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KEVIN J. SULLIVAN
Advisor & Senior Speechwriter
to the Secretary

400 Maryland Ave, S.W.
Room 7C117
Washington, D.C. 20202

Telephone: 202-401-0831
FAX: 202-260-7753
E-mail: kevin_sullivan@ed.gov

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Phil,

This is well done, but I think we
would want to be cautious in what
we say about. It really goes to
curriculum-- what to teach &
how to teach it. Our
endorsement of this also could

The Bible and Public Schools: be misconstructed
easily as we promote
"Bible studies".

A First Amendment Guide

Steve

P.S. I needed a couple of
connections as to our
guidelines.

**The Bible and Public Schools: A First Amendment Guide is published
by:**

**National Bible Association
First Amendment Center**

The guide has been endorsed by the following organizations:

**American Association of School Administrators
American Federation of Teachers
American Jewish Committee
American Jewish Congress
Anti-Defamation League
Association for Supervision and Curriculum Development
Baptist Joint Committee on Public Affairs
Christian Educators Association International
Christian Legal Society
Council on Islamic Education✓
National Association of Evangelicals
National Association of Secondary School Principals
National Council of Churches of Christ in the U.S.A
National Council for the Social Studies
National Education Association
National School Boards Association
People for the American Way Foundation
Union of American Hebrew Congregations**

The Bible and Public Schools: *A First Amendment Guide*

The Search for Common Ground

Ending the confusion and conflict about the Bible and public schools would be good for public education and for our nation. But finding common ground will not be easy because Americans have been divided about this issue since the early days of the common school movement. “Bible wars” broke out in the 19th century between Protestants and Catholics over whose version of the Bible would be read each morning in the classroom. Lawsuits in the 1960s led to Supreme Court decisions striking down devotional Bible-reading by school officials. More recent conflicts have involved differences about the limits of student religious expression and the constitutionality of Bible courses offered in the curriculum.

Two Failed Models

If school districts are going to move from battleground to common ground on issues concerning the Bible¹ in the schools, they must move beyond the extremes that often dominate the debate. On one end of the spectrum are those who advocate what might be called the “sacred public school” where one religion (theirs) is preferred in school practices and policies. Characteristic of the early history of public education, this unconstitutional approach still survives in some school districts. In more recent decades, there are those on the other end of the spectrum who push for what looks to some like a “religion-free zone” where religion is largely ignored in public schools.

A Third Model of Fairness and Respect

The sponsors of this guide reject both of these models and offer another approach – one in which public schools neither inculcate nor inhibit religion, but become places where religion and religious conviction are treated with fairness and respect.

In this third model, public schools protect the religious-liberty rights of students of all faiths or none. And schools ensure that the curriculum includes study *about* religion as an important part of a complete education. This is a vision of public education that is

¹ There is no single Bible. There is the Jewish Bible (the Hebrew scriptures or *Tanakh*), and various Christian Bibles – such as Catholic, Protestant, and Orthodox – some with additional books, arranged in a different order. The use of the term “Bible” in this document is meant to be inclusive of the various versions and translations.

both consistent with First Amendment principles and broadly supported by many educational and religious organizations.²

The advice offered in this guide draws on this shared vision and relies on recent consensus statements about the role of religion in public schools under current law.³ The focus here is on the Bible because of the need to address the conflicts and confusion surrounding the Bible in the public-school curriculum. There are, of course, scriptures of other faith communities important to millions of Americans and worthy of study in a well-balanced curriculum. The constitutional and educational guidelines offered below apply to study about these scriptures as well.

The Bible and the Religious-liberty Rights of Students

Many Americans continue to hold the mistaken view that the Supreme Court decisions in the 1960s concerning prayer and devotional Bible-reading prohibited students from expressing their faith in a public school. Actually, the Court did not eliminate prayer or the Bible from public schools; it barred *state-sponsored* religious practices, including devotional use of the Bible by public-school officials.

Student Religious Expression

In *Religion in the Public Schools: A Joint Statement of Current Law*, thirty-five religious and civil liberties organizations give the following summary of the rights of students to express their faith in a public school:

Students have the right to pray individually or in groups or to discuss their religious views with their peers so long as they are not disruptive. Because the Establishment Clause does not apply to purely private speech, students enjoy the right to read their Bibles or other scriptures, say grace before meals, pray before tests, and discuss religion with other willing student listeners. In the classroom students have the right to pray quietly except when required to be actively engaged in school activities (e.g., students may not decide to pray just as a teacher calls on them). In informal settings, such as the cafeteria or in the halls, students may pray either audibly or silently, subject to the same rules of order as apply to other speech in these locations. However, the right to engage in voluntary prayer does not include, for example, the right to have a captive audience listen or to compel other students to participate.

² See *Religious Liberty, Public Education, and the Future of American Democracy*, a statement of principles sponsored by twenty-four religious and educational organizations. For a full text of the statement and a list of sponsors, contact the First Amendment Center.

