staff member or the school endorses the gathering, he said.

Of six audience members who spoke Monday night, three urged extending equal access to all grade levels and three urged restricting it to the high schools.

One of the six, Raubel Brad Block, said he was against more equal access for groups assembling at lower grades because it would allow fanatics access to the schools.

THE EQUAL-ACCESS issue was not debated by the Urbana school board. Urbana Superintendent Gerte Amberg said during the September event that he assumed giving high school students the right to assemble on school grounds before or after school could be extended to all grade levels.

The Champaign district administrators' implementation of the policy — which caused the controversy — was to all students younger than high school age that they could not assemble outside their schools for the national "See You at the Pole" informal prayer session Sept. 15 without risking disciplinary action.

After parents and pastors protested that the school district was interfering with constitutional rights, the district decided not to discipline students or staff members who defied the policy. But the incident has been debated ever since.

At the Dec. 13 school board meeting, the talk among board members, an attorney, religious leaders and parents covered whether such meetings could include members of the Ku Klux Klan, whether school personnel should monitor such meetings and whether younger students would interpret staff presence as an endorsement.

NEWS GAZETTE
JANUARY 10, 1994

Act to block new school access rules

To the editor:

It has come to our attention that there is a proposal before the Board of Education to revise the policy and procedure on Equal Access Limited Open Forums in order to expand access from the current 9-12 level to K-8. The policy as currently stated (and federally mandated) extends equal access to religious and political groups at the high school level.

We maintain that there are potentially harmful effects that would result from extension of this policy to K-8. An extension is not warranted.

Unlike older children, elementary and middle school-aged children are impressionable and easily influenced by the actions and behaviors of adults in positions of authority.

While the policy states that school personnel may attend these non-curriculum related meetings only as non-participants, elementary and middle school aged children will have extreme difficulty differentiating between non-participation and leadership. This is especially true when such meetings take place on school days at hours contiguous to instruction.

As is already the case at the high school level, administrators are not afforded any discretion about which groups may gain access. We can reasonably assume that a variety of religious and political groups will gain access and may well do so with the goal of increasing their numbers.

Should the schools seek to properly

monitor and maintain strict guidelines on recruitment by such groups, we fear that there will be a strain on school resources; a strain so great that proper monitoring will not take place.

Finally, we have concerns about the appearance of a school's endorsement of particular activities.

It is not difficult to imagine extremist political groups or conversionary religious movements attempting to subvert what we take great pains to teach our families.

We urge residents of the Champaign School District to contact the board members and express their opposition to the extension of the equal access policy.

RABBI JEFFREY L. FALICK
LYNN WEISEL WACHTEL

Champaign-Urbana Jewish Federation
Champaign

**PEOPLE FOR
THE AMERICAN WAY**
Your Voice Against Intolerance

June 1, 1994

Mr. Paul Reece
West Grand Elementary
Box 515
Kremmling, Colorado
80459

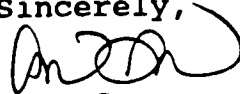
Dear Mr. Reece,

I am writing to confirm our conversation of April 11, 1994, concerning Senator Coats' assertion that there had been a lawsuit filed against your school by Becky Renshaw, because she had been told by school officials not to mention the word "Jesus" in school. Senator Coats made the statement regarding the alleged incident on the Senate floor, March 25, 1994. 140 Cong. Rec. S3870 (daily ed. March 25, 1994 (statement of Sen Coats)).

I understand that Devin Renshaw, Becky Renshaw's 6 year old son, had in fact been aggressively proselytizing other kindergarteners and telling them that they would go to hell if they did not believe in Jesus. In response to complaints from other parents that Devin's statements were frightening their children, you asked Devin's parents to stop their son from scaring the other children. You never told them that he must not say the word "Jesus" nor has there been any further discussion of the incident since that time.

I understand from our conversation that there was never a lawsuit filed. In fact, prior to our conversation you had no knowledge of any dissatisfaction on the Renshaws' part. Please let me know immediately if I have improperly restated the facts as you related them to me. Thank you for your cooperation.

