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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
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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
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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
Eric W. Schulze
John S. Aldridge
Chris G. Elzalde
Paul W. Hunn
Elena M. Gallegos

Laurie Maniotis
Melissa Wiginton
Oscar G. Treviño
Dorcas Ann Green
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Therold I. Farmer
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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

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

NATIONAL SCHOOL BOARDS ASSOCIATION

OFFICE OF GENERAL COUNSEL

August W. Steinhilber
General Counsel

Gwendolyn H. Gregory
Deputy General Counsel

E. Givens
Staff Attorney

Samuel R. Butler
Director of Administration

Mr. A. Williamson
Manager, Legal Services

March 2, 1994

William M. Soult
NSBA President

Thomas A. Shannon
NSBA Executive Director

Harold P. Scammon
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

NSBA **news**

National School Boards Association / 1800 Duke Street, Alexandria, Virginia 22314 / (703) 838-6722
For Immediate Release

Contact: Gus Steinhilber

March 3, 1994

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.

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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-



"To defend the rights of believers."

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

LEGAL GROUP APPLAUDS SENATE ACTION ON PRAYER

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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

San Jose, California
Atlanta, Georgia
Grand Rapids, Michigan
Dallas, Texas
Fredericksburg, Virginia

INTERNATIONAL HEADQUARTERS
Post Office Box 7482
Charlottesville, Virginia 22904-7482
U.S.A.

TELEPHONE 804 • 978 • 3848
FACSIMILE 804 • 978 • 1789

May 19, 1994

INTERNATIONAL OFFICES

The Rutherford Institute
of the Therapeutic and
Action Communities
Miami, Florida
The Rutherford Institute
of Bolivia, La Paz, Bolivia
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of Central and Eastern Europe
Budapest, Hungary
The Rutherford Institute
of the United Kingdom
Birmingham, England

Mr. Timothy Morrell
Superintendent of Schools
501 Clebs 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 replete 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 Korach v. Clauser, 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 I. 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.

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



BY JAY
SEKULOW

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.

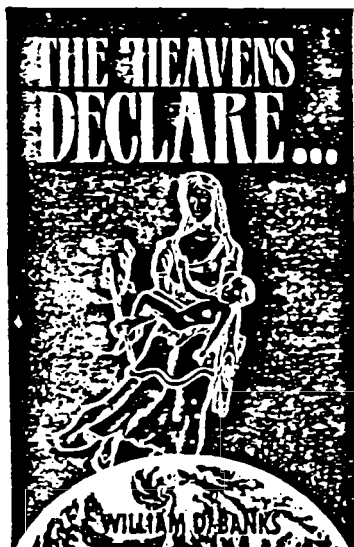
How has the government tightened control of education? School administrators have told me they would allow students in their schools to share their Christianity except that "separation of church and state does not allow that." Too many school officials do not, or will not, understand the Constitution,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

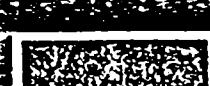
SPIRITUAL WARFARE



God is raising up uncommon Christians in the decade of the 90's, men and women radically committed to His Word and prayer. As a warrior in God's army, I welcome you to the battle...and remember, we win!"

Pastor Dick Bernal

As a noted author, lecturer and teacher on the dynamics of Spiritual Warfare, Dick Bernal brings a well defined strategy for city taking in his books, "Storming Hell's Brazen Gates" and "Come Down Dark Prince." These practical guides provide insight and valuable instruction in pulling down strongholds and making a lasting impact for God on our cities. Both books are an absolute must for those seeking triumphant victory over Satan and his hordes.



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*.

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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.

Buf 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 thir

Jewish girl: I'm being harassed

By JULE 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 30 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 angrily, "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 class on Charles Dickens. Melanson squelched the caroling, but Tropp found herself on the receiving end of some Christmas ill will.

Concord School Superintendent Curt Solness 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 doesn't want to ban all religious symbols from the schools.

"We need to reflect a sensitivity to all religions," Solness said.

At the New Hampshire Council of Churches, executive secretary David Lammere-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 10-year-old student offered 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 school system would strain to hold the crowd at the next school director's meeting.

Well, that isn't consistent 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 opening 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 school has superstitious 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 parading 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), *Abington Township v Schupp* (1963), and *Wallace v Jaffee* (1965).

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

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's Prayer, or both..." (All citations are from U.S. Supreme Court Reports-Lawyer's Edition, 10 L. Ed. 2d U.S. 629.)

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 shape 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 Bible Study Accreditation Committee recommended the policy as contributing to the development of a sound moral climate among the students.

How raises several questions: How can a sound moral climate be developed when the effort is purely based on timorality: Obeying a federal law?

How is that contradiction removed to 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 removed. (I'm not.)