³ See *Religion in the Public Schools: A Joint Statement of Current Law*, endorsed by thirty-five religious and religious-liberty organizations, and *Religious Expression in Public Schools*, a ~~directive~~ ^{guideline} issued by the U.S. Department of Education. Copies of the Joint Statement are available from the American Jewish Congress, 15 East 84th St., Suite 501, New York, NY 10028. For the guidelines issued by the U.S. Dept. of Education, call 877-433-7827. ✓

Student Religious Clubs

The Equal Access Act passed by Congress in 1984 ensures that students in secondary public schools may form religious clubs, including Bible clubs, if the school allows other extracurricular groups.⁴ The Act is intended to protect *student-initiated* and *student-led* meetings. Outsiders may not “direct, conduct, control, or regularly attend” student religious clubs, and faculty acting as monitors may be present at religious meetings in a nonparticipatory capacity only.⁵

The guidelines on *Religious Expression in Public Schools*, issued by the U.S. Department of Education, give the following guidance for interpreting the Equal Access Act:

The Equal Access Act is designed to ensure that, consistent with the First Amendment, student religious activities are accorded the same access to public school facilities as are student secular activities. Based on decisions of the Federal courts, as well as its interpretations of the Act, the Department of Justice has advised that the Act should be interpreted as providing, among other things, that:

Student religious groups at public secondary schools have the same right of access to school facilities as is enjoyed by other comparable student groups. Under the Equal Access Act, a school receiving Federal funds that allows one or more student noncurriculum-related clubs to meet on its premises during noninstructional time may not refuse access to student religious groups.

A meeting, as defined and protected by the Equal Access Act, may include a prayer service, Bible reading, or other worship exercise.

A school receiving Federal funds must allow student groups meeting under the Act to use the school media – including the public address system, the school newspaper, and the school bulletin board – to announce their meetings on the same terms as other noncurriculum-related student groups are allowed to use the school media. Any policy concerning the use of school media must be applied to all noncurriculum-related student groups in a nondiscriminatory manner. Schools, however, may inform students that certain groups are not school sponsored.

A school creates a limited open forum under the Equal Access Act, triggering equal access rights for religious groups, when it allows students

⁴ The constitutionality of the Equal Access Act was upheld by the Supreme Court in *Westside Community Schools v. Mergens*, 496 U.S. 226 (1990)

⁵ The requirements of the Equal Access Act are described in detail in *Equal Access and the Public Schools: Questions and Answers*, a pamphlet sponsored by twenty-one religious and educational groups. The full text is available from the First Amendment Center.

to meet during their lunch periods or other noninstructional time during the school day, as well as when it allows students to meet before and after the school day.

Distribution of Religious Literature

An increasing number of students are requesting permission to distribute religious literature, including Bibles, on public-school campuses. According to the guidelines issued by the U.S. Department of Education:

Students have a right to distribute religious literature to their schoolmates on the same terms as they are permitted to distribute other literature that is unrelated to school curriculum or activities. Schools may impose the same reasonable time, place, and manner or other constitutional restrictions on distribution of religious literature as they do on nonschool literature generally, but they may not single out religious literature for special regulation.

The Bible and the Public-School Curriculum

Educators widely agree that study *about* religion, where appropriate, is an important part of a complete education. Part of that study includes learning about the Bible in courses such as history and literature. Knowledge of biblical stories and concepts contributes to our understanding of history, literature, law, art, and contemporary society.

What do the courts say?

The Supreme Court has held that public schools may teach students about the Bible as long as such teaching is "presented objectively as part of a secular program of education."⁶

The Court has also held that religious groups may not teach religious courses on school premises during the school day.⁷ The U.S. Department of Education guidelines reiterate that public schools "may not provide religious instruction, but they may teach *about* religion, including the Bible or other scripture."⁸ In keeping with the First Amendment's mandate of governmental neutrality toward religion, any study of religion in a public school must be *educational*, not *devotional*. This principle holds true whether teaching about the Bible occurs in literature, history or any other class and whether the course is required or an elective.

⁶School District of Abington Twp v. Schempp, 374 U.S. 203, 225 (1963). See Stone v. Graham, 449 U.S. 39, 42 (1980)(per curiam).

⁷McCullum v. Board of Education, 333 U.S. 203 (1948).

⁸Religious Expression in Public Schools, Department of Education, ~~Letter from Secretary Richard Riley~~ (August 10, 1993)(original emphasis).

(May 30, 1998) → cite more recent version (1998) at 7

A relatively small number of lower court decisions have dealt directly with the constitutionality of Bible classes in public schools.⁹ These rulings show that the constitutionality of such classes is highly dependent on such factors as how the class is taught, who teaches it, and which instructional materials and lessons are used.