Sincerely,



Anne Green



PEOPLE FOR THE AMERICAN WAY

Your Voice Against Intolerance

June 1, 1994

Ms. Gail Tatum
Assistant to Director of School Community Services
North Penn School District
401 E. Hancock Street
Lansdale, PA 19466

Dear Ms. Tatum,

I am writing to confirm our conversation of April 11, 1994, concerning Senator Coats' assertion that there had been a lawsuit filed against your school district by Nathan Lewis. Senator Coats made the statement regarding the alleged incident on the Senate floor, March 25, 1994. 140 Cong. Rec. S3870 (daily ed.) march 25, 1994 (statement of Sen. Coats).

I understand from our conversation that there has never been a lawsuit filed. In fact, after careful review, there appears to be no Nathan Lewis enrolled in either the North Penn School District, the Penn Ridge School District, or the Satterdon School District. Please let me know if I have improperly restated our conversation. Thank you for your cooperation.

Sincerely,

Anne Green



PEOPLE FOR THE AMERICAN WAY ACTION FUND

Your Voice Against Intolerance

June 3, 1994

Arthur J. Kropp
President

Principal Ronnie Cash
Rockcastle County High School
P.O. Box 1410
Mt. Vernon, Kentucky
40456

Dear Mr. Cash,

I am writing to confirm our conversation of May 10, 1994, concerning Senator Coats' assertion that there had been a lawsuit filed against your school by James Amyx, because he had been denied the right to plan a prayer at graduation. Senator Coats made the statement regarding the alleged incident on the Senate floor, March 25, 1994. 140 Cong. Rec. S3870 (daily ed. March 25, 1994 (statement of Sen Coats)).

I understand that James Amyx is only a sophomore at your school and no under-classmen participate in graduation. I further understand from our conversation that there was never a lawsuit filed and that James has denied ever making such a statement. Please let me know immediately if I have improperly restated the facts as you related them to me. Thank you for your cooperation.

Sincerely,

Anne Green



DERBY HIGH SCHOOL

Nutmeg Avenue, Derby, Connecticut 06418 • Telephone (203) 734-9293

Charles DiCenso
Principal

May 10, 1994

Ms. Anne Green
People for the American Way
2000 M Street NW
Suite 400
Washington, D.C. 20036

RE: Comments on House Floor

Dear Ms. Green:

Adam Greco is a student at Derby High School. He often brought a bible to lunch with him and read passages to students who would listen.

None of this was a problem until the reaction of other students became an issue of control and disruption. We asked Adam not to address other students until we could get a ruling on the subject.

We did offer a room to him or offered to start a club. After a few days, the issue seemed to quiet down. I don't think anyone was offended.

Cordially,



Charles DiCenso
Principal

CD:fmc



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Office of
STEFANIE S. GALL, Ph.D.
Superintendent

June 3, 1994

Ms. Anne Green
People for the American Way

Dear Ms. Green:

I have investigated the allegation that Bethany Null was denied her right to pray by a Bay District school and find no substance to that charge. I also find no evidence of a law suit being filed on the matter.

Sincerely,

Jimmy H. Hughes
Assistant Superintendent for Administration and Business

SCHOOL BOARD MEMBERS

LYNDA MAHAVIER
District 1

• DEANE BOZEMAN
District 2

• HENRIETTA B. SWILLEY
District 3

• LINDA GRANTHAM
District 4

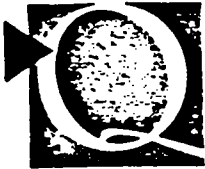
• DR. ROBERT L. YOUNG
District 5

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TOTAL P. 02

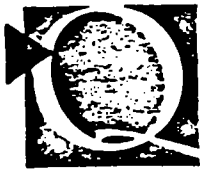
School Prayer Fact Sheet

Recently, television preacher Pat Robertson's legal group and other anti-public school organizations have been circulating misinformation about prayer and Bible reading in public schools. This question-and-answer sheet prepared by Americans United for Separation of Church and State responds to some of the most frequently asked school prayer questions of teachers, principals and administrators, parents and students.



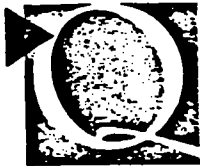
What has the Supreme Court said about school-sponsored prayer and Bible reading?