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

In *Abington v Schupp* 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.

How 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 advancement of a particular faith to decide an individual's spiritual direction, or declare one way superior to another.

Religious training is available to 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 message 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 Harrisburg. His column appears every other Wednesday.



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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-

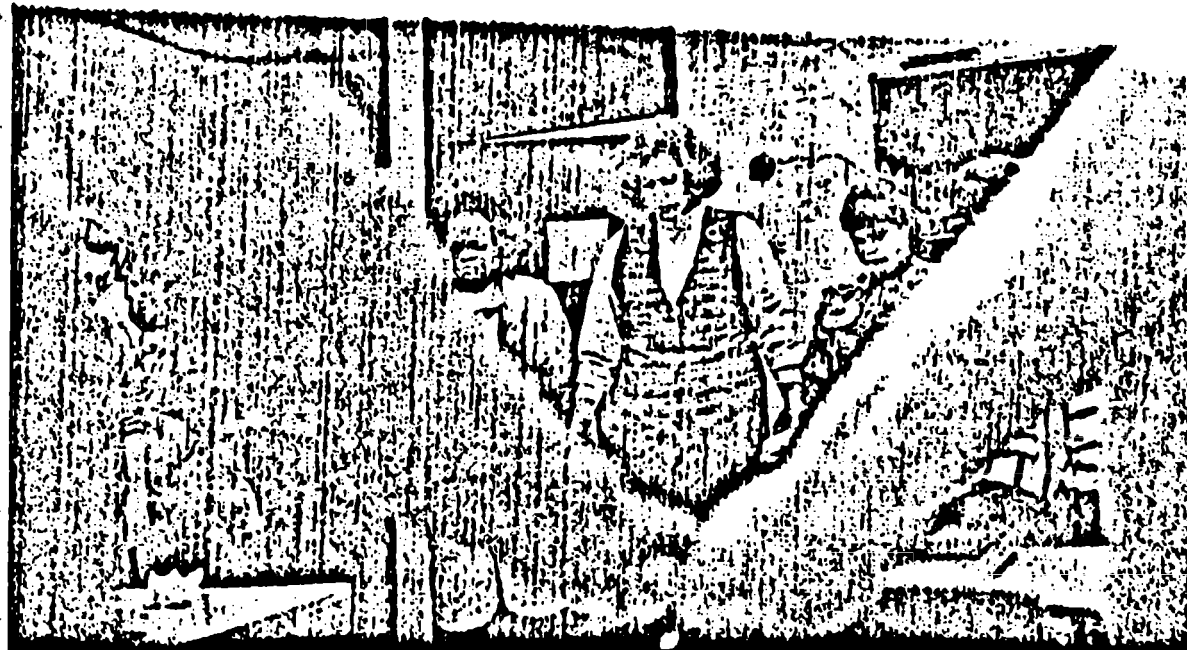
gion is alive and well in Mobile's public schools. But they also point out continuing confusion over religion's place in the classroom after more than 30 years of U.S. Supreme Court rulings.

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



KUICHIRO SATO/Staff Photog

Winifred Stiles Bell leads Hillsdale Middle School students in prayer at a Bible club. "The Lord led me to do this club 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 the 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

PRAYER 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. ■

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

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Divider Title: _____

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,

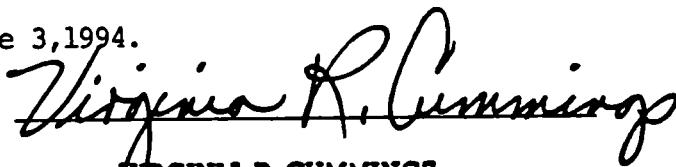
I telephoned Mr. Jim Hughes ("Hughes"), Assistant Superintendent of the Bay District School Board. When I asked if Null was a student in his district Hughes responded affirmatively. He stated that the fourth grader had transferred among four different schools in the district in the past four years, but 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 not make any difference," it makes a very, very substantial difference.

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

Almighty God, we ask that You bless our 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 was suspended. Students from that school in protest of those suspensions were subsequently suspended themselves.

So for an individual student to state 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, MS, where 4,000 people arrived and basically said, "This is crazy. This is the denial 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.

March 25, 1994

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.

Ellen Unander of Champagne, 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 LYNDIA FARMER

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.

Sixty churches at schools showed between a dozen and 50 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 20 students and five or six teachers chose to stay on school grounds after Principal U.S. Davidson told them of the board policy.