How the class is taught: Any class about the Bible must be taught in an *objective, academic manner*.¹⁰ The class should neither promote nor disparage religion, nor should it be taught from a particular sectarian point of view.¹¹

Who teaches the class: A superintendent or school board should select teachers for a class about the Bible in the same manner as it selects all other teachers.¹² School districts should not delegate the employment of such teachers to an outside committee that selects teachers based upon their religious beliefs or perspectives.¹³ Teachers should be selected based upon their academic qualifications, rather than their religious beliefs or nonbeliefs.¹⁴ Teachers should not be disqualified, however, simply because they have received religious training.¹⁵

Funding for an elective course in religion may be provided by outside sources as long as the funds are contributed with "no strings attached."¹⁶

Which instructional materials are used: Instructional materials, including which translation of the Bible may be used, should remain under the control of the board of education.¹⁷ The Bible may be used as a primary text, although it probably should not be the only text for a course.¹⁸ Schools should avoid the use of instructional materials and lessons that are of a devotional nature such as those used in a Sunday School. Supernatural occurrences and divine action described in the Bible may not be taught as historical fact in a public school.¹⁹ The historicity of many persons and events described in the Bible may or may not be confirmed by evidence outside of biblical literature. For a

⁹See Hall v. Board of Commissioners of Conecuh County, 656 F.2d 999 (5th Cir. 1981); Gibson v. Lee County School Board, 1 F. Supp.2d 1426 (M.D. Fla. 1998); Chandler v. James, 985 F. Supp. 1062 (M.D. Ala. 1997); Herdahl v. Pontotoc County School District, 933 F. Supp. 582 (N.D. Miss. 1996); Doe v. Human, 725 F. Supp. 1503 (W.D. Ark. 1989), *aff'd without opinion*, 923 F.2d 857 (8th Cir. 1990), *cert. denied*, 499 U.S. 922 (1991); Crockett v. Sorenson, 568 F. Supp. 1422 (W.D. Va. 1983); Wiley v. Franklin, 468 F. Supp. 133 (E.D. Tenn. 1979), *supp. op.*, 474 F. Supp. 525 (E.D. Tenn. 1979), *supp. op.*, 497 F. Supp. 390 (E.D. Tenn. 1980); Vaughn v. Reed, 313 F. Supp. 431 (W.D. Va. 1970). Compare Malnak v. Yogi, 592 F.2d 197 (3d Cir. 1979) (holding unconstitutional a school course in which students participated in transcendental meditation ceremonies).

¹⁰Schempp, 374 U.S. at 225; Graham, 449 U.S. at 42; Hall, 656 F.2d at 1002; Gibson, 1 F. Supp. 2d at 1432; Chandler, 985 F. Supp. at 1063; Herdahl, 933 F. Supp. at 592; Human, 725 F. Supp. at 1508; Crockett, 568 F. Supp. at 1427; Wiley, 497 F. Supp. at 392, 394; Vaughn, 313 F. Supp. at 433; Malnak v. Yogi, 592 F.2d 197 (3d Cir. 1979) (holding unconstitutional a school course in which students participated in transcendental meditation ceremonies).

¹¹Wiley, 497 F. Supp. at 394. See also, Gibson, 1 F. Supp.2d at 1433-34; Herdahl, 933 F. Supp. at 595.

¹²Crockett, 568 F. Supp. at 1431. See also, Gibson, 1 F. Supp.2d at 1433; Vaughn, 313 F. Supp. at 434.

¹³Herdahl, 933 F. Supp. at 593-594; Wiley, 468 F. Supp. at 152.

¹⁴Wiley, 468 F. Supp. at 152.

¹⁵Wiley, 497 F. Supp. at 393.

¹⁶Crockett, 568 F. Supp. at 1431. See also, Gibson, 1 F. Supp.2d at 1433; Herdahl, 933 F. Supp. at 598-599.

¹⁷Crockett, 568 F. Supp. at 1431. See also, Gibson, 1 F. Supp.2d at 1433.

¹⁸Herdahl, 933 F. Supp. at 595 & n.9, 600. See also, Hall, 656 F.2d at 1002-1003; Wiley, 468 F. Supp. at 151; Chandler, 985 F. Supp. at 1063.

¹⁹Gibson, 1 F. Supp.2d at 1434; Herdahl, 933 F. Supp. at 596, 600; Wiley, 474 F. Supp. at 531.

fuller discussion of how to address different interpretations and approaches to the question of historicity, see the “Bible Electives in History” section below.

Teaching *about* the Bible

If teachers are to understand clearly how to teach *about* the Bible – and to feel safe doing so – then local school boards should adopt policies on the role of study about religion in the curriculum. The policy should reflect constitutional principles and current law, and should be developed with the full involvement of parents and other community members. Parents need to be assured that the goals of the school in teaching about religion, including the Bible, are academic and not devotional, and that academic teaching about the Bible is not intended to either undermine or reinforce the beliefs of those who accept the Bible as sacred scripture or of those who do not. Faith formation is the responsibility of parents and religious communities, not the public schools.

In recent years, a consensus has emerged among many religious and educational groups about the appropriate role for religion in the public-school curriculum. In 1989, a coalition of 17 religious and educational organizations issued the following statements to distinguish between teaching *about* religion in public schools and religious indoctrination:

- The school’s approach to religion is *academic*, not *devotional*.
- The school may strive for student *awareness* of religions, but should not press for student *acceptance* of any religion.
- The school may sponsor *study* about religion, but may not sponsor the *practice* of religion.
- The school may *expose* students to a diversity of religious views, but may not *impose, discourage, or encourage* any particular view.
- The school may *educate* about all religions, but may not *promote* or *denigrate* any religion.
- The school may *inform* the student about various beliefs, but should not seek to *conform* him or her to any particular belief.²⁰

When teaching about the Bible in a public school, teachers must understand the important distinction between advocacy, indoctrination, proselytizing, and the practice of religion – which is unconstitutional – and teaching *about* religion that is objective, nonjudgmental, academic, neutral, balanced, and fair – which is constitutional.