The U.S. Supreme Court has struck down school-sponsored prayer in public schools (1962- *Engel v. Vitale*) as well as public school-sponsored programs of Bible reading (1963- *Abington Township School District v. Schempp*). The critical message in the court's rulings was that public schools are arms of the government, and as such, may not usurp parental rights by coercing students to take part in religious activities.



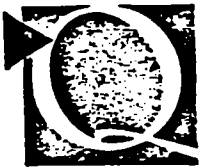
Does it mean students can't pray voluntarily in public schools or read the Bible during free time?

Absolutely not! The Supreme Court has never ruled that truly voluntary, silent prayer or Bible reading during free time is unconstitutional. However, the prayer must really be voluntary and not a ruse to reinstate school-sponsored religious worship. For example, federal courts have struck down efforts by school officials to set up programs whereby teachers ask a student volunteer to lead the class in prayer or read from the Bible (*Karen B. v. Treen*). They also struck down so-called "voluntary" prayer during "optional" student assemblies held as part of the school day (*Collins v. Chandler United School District*).



Are moments of silence constitutional?

Only if they are absolutely "neutral" toward religion. In 1985 the Supreme Court struck down an Alabama moment of silence law, holding that it was worded in such a way that favored religion (*Wallace v. Jaffree*). The statute specifically called for a daily moment of silence "for meditation or voluntary prayer." However, truly neutral "quiet times" where students, can pray, read a book or do nothing are constitutional.



What about prayers during graduation ceremonies?

In 1992 the Supreme Court ruled as unconstitutional school-sponsored prayers during public school graduation ceremonies (*Lee v. Weisman*). However, in the wake of that ruling, one federal appeals court held that prayers which are "student-initiated, non-sectarian and non-proselytizing" could occur at graduation. Only three states -- Texas, Louisiana and Mississippi -- are affected by this ruling. Significantly, three other federal courts have rejected this interpretation of the *Weisman* decision, holding that graduation remains a school-sponsored event, where religious worship is inappropriate. Due to the differences in federal court rulings on this matter, many legal observers believe the Supreme Court will examine the issue again within a few years.

For more detailed information about religion in public schools, ask for Americans United's free pamphlet, "Religious Expression in Public Schools: Separating Fact from Fiction." It deals with issues such as voluntary prayer, the Equal Access Act and the distribution of religious literature on school grounds by students. To receive a copy, write to Americans United at 8120 Fenton Street, Silver Spring, MD 20910. Or call 1-301-589-3707. You should also feel free to call Americans United's legal department with any questions about religion-in-public schools issues.



Americans United for Separation of Church and State • 8120 Fenton Street • Silver Spring, Maryland 20910

Why Faith Groups oppose Government Sponsored Prayers In Public Schools

The following statements are from religious organizations in America that oppose government-sponsored prayer in public schools. They reaffirm the value of voluntary prayer as taught in the home and congregation and the importance of leaving such religious activities out of public schools. Most of those that follow are time-honored statements passed shortly after the first historic Supreme Court decision on prayer in public schools. Some denominations have chosen to leave their original statements intact, passed in conventions 30 years ago. Others in recent years have reaffirmed those statements, a testament by all to their continued opposition to any regimented devotions and commitment to government neutrality toward all religious beliefs.

National Council of the Churches of Christ in the U.S.A.

Whereas, in a Policy Statement entitled "The Churches and the Public Schools," adopted June 7, 1963, the Governing Board of the National Council of the Churches of Christ in the U.S.A. said:

"Neither the church nor the state should use the public school to compel acceptance of any creed or conformity to any specific religious practice...We express the conviction that the First Amendment to our Constitution in its present wording has provided the framework within which responsible citizens and our courts have been able to afford maximum protection for the religious liberty of all our citizens...";

The Governing Board of the National Council of the Churches of Christ in the U.S.A.:

"Reaffirms its belief, as set forth in this policy that 'Christian nurture' and the development and practice of Christian worship are unescapable obligations of the congregation and the family; and

"Reaffirms its support of the Supreme Court language describing the First Amendment as providing no role for government in prescribing or providing for prayer in public schools."