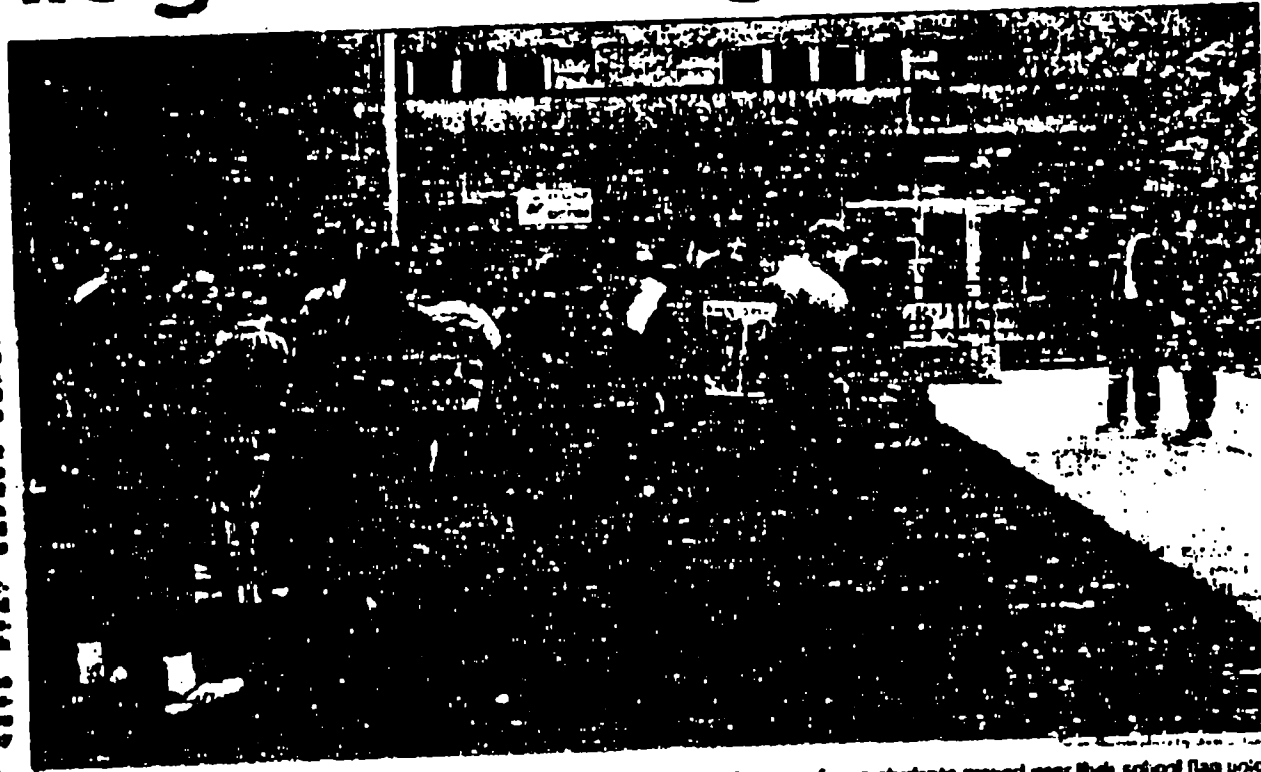
"WE HAVE KIDS with knives and guns in our school, and they are trying to arrest the Christians," said A.J. Lamm, 11, one of the organizers of the prayer event at Edison.

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

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

"Help us when we go to this school," prayed Michel Pulliam, 11. "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

school. Dozens of area students prayed near their school flag poles this morning as part of the national "See You at the Pole" event.

At Jefferson Middle School in Champaign, where about 25 students assembled to pray, Principal Harry Sierra-Perry said she stated the board's policy and then suggested they move to Central 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 realizing this is a free expression," Johnson said. "It's unfortunate that the Champaign school district is apparently a thumb

in that regard."

Champaign school board President Joseph Stuchi said he couldn't see the justification for forbidding the prayer at all of 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.

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

At Champaign Central High School, 25 people — three parents and 20 students — showed up at 7:25 a.m. today to pray and sing in front of the school.

Mary Ryan, 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 Bernstein 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 1600 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 eleven-month action by school officials."

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

"Everybody else has freedom, 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 Ben Fergusson.

No change in school policy on assembly

By LYNN S. RUMER

Associated Press Wire

CHAMPAIGN — In another prayer at the flagpole event was staged at Champaign middle school and elementary schools today, the controversy likely would not end.

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 where he would do it another flagpole prayer session were announced for today, Superintendent Tim Ryland 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 flags, advertising it, I'd pursue the matter."

The reply from Arlene Blank, 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 Cook, who is in charge of curriculum, "I don't know."

District administrator Monday continued 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 Strick proposed reaffirming the current policy of formally allowing gatherings just at high schools and "disallowing the entire situation but to interfere with students who meet peacefully anywhere else."

Nine of the seven school board members moved to vote on the administration policy. And Cook was the only board member to support Strick's motion.

Strick said he used his proposal because "I think it's an issue blown way out of proportion. We can