²⁰ For *Religion in the Public School Curriculum: Questions and Answers* and a list of the sponsoring organizations, contact the First Amendment Center.

Which Bible?

Selecting a Bible for use in literature, history, or elective Bible courses is important since there is no single Bible. There is a Jewish Bible (the Hebrew Scriptures, or *Tanakh*), and various Christian Bibles – such as Catholic, Protestant, and Orthodox – some with additional books, arranged in a different order. These differences are significant. For example, Judaism does not include the Christian New Testament in its Bible, and the Catholic Old Testament has forty-six books while the Protestant has thirty-nine. There are also various English translations within each of these traditions.

To adopt any particular Bible – or translation – is likely to suggest to students that it is normative, the best Bible. One solution is to use a biblical sourcebook that includes the key texts of each of the major Bibles or an anthology of various translations.

At the outset and at crucial points in the course, teachers should remind students about the differences between the various Bibles, and discuss some of the major views concerning authorship and compilation of the books of the Bible. Students should also understand the differences in translations, read from several translations, and reflect on the significance of these differences for the various traditions.

Which Interpretation?

The Bible is interpreted in many different ways, religious and secular. For example: In Judaism, the Hebrew Bible is typically read through the eyes of various rabbinic commentators. For Roman Catholics, the authoritative interpretation of the church is crucial for understanding the Bible. Some Christians and Jews use the findings of modern secular scholarship to interpret the Bible, while others reject some or all of modern scholarship.

Because there are many ways to interpret the Bible – religious and secular – public-school teachers should expose students to a variety of interpretations. Teachers should allow students to encounter the text directly (like any primary source), and then draw on the resources of different religious and secular interpretative traditions for understanding it. To do this effectively requires the use of secondary sources that provide a discussion of the various religious and secular approaches to the Bible.

Teacher Selection and Preparation

Teaching about the Bible, either in history and literature courses or in Bible electives, requires considerable preparation. School districts and universities should offer in-service workshops and summer institutes for teachers who are teaching about the Bible in history and literature courses.

When selecting teachers to teach Bible electives, school districts should look for teachers who have some background in the academic study of religion. Unless they have already received academic preparation, teachers selected to teach a course about the Bible should receive substantive in-service training from qualified scholars before being

permitted to teach such courses. Electives in biblical studies should only be offered if there are teachers academically competent to teach them.

For the future, we recommend changes in teacher education to help ensure that study about religion, including the Bible, is done well in public schools. History and literature teachers should be encouraged, as part of their certification, to take at least one course in religious studies that prepares them to teach about religions in their subject. Teachers who wish to teach a Bible elective should have taken college-level courses in biblical studies. Eventually, religious studies should become a certifiable field, requiring at least an undergraduate minor. State departments of education will need to set certification requirements, review curriculums, and adopt appropriate academic standards for electives in religious studies.

The Bible and Literature

Academic study of the Bible in a secondary public school may appropriately take place in literature courses. Students might study the Bible *as* literature. They would examine the Bible as they would other literature in terms of aesthetic categories, as an anthology of narratives and poetry, exploring its language, symbolism, and motifs. Students might also study the Bible *in* literature, the ways in which later writers have used Bible literature, language, and symbols. Much drama, poetry, and fiction contains material from the Bible.

Bible Electives in Literature

A literature elective in the Bible would focus on the Bible as a literary text. This might include the Bible *as* literature and the Bible *in* literature. A primary goal of the course would be basic biblical literacy – a grasp of the language, major narratives, symbols, and characters of the Bible. The course might also explore the influence of the Bible in classic and contemporary poems, plays, and novels.

Of course, the Bible is not simply literature – for a number of religious traditions it is *scripture*. A “Bible Literature” course, therefore, could also include some discussion of how various religious traditions understand the text. This would require that literature teachers be adequately prepared to address in an academic and objective manner the relevant, major religious readings of the text.

The Bible and History

The study of history offers a number of opportunities to study about the Bible. When studying the origins of Judaism, for example, students may learn different theories of how the Bible came to be. In a study of the history of the ancient world, students may learn how the content of the Bible sheds light on the history and beliefs of Jews, Christians, and Muslims – adherents of the religions that affirm the Bible as scripture. A study of the Reformation might include a discussion of how Protestants and Catholics differ in their interpretation and use of the Bible.

In U. S. history, there are natural opportunities for students to learn about the role of religion and the Bible in American life and society. For example, many historical documents – including many presidential addresses and congressional debates – contain

biblical references. Throughout American history the Bible has been invoked on various sides of many public-policy debates and social movements such as abolition, temperance, and the Civil Rights Movement. A government or civics course may include some discussion of the biblical sources for parts of our legal system.