— Adopted by the Governing Board May 13, 1982

Mennonite Central Committee U.S.

"As Mennonites we have, from the earliest days of our

tradition, placed a special emphasis on voluntary commitment to Christ. Our Anabaptist forefathers persistently emphasized the concept of an uncoerced response to God in Christ in their understanding of the new birth, baptism, worship and service.

"The Anabaptists counted the fallen condition of the church from the days of Constantine until the beginning of their own movement. They rejected the marriage of the church and state for its empty formalism and spiritual slackness. The Anabaptists believed that no individual might rightly be compelled by the magistrate in matters of faith.

"The government, whether at the federal level or through the state houses or state boards of education, would need to author or at least approve the "nondenominational" prayers to be used in the classroom. With this realization, the extent of government intrusion in matters of theology and religious faith becomes readily apparent. We have never believed that government was competent to pass judgement in matters of religious faith, a function that properly belongs to the church and the home.

—Excerpted from "A Statement on Prayer in Public Schools", November 1971

Presbyterian Church (U.S.A.)

"Recommends that religious observances never be held in a public school or introduced into the public school as a part of its program. Bible reading in connection with courses in the American heritage, world history, literature, the social sciences and other academic subjects is completely appropriate to public school instruction. Bible reading and prayers as devotional acts tend toward indoctrination or meaningless ritual and should be omitted for both reasons."

—General Assembly, 1963

Evangelical Lutheran Church in America

We... recognize that in the end religion suffers and religious liberty in its fullness is threatened when government uses the power of its laws and the public school program to prescribe an official faith...

Parents, churches and school authorities would be better advised to direct their efforts to programs of study of religion and the Bible in the public schools...rather than to seek constitutional sanctions for devotional exercises in public school that have at most a minimal religious value, which invite the intrusion of sectarian influences into the public school system, risk the violation of the rights of religious freedom and are a potential sources of conflict in the community."

—The following excerpts were from predecessor church bodies, 1964

The Lutheran Church-Missouri Synod

"The Board of Parish Education (now known as The Board for Parish Ministries) of the Lutheran Church-Missouri Synod feels that the... (prayer) Amendment fails to recognize fully the religious pluralism of the American scene. We believe that Christians cannot join with non-Christians in addressing God in circumstances that deny Jesus Christ as Savior and Lord. We believe that non-Christians should neither be expected to participate in Christian prayer nor should they expect Christians to join them in prayers that deny Christ.

"The concept of voluntary participation in prayer provides either a coercive force or an embarrassing situation for both Christians and non-Christians. Under these circumstances we believe that it is best for the public school not to engage in prayer or other religious worship exercises."

—The Board for Parish Ministries, July 29, 1966

American Baptist Churches, USA

The General Board of the American Baptist Churches, U.S.A.

"Reaffirms our historic Baptist belief that religion should not be mandated and that prayers and religious practices should not be established or prescribed by law or by public policy or officials;

"Supports the Supreme Court decision on prayer in the public schools and recognizes that it does not prohibit the free exercise of religion while sustaining the liberty of a free conscience;

"Opposes any attempt through legislation or other means to circumvent the decision of the Supreme Court on mandated prayer in the public schools.

—Excerpts from adopted position of the General Board of the American Baptist Churches, USA June 1980

Unitarian Universalist Association of Congregations in North America

"...There have been recent efforts by some individuals and religious organizations to identify this country and its government with religious doctrines and the Unitarian Universalist Association has deplored and condemned such activities that link government policies and actions at the federal, state and local levels and doctrines of specific religions:

"...The 1985 General Assembly of the Unitarian Universalist Association reaffirms its commitment to religious liberty and religious pluralism; and

"...Oppose(s) all deviations from religious neutrality in public schools such as government mandated or regimented devotions;...proselytizing in public schools by either school

personnel or outside adults.

—Excerpts from adopted position of Unitarian Universalist Association of Congregations in North America, 1985

Baptist Joint Committee on Public Affairs

"...Congress continues to be pressured to act favorably on a proposed constitutional amendment calling for prayer in public schools;

"...the Baptist Joint Committee on Public Affairs has consistently supported the U.S. Supreme Court's historic 1962 and 1963 decisions striking down state-mandated prayer and Bible reading in public schools;

"...the Baptist Joint Committee reaffirms its support of the Supreme Court's decisions."

—Excerpts from position statement, March 2, 1982

Friends Committee on National Legislation

"We support the vigorous and diligent protection of all the rights and freedoms guaranteed by the U.S. Constitution, including those of...religion....

"We further recommend maintaining the constitutional separation of church and state to ensure...that the restrictions continue against government-imposed prayers and religious exercises in the public schools. These restrictions do not prohibit truly voluntary prayers in the schools or teaching about the religious aspects of our pluralistic cultural heritage or discussion of ethical principles.

—Statement of Legislative Policy, November 14, 1987

General Conference of Seventh-day Adventists

"Under the Helms Amendment, which would prohibit the Supreme Court from ruling on the issue of prayer in schools - the very body, it should be noted, that our forefathers determined should survey fidelity to the First Amendment - a Baptist child might be asked to recite a Buddhist prayer in Hawaii, and a Buddhist child might be asked to recite a Christian prayer in Mississippi. Such ought not to be. To call such a prayer 'voluntary' is to play not only with words but with the spiritual sensitivities of our children. It would be a travesty of our First Amendment indeed should each state be free to determine what constitutes religious freedom."

—June 1980

Christian Church (Disciples of Christ)

"WHEREAS the Supreme Court of the United States ruled in its June 25, 1962 decision on *Engel vs. Vitale* that 'in this country it is no part of the business of government to compose official prayers for any group of the American people to recite

as part of a religious program carried on by the government' and 'It is neither sacrilegious nor anti-religious to say that each separate government in this country should stay out of the business of writing or sanctioning official prayers and leave that purely religious function to the people themselves and to those the people choose to look to for religious guidance,' and;

"WHEREAS this ruling is criticized by people who misunderstood it as an attack on religion, or by others who are not committed to the principle of separation of church and state, or who wish to discredit the court because of its stand on other issues, therefore be it;

"RESOLVED, that this Convention approve the action of the Supreme Court on *Engle vs. Vitale*, that we commend the court's defense of the rightful role of the church from encroachment by the state and call upon our people to study this decision prayerfully and to defend the specific ruling vigorously."

—Resolution No. 64 Approved by International Convention of Christian Churches (Disciples of Christ), Los Angeles, California, September 30-October 4, 1962

United Methodist Church

"The state should not use its authority to inculcate particular religious beliefs (including atheism) nor should it require prayer or worship in the public schools, but should leave students free to practice their own religious convictions."

—Excerpted from *The Book of Resolutions of the United Methodist Church*, Adopted 1976

The First Church of Christ, Scientist

"...For truly voluntary prayer, no law needs to be passed to call for volunteers. Such prayer is between the individual and God; this is the fundamental religious relationship which must be kept free at every stage where the separation of church and state is threatened."

—From *Christian Science Monitor* Editorial, March 1980

National Jewish Community Relations Advisory Council

"The National Jewish Community Relations Advisory Council (NJCRAC), the national planning and coordinating body for public affairs for the organized Jewish community in the United States which includes the National Reform, Conservative and Orthodox congregational bodies, has a long-standing position in opposition to all forms of organized school prayer in the public schools. The Jewish community's position includes silent prayer and 'silent meditation,' which we view as

a subterfuge for the introduction of school prayer -- and thereby the inappropriate introduction of religion -- in the public schools. The institutionalization of prayer, in any form, spoken or silent, fosters what in essence is a religious exercise that in a public school setting can have a coercive effect on a student. At bottom, organized prayer debases distinctive religious expression, vital to maintaining particularistic religious beliefs.

"The position of the NJCRAC is an inclusive one: prayer, whether led by students or other individuals, in the classroom, at graduation ceremonies, sporting events or at any other school-related event, is opposed by the NJCRAC and its member agencies."

—Reaffirmed 1994. The National Jewish Community Relations Advisory Council is the national planning and coordinating body for public affairs and community relations for the organized Jewish community in the United States. NJCRAC consists of thirteen national and 117 community member agencies, representing Jewish communities throughout the U.S.A.