Learning about the history of the Bible, as well as the role of the Bible in history, are appropriate topics in a variety of courses in the social studies.

Bible Electives in History

An elective history course that focuses on the Bible is a difficult undertaking for public schools because of the complex scholarly and religious debates about the historicity of the Bible. Such a course would need to include non-biblical sources from a variety of scholarly perspectives. Students would study archeological findings and other historical evidence in order to understand the history and cultures of the ancient world. Teachers who may be assigned to teach a history course focused on the Bible need a great deal of preparation and sophistication.

Unless schools are prepared to design a course that meets the above requirements, they will face legal and educational challenges. In view of these requirements, most public schools that have offered a Bible elective have found it safer and more age-appropriate to use the Bible Literature approach discussed earlier in this guide.

Schools must keep in mind that the Bible is seen by millions of Jews, Christians, and Muslims as *scripture*. For adherents of these faiths, the Bible makes sense of events in terms of God's purposes and actions. This means that the Bible may not be treated as a history textbook by public-school teachers, but must be studied by examining a variety of perspectives – religious and non-religious – on the meaning and significance of the biblical account.

As we have already noted, sorting out what is *historical* in the Bible is complicated and potentially controversial. Teachers who teach a history course focused on the Bible need to be sensitive to the differences between conventional secular history and the varieties of sacred history. Students must learn something about the contending ways of assessing the historicity of the Bible. They cannot be uncritically taught to accept the Bible as literally true, as history. Nor should they be uncritically taught to accept as historical only what secular historians find verifiable in the Bible.

Sometimes, in an attempt to make study about the Bible more “acceptable” in public schools, educators are willing to jettison accounts of miraculous events. But this too is problematic, for it radically distorts the meaning of the Bible. For those who accept the Bible as scripture, God is at work in history, and there is a religious meaning in the patterns of history. A Bible elective in a public school may examine all parts of the Bible, as long as the teacher understands how to teach *about* the religious content of the Bible from a variety of perspectives.

The Bible and World Religions

Given the importance and influence of religion, public schools should include study about religion in some depth on the secondary level. As we have suggested, such study may include study about the Bible, where appropriate, in history and literature courses as well as in elective courses that deal with the Bible.

However, a course that includes study about the Bible and its influence will not educate students about religion generally. Just as there is more to history than American history, so there is more to religion than the Bible, Judaism, and Christianity.

Public schools should also include study about other religious faiths in the core curriculum, and offer electives in world religions. Because religion plays a significant role in history and society, study about religion is essential to understanding both the nation and the world. Moreover, knowledge of the roles of religion in the past and present promotes cross-cultural understanding in our increasingly diverse society.

Some school districts require that high schools offering a Bible elective also offer an elective in world religions. There is considerable merit in this approach. This gives students an opportunity to learn about a variety of religions – and conveys to students from faiths other than the biblical traditions that their religions are also worthy of study. It is important for public schools to convey the message that the curriculum is designed to offer a good education, and not to prefer any religious faith or group.

Elementary Education

The study of family, community, various cultures, the nation, and other themes and topics important in elementary education may involve some discussion of religion. Elementary students are introduced to the basic ideas and practices of the world's major religions in a number of textbooks and curriculums used in public schools. These discussions of religion focus on the generally agreed-upon meanings of religious faiths – the core beliefs and symbols as well as important figures and events. This may include introduction to biblical literature as students learn something about the various biblical faiths.

This early exposure to study about religion builds a foundation for later, more complex discussions in secondary school literature and history courses. Such teaching is introductory in nature: elementary education is not the place for in-depth treatment of religion. Stories drawn from various religious faiths may be included among the wide variety of stories read by students. But the material selected must always be presented in the context of learning *about* religion.

One court has permitted elective Bible courses at the elementary level.²¹ But if such instruction is undertaken, it must be done academically and objectively by a qualified teacher. Children would need to understand that they are studying about what the people of a particular religious tradition believe and practice. Devotional books intended for faith formation or religious education may not be used in a public-school classroom.

As in secondary schools, a balanced and fair curriculum in the elementary grades would not limit study about religion to Judaism and Christianity, but would include a variety of the world's major religious faiths.

²¹ Wiley v. Franklin, 468 F. Supp. 133 (E.D. Tenn. 1979).

RELIGIOUS EXPRESSION IN PUBLIC SCHOOLS: A STATEMENT OF PRINCIPLES



U.S. DEPARTMENT OF EDUCATION
September 1999

A LETTER FROM THE U.S. SECRETARY OF EDUCATION

Dear American Educator,

"...Schools do more than train children's minds. They also help to nurture their souls by reinforcing the values they learn at home and in their communities. I believe that one of the best ways we can help out schools to do this is by supporting students' rights to voluntarily practice their religious beliefs, including prayer in schools.... For more than 200 years, the First Amendment has protected our religious freedom and allowed many faiths to flourish in our homes, in our work place and in our schools. Clearly understood and sensibly applied, it works."