United Church of Christ

"Voted: The Executive Council of the United Church of Christ supports the Supreme Court decisions banning prescribed prayers and prescribed Bible reading in the public schools...."

"Strongly supports efforts of schools to increase and improve the teaching of moral values and the appreciation of the role of religion in the development of our heritage."

"Urge the instrumentalities, conferences and churches of the United Church of Christ to work to help the public understand both the scope and limitations of the Supreme Court decisions concerning prescribed prayers and prescribed Bible reading in the public schools."

—Resolution on Religion in the Public Schools, October 1971

Church of the Brethren

"Many persons have been critical of the Supreme Court's decisions interpreting the First Amendment to prohibit prayer and Bible reading in public schools. We believe in freedom of belief for all, and historically our denomination has sought to limit the impact of government on our own religious beliefs and practices. Recognizing this historical tension between Church and State, we do not want to find ourselves today using the coercive power of the state and the public schools to pressure anyone into participating in any religious activity. Although we may now regard ourselves as part of the American

majority, we must remain zealous in protecting the rights of all minorities.

"We reaffirm the 1964 resolution of the Church of the Brethren Annual Conference which stated: "Prayers or Bible reading, when prescribed by school authorities, are also government-supervised expressions of religion, mild though they may be. Because what is prescribed in these cases may happen to please us, we should not ignore the possibility that it may displease those of other faiths or none. We Brethren have always held to the principle of "no force in religion." The benefits of such formal, routine, mechanically performed exercises are few and at best do little to provide the spiritual nurture our children need. Effective Christian nurture is the responsibility of our homes and our churches. We should be far more concerned that both are meeting that responsibility than we actually are at this time. The Supreme Court has not ruled religion out of our schools. Faith is more likely to be transmitted from a dedicated teacher to his students by contagion and example than by formal exercises. Further, completely voluntary religious expressions when not offensive to anyone's conscience, are permissible.

—Annual Conference Statement, 1977

The Episcopal Church

"...Whereas, We believe that worship and religious education are the responsibility of Church and home, and not of the public schools or governmental institutions..., therefore be it

"Resolved, That the National Council of the Protestant Episcopal Church record its considered opinion that amendments to the Constitution of the United States of America which seek to permit devotional exercises in our public schools should be opposed."

—The Executive Council of the Episcopal Church, May 1964

Compiled by:

**Americans United for Separation
of Church and State**

**8120 Fenton Street, Silver Spring, Maryland 20910
301/589-3707**

God And The Public Schools

God and the Public Schools

Has God been expelled from America's public schools? Has the Bible been excluded from the school curriculum? Is "secular humanism" now the established religion in our nation's schools?

These are some of the questions being asked about the role of religion in public education today. In reality, the answer to all of these questions is "no." Here are the facts.

The appropriate place of religion in America's public schools has long been a difficult issue. With the development of our system of public education in the 19th century, questions arose about the place of religious values and convictions in schools that welcomed children of all faith traditions. These questions led to severe conflict in many communities. In Philadelphia, for example, full-scale riots and bloodshed erupted in the 1840s over which version of the Bible should be used in classroom devotions. Cincinnati was sharply divided by the "Bible War" in the 1870s. Many Americans came to realize that interfaith harmony and community goodwill could best be realized by keeping public schools neutral on religious questions.

The U.S. Supreme Court affirmed the wisdom of this approach in the early 1960s when it ruled that government-mandated prayer, Bible-reading and other religious exercises are inappropriate in public schools. The justices said the church-state separation provisions of the First Amendment forbade such government meddling in the area of religious worship. Still, even today some people misunderstand the scope of those decisions.

about religion from public schools. In fact, in its 1963 Bible-reading decision, the justices maintained that a student's education is not complete without instruction on the influence of religion on history, culture and literature.

Justice Tom Clark, representing the court, wrote: "Nothing that we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistent with the First Amendment."

He also noted that the government may not establish a "religion of secularism," in the sense of affirmatively opposing or showing hostility to religion...."

The court was saying simply that the home and family, not government, are the appropriate decision-makers for the student's religious guidance.

The court intended no hostility to religion. In fact, Justice Clark concluded: "The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel, whether its purpose or effect be to aid or oppose, to advance or retard. In the relationship between man and religion, the State is firmly committed to a position of neutrality."

In practice, what does this mean for public schools? Here are some things courts have said school personnel and students may do:

1. Schools may use the Bible or other religious books as resources in teaching about religion.
2. Schools may offer elective courses in the Bible as literature and history.
3. Schools may offer objective instruction in comparative religion.
4. Schools may study the history of religion and its role in the story of civilization.
5. Teachers are free to utilize historic documents such as the Declaration of Independence that contain references to God.
6. Students may voluntarily sing the national anthem and other patriotic songs that contain assertions of faith in God.
7. References to faith in God in connection with

- permissible if participation is voluntary.
8. Students may be released for religious instruction off school premises.
 9. Students may read the Bible or other religious literature during their free time at school.
 10. Students may pray voluntarily and silently any time they wish.

Schools, however, may *not* do the following:

1. Schools may not use compulsory attendance laws to impose religious worship or instruction on children.
2. The school program may not provide for compulsory reading from the Bible as part of a devotional activity or religious service.
3. Teachers may not require or encourage students to recite prayers.
4. The schools may not teach a "religion of secularism" any more than they may teach a theistic religion.
5. Government officials may not compose or sanction official prayers for recitation in the schools.
6. Sectarian instruction may not be offered in school classrooms during school hours.
7. School officials may not promote, organize, or record student attendance at sectarian instruction even though it is offered off school premises.
8. Schools may not sponsor or encourage the distribution of religious literature on campus.
9. No academic credit may be given for off-campus religious instruction.
10. Schools may not erect permanent religious symbols in classrooms or post religious scriptures on classroom walls in a way that suggests advocacy of a particular religion.

These general guidelines are perceived by most informed Americans as fair, preserving the freedom of conscience of all students, parents and school personnel. Yet there is a movement under way to destroy the delicate balance we have achieved.

Even today some short-sighted politicians and misguided religious leaders continue to press for constitutional amendments or other measures allowing the government to make decisions about the

"The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel, whether its purpose or effect be to aid or oppose, to advance or retard. In the relationship between man and religion, the state is firmly committed to a position of neutrality."

—Supreme Court Justice Tom Clark

worship practices of school children. Cloaked as "voluntary" religion, these proposals would in fact allow unthinking religious majorities in states and localities to impose their religious beliefs on everyone through the political process, undercutting First Amendment religious freedoms.

This prospect should be frightening to all freedom-loving people of whatever religious perspective. Indeed, most religious denominations, ranging across the theological spectrum, have issued formal statements supporting the Supreme Court's decisions and opposing any compromise of our First Amendment religious freedoms. They value the hard-won freedom of conscience that belongs to every American. Impassioned minorities, even when they pose

that.

Strong evidence suggests that many of the advocates of the school prayer amendment and similar measures want to destroy the free, non-sectarian public education system in America, replacing it with taxpayer-subsidized, church-run academies where only one religious faith is taught. This objective is wrong and should be stopped.

Not all questions about religion in public schools are so easily dealt with. Courts, legislators, school officials and religious leaders are still grappling with many aspects of this subject.

Christmas and other holidays that have both religious and secular aspects present special problems. One federal court attempted to set guidelines on how Christmas may be recognized in a public school context. The court held that religion-based music and art are only appropriate if included as part of a secular educational program.

The Equal Access Act, passed by Congress in 1984 and upheld by the Supreme Court in 1990, can also invite church-state violations if the statute's guidelines are not properly followed. The law allows students to form religious clubs and initiate meetings outside school hours if non-religious student groups are granted the same right. No school personnel may participate in the groups or influence their content, though a faculty member may be present to ensure order. Outside religious groups may not participate on a regular basis.