President Clinton
May 30, 1998

Almost three years ago, President Clinton directed me, as U.S. Secretary of Education, in consultation with the Attorney General, to provide every public school district in America with a statement of principles addressing the extent to which religious expression and activity are permitted in our public schools. In accordance with the President's directive, I sent every school superintendent in the country guidelines on *Religious Expression in Public Schools* in August of 1995.

The purpose of promulgating these presidential guidelines was to end much of the confusion regarding religious expression in our nation's public schools that had developed over more than thirty years since the U.S. Supreme Court decision in 1962 regarding state sponsored school prayer. I believe that these guidelines have helped school officials, teachers, students and parents find a new common ground on the important issue of religious freedom consistent with constitutional requirements.

In July of 1996, for example, the Saint Louis School Board adopted a district wide policy using these guidelines. While the school district had previously allowed certain religious activities, it had never spelled them out before, resulting in a lawsuit over the right of a student to pray before lunch in the cafeteria. The creation of a clearly defined policy using the guidelines allowed the school board and the family of the student to arrive at a mutually satisfactory settlement.

In a case decided last year in a United States District Court in Alabama, (*Chandler v. James*) involving student initiated prayer at school related events, the court instructed the DeKalb County School District to maintain for circulation in the library of each school a copy of the presidential guidelines.

The great advantage of the presidential guidelines, however, is that they allow school districts to avoid contentious disputes by developing a common understanding among students, teachers, parents and the broader community that the First Amendment does in fact provide ample room for religious expression by students while at the same time maintaining freedom from government sponsored religion.

The development and use of these presidential guidelines were not and are not isolated activities. Rather, these guidelines are part of an ongoing and growing effort by educators and America's religious community to find a new common ground. In April of 1995, for example, thirty-five religious groups issued "Religion in the Public Schools: A Joint Statement of Current Law" that the Department drew from in developing its own guidelines. Following the release of the presidential guidelines, the National PTA and the Freedom Forum jointly published in 1996 "A Parent's Guide to Religion in the Public Schools" which put the guidelines into an easily understandable question and answer format.

In the last two years, I have held three religious-education summits to inform faith communities and educators about the guidelines and to encourage continued dialogue and cooperation within constitutional limits. Many religious communities have contacted local schools and school systems to offer their assistance because of the clarity provided by the guidelines. The United Methodist Church has provided reading tutors to many schools, and Hadassah and the Women's League for Conservative Judaism have both been extremely active in providing local schools with support for summer reading programs.

The guidelines we are releasing today are the same as originally issued in 1995, except that changes have been made in the sections on religious excusals and student garb to reflect the Supreme Court decision in *Boerne v. Flores* declaring the Religious Freedom Restoration Act unconstitutional as applied to actions of state and local governments.

These guidelines continue to reflect two basic and equally important obligations imposed on public school officials by the First Amendment. First, schools may not forbid students acting on their own from expressing their personal religious views or beliefs solely because they are of a religious nature. Schools may not discriminate against private religious expression by students, but must instead give students the same right to engage in religious activity and discussion as they have to engage in other comparable activity. Generally, this means that students may pray in a nondisruptive manner during the school day when they are not engaged in school activities and instruction, subject to the same rules of order that apply to other student speech.

At the same time, schools may not endorse religious activity or doctrine, nor may they coerce participation in religious activity. Among other things, of course, school administrators and teachers may not organize or encourage prayer exercises in the classroom. Teachers, coaches and other school officials who act as advisors to student groups must remain mindful that they cannot engage in or lead the religious activities of students.

And the right of religious expression in school does not include the right to have a "captive audience" listen, or to compel other students to participate. School officials should not permit student religious speech to turn into religious harassment aimed at a student or a small group of students. Students do not have the right to make repeated invitations to other students to participate in religious activity in the face of a request to stop.

The statement of principles set forth below derives from the First Amendment. Implementation of these principles, of course, will depend on specific factual contexts and will require careful consideration in particular cases.

In issuing these revised guidelines I encourage every school district to make sure that principals, teachers, students and parents are familiar with their content. To that end I offer three suggestions:

First, school districts should use these guidelines to revise or develop their own district wide policy regarding religious expression. In developing such a policy, school officials can engage parents, teachers, the various faith communities and the broader community in a positive dialogue to define a common ground that gives all parties the assurance that when questions do arise regarding religious expression the community is well prepared to apply these guidelines to

specific cases. The Davis County School District in Farmington, Utah, is an example of a school district that has taken the affirmative step of developing such a policy.

At a time of increasing religious diversity in our country such a proactive step can help school districts create a framework of civility that reaffirms and strengthens the community consensus regarding religious liberty. School districts that do not make the effort to develop their own policy may find themselves unprepared for the intensity of the debate that can engage a community when positions harden around a live controversy involving religious expression in public schools.

Second, I encourage principals and administrators to take the additional step of making sure that teachers, so often on the front line of any dispute regarding religious expression, are fully informed about the guidelines. The Gwinnett County School system in Georgia, for example, begins every school year with workshops for teachers that include the distribution of these presidential guidelines. Our nation's schools of education can also do their part by ensuring that prospective teachers are knowledgeable about religious expression in the classroom.