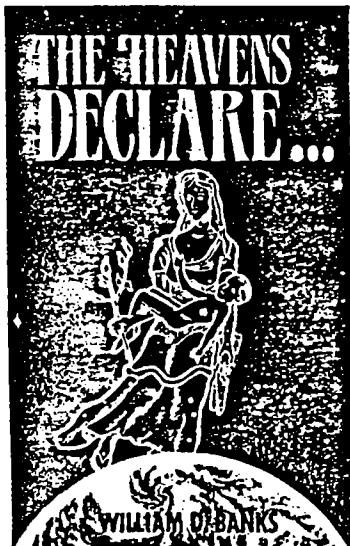
This is a murky area of constitutional law, and schools would do well to consult with legal counsel before taking action. Some schools have chosen to allow only school-related activities rather than wade into the complexities of "equal access" for all student-initiated religious groups.

The courts of America are still formulating guidelines on religion's place in public schools. Cases regularly come before the bench for resolution. Each controversy must be decided on the basis of the facts presented, within the broad outlines laid down by the U.S. Supreme Court. Parents and school personnel should become informed about the latest legal decisions before taking action in this area.

Above all, school administrators should proceed with prudence and sensitivity, respecting the beliefs of all students.

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they could not wear a shirt bearing any type of Christian symbol, no matter how subtle. If they wore such a shirt, or brought their Bibles to school, they would be suspended.

• Orlando, Florida, high school students were not allowed to distribute Christian literature on campus in any manner until Christian Advocates Serving Evangelism (CASE) attorneys threatened to sue school officials for damages, and the Florida Civil Liberties Union told school officials that they were wrong to forbid the exercise of First Amendment rights.

• Irving, Texas, high school students were told that they could not distribute religious literature at school. Again, administrators based their reasoning on the "separation of church and state."

• A Christian high school teacher in Colorado, who sponsored a national award-winning school newspaper, was relieved of her duties as newspaper adviser because school officials felt it was "time for a change." Because of her stand for righteousness, the Colorado Education Association had listed her as a teacher to be dismissed.

Initially, you might respond, "Well, the law does say that schools should not have anything to do with religion." But this simply is not true! The U.S. Supreme Court ruled in 1969 that students and teachers do not abandon their First Amendment rights while at school.

You might say as well that the policies imposed in Atlanta, Orlando or Irving do not look like government intervention in the church. Considering, however, that the government endorses such actions by tolerating them, it becomes clear that the government is intervening in religion by stifling religious freedoms of public school students and teachers. By suppressing religious speech of students, the government strikes at the heart of Christianity and the church.

How? Our Great Commission is to go into all the world (including public schools) and preach the gospel of Jesus Christ (Matt. 28:19-20). When government tells student preachers, "Be silent or be suspended," it usurps the position and authority of the Lord in the lives of such students.

It may be that the Christian youth in your town's schools are being intimidated by overzealous school officials who ignorantly overstep the students' constitutional rights. Bible-believers must be alert to protect against such erosion of our young people's religious liberties.

Slowly, our children's rights are being lost. Yet while Christians lose ground in the schools, the New Age religion is gaining ground. Around the nation, schools teach children how to meditate. Teachers show children how to find their "inner spirit guide" who will show them how to be better people.

In one case, a student class chaplain was asked to pray at graduation but was told by her principal that she could not mention the name of Jesus. When she prayed "in the name of Your Son" at an awards ceremony, she was told that she would not be allowed to pray at graduation.

TURNING THE TIDE

Even so, the tide has begun to turn in a dramatic way. On June 4, 1990, the U.S. Supreme Court decided the Bible club case *Westside Community Schools v. Mergens*. In *Mergens*, a student wanted to start a Bible club in her high school. Although the Nebraska school she attended has a scuba divers club, school officials would not allow the Bible club to meet on campus. For three years the battle was fought in the U.S. federal court system. The Supreme Court finally ruled in the *Mergens* case that federally funded, public secondary schools which allow non-curriculum clubs to use school facilities must also allow Christian Bible groups or prayer clubs to use school facilities. By itself, this decision is a great victory for the church!

The Supreme Court, however, went further. Justice O'Connor, writing for the court, said that when Bible groups are recognized (and the court ruled that they must be recognized), they must be allowed to use the public address system, the school bulletin board and the school newspaper. In fact, the court insisted that Bible groups or prayer clubs be treated exactly like any other group that meets on campus. *Continued on page 130*