Third, I encourage schools to actively take steps to inform parents and students about religious expression in school using these guidelines. The Carter County School District in Elizabethton, Tennessee, included the subject of religious expression in a character education program that it developed in the fall of 1997. This effort included sending home to every parent a copy of the "Parent's Guide to Religion in the Public Schools."

Help is available for those school districts that seek to develop policies on religious expression. I have enclosed a list of associations and groups that can provide information to school districts and parents who seek to learn more about religious expression in our nation's public schools.

In addition, citizens can turn to the U.S. Department of Education web site (<http://www.ed.gov>) for information about the guidelines and other activities of the Department that support the growing effort of educators and religious communities to support the education of our nation's children.

Finally, I encourage teachers and principals to see the First Amendment as something more than a piece of dry, old parchment locked away in the national attic gathering dust. It is a vital living principle, a call to action, and a demand that each generation reaffirm its connection to the basic idea that is America — that we are a free people who protect our freedoms by respecting the freedom of others who differ from us.

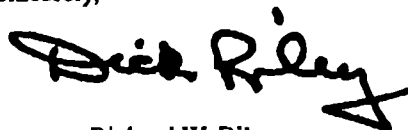
Our history as a nation reflects the history of the Puritan, the Quaker, the Baptist, the Catholic, the Jew and many others fleeing persecution to find religious freedom in America. The United States remains the most successful experiment in religious freedom that the world has ever known because the First Amendment uniquely balances freedom of private religious belief and expression with freedom from state-imposed religious expression.

Public schools can neither foster religion nor preclude it. Our public schools must treat religion with fairness and respect and vigorously protect religious expression as well as the freedom of conscience of all other students.

In so doing our public schools reaffirm the First Amendment and enrich the lives of their students.

I encourage you to share this information widely and in the most appropriate manner with your school community. Please accept my sincere thanks for your continuing work on behalf of all of America's children.

Sincerely,



Richard W. Riley
U.S. Secretary of Education

RELIGIOUS EXPRESSION IN PUBLIC SCHOOLS

Student prayer and religious discussion: The Establishment Clause of the First Amendment does not prohibit purely private religious speech by students. Students therefore have the same right to engage in individual or group prayer and religious discussion during the school day as they do to engage in other comparable activity. For example, students may read their Bibles or other scriptures, say grace before meals, and pray before tests to the same extent they may engage in comparable nondisruptive activities. Local school authorities possess substantial discretion to impose rules of order and other pedagogical restrictions on student activities, but they may not structure or administer such rules to discriminate against religious activity or speech.

Generally, students may pray in a nondisruptive manner when not engaged in school activities or instruction, and subject to the rules that normally pertain in the applicable setting. Specifically, students in informal settings, such as cafeterias and hallways, may pray and discuss their religious views with each other, subject to the same rules of order as apply to other student activities and speech. Students may also speak to, and attempt to persuade, their peers about religious topics just as they do with regard to political topics. School officials, however, should intercede to stop student speech that constitutes harassment aimed at a student or a group of students.

Students may also participate in before or after school events with religious content, such as "see you at the flag pole" gatherings, on the same terms as they may participate in other noncurriculum activities on school premises. School officials may neither discourage nor encourage participation in such an event.

The right to engage in voluntary prayer or religious discussion free from discrimination does not include the right to have a captive audience listen, or to compel other students to participate. Teachers and school administrators should ensure that no student is in any way coerced to participate in religious activity.

Graduation prayer and baccalaureates: Under current Supreme Court decisions, school officials may not mandate or organize prayer at graduation, nor organize religious baccalaureate ceremonies. If a school generally opens its facilities to private groups, it must make its facilities available on the same terms to organizers of privately sponsored religious baccalaureate services. A school may not extend preferential treatment to baccalaureate ceremonies and may in some instances be obliged to disclaim official endorsement of such ceremonies.

Official neutrality regarding religious activity: Teachers and school administrators, when acting in those capacities, are representatives of the state and are prohibited by the establishment clause from soliciting or encouraging religious activity, and from participating in such activity with students. Teachers and administrators also are prohibited from discouraging activity because of its religious content, and from soliciting or encouraging antireligious activity.

Teaching about religion: Public schools may not provide religious instruction, but they may teach *about* religion, including the Bible or other

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scripture; the history of religion, comparative religion, the Bible (or other scripture)-as-literature, and the role of religion in the history of the United States and other countries all are permissible public school subjects. Similarly, it is permissible to consider religious influences on art, music, literature, and social studies. Although public schools may teach about religious holidays, including their religious aspects, and may celebrate the secular aspects of holidays, schools may not observe holidays as religious events or promote such observance by students.

Student assignments: Students may express their beliefs about religion in the form of homework, artwork, and other written and oral assignments free of discrimination based on the religious content of their submissions. Such home and classroom work should be judged by ordinary academic standards of substance and relevance, and against other legitimate pedagogical concerns identified by the school.

Religious literature: Students have a right to distribute religious literature to their schoolmates on the same terms as they are permitted to distribute other literature that is unrelated to school curriculum or activities. Schools may impose the same reasonable time, place, and manner or other constitutional restrictions on distribution of religious literature as they do on nonschool literature generally, but they may not single out religious literature for special regulation.

Religious excusals: Subject to applicable State laws, schools enjoy substantial discretion to excuse individual students from lessons that are objectionable to the student or the students' parents on religious or other conscientious grounds. However, students generally do not have a Federal right to be excused from lessons that may be inconsistent with their religious beliefs or practices. School officials may neither encourage nor discourage students from availing themselves of an excusal option.

Released time: Subject to applicable State laws, schools have the discretion to dismiss students to off-premises religious instruction, provided that schools do not encourage or discourage participation or penalize those who do not attend. Schools may not allow religious instruction by outsiders on school premises during the school day.

Teaching values: Though schools must be neutral with respect to religion, they may play an active role with respect to teaching civic values and virtue, and the moral code that holds us together as a community. The fact that some of these values are held also by religions does not make it unlawful to teach them in school.

Student garb: Schools enjoy substantial discretion in adopting policies relating to student dress and school uniforms. Students generally have no Federal right to be exempted from religiously-neutral and generally applicable

school dress rules based on their religious beliefs or practices; however, schools may not single out religious attire in general, or attire of a particular religion, for prohibition or regulation. Students may display religious messages on items of clothing to the same extent that they are permitted to display other comparable messages. Religious messages may not be singled out for suppression, but rather are subject to the same rules as generally apply to comparable messages.

THE EQUAL ACCESS ACT

The Equal Access Act is designed to ensure that, consistent with the First Amendment, student religious activities are accorded the same access to public school facilities as are student secular activities. Based on decisions of the Federal courts, as well as its interpretations of the Act, the Department of Justice has advised that the Act should be interpreted as providing, among other things, that:

General provisions: Student religious groups at public secondary schools have the same right of access to school facilities as is enjoyed by other comparable student groups. Under the Equal Access Act, a school receiving Federal funds that allows one or more student noncurriculum-related clubs to meet on its premises during noninstructional time may not refuse access to student religious groups.

Prayer services and worship exercises covered: A meeting, as defined and protected by the Equal Access Act, may include a prayer service, Bible reading, or other worship exercise.

Equal access to means of publicizing meetings: A school receiving Federal funds must allow student groups meeting under the Act to use the school media — including the public address system, the school newspaper, and the school bulletin board — to announce their meetings on the same terms as other noncurriculum-related student groups are allowed to use the school media. Any policy concerning the use of school media must be applied to all noncurriculum-related student groups in a nondiscriminatory matter. Schools, however, may inform students that certain groups are not school sponsored.

Lunch-time and recess covered: A school creates a limited open forum under the Equal Access Act, triggering equal access rights for religious groups, when it allows students to meet during their lunch periods or other noninstructional time during the school day, as well as when it allows students to meet before and after the school day.

Revised May 1998

**LIST OF ORGANIZATIONS THAT CAN ANSWER
QUESTIONS ON RELIGIOUS EXPRESSION
IN PUBLIC SCHOOLS**

American Association of School Administrators

Contact: Kelly Taylor
1801 N. Moore Street
Arlington, VA 22209
Phone: (703) 528-0700 *Fax:* (703) 528-2146
E-Mail: ktaylor@aasa.org *Web site:* <http://www.aasa.org>

American Jewish Congress

Contact: Marc Stern
15 East 84th Street
New York, NY 10028
Phone: (212) 360-1545 *Fax:* (212) 861-7056
E-Mail: stern@ajcongress.org

Christian Legal Society

Contact: Center for Law and Religious Freedom
4208 Evergreen Lane, #222
Annandale, VA 22003
Phone: (703) 642-1070 *Fax:* (703) 642-1075
E-Mail: clrf@clsnet.org *Web site:* <http://www.clsnet.com>

Freedom Forum

Contact: First Amendment Center
1101 Wilson Blvd.
Arlington, VA 22209
Phone: (703) 528-0800 *Fax:* (703) 284-2879
E-Mail: chaynes@freedomforum.org *Web site:* <http://www.freedomforum.org>

National Association of Evangelicals

Contact: Forest Montgomery
1001 Connecticut Avenue, NW, #522
Washington, DC 20036
Phone: (202) 789-1011 *Fax:* (202) 842-0392
E-Mail: oga@nae.net *Web site:* <http://www.nae.net>

National PTA

Contact: Maribeth Oakes
1090 Vermont Ave., NW, Suite 1200
Washington, DC 20005
Phone: (202) 289-6790 *Fax:* (202) 289-6791
E-Mail: m_oakes@pta.org *Web site:* <http://www.pta.org>

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National School Boards Association

Contact: Reginald Felton

680 Duke Street

Alexandria, VA 22314

Phone: (703) 838-6782 *Fax:* (703) 548-5613

E-Mail: rfelton@nsba.org *Web site:* <http://www.nsba.org>

Religious Action Center of Reform Judaism

Contact: Rabbi David Saperstein

2027 Massachusetts Ave., NW

Washington, DC 20036

Phone: (202) 387-2800 *Fax:* (202) 667-9070

E-Mail: rac@uahc.org *Web site:* <http://rj.org/RAC/>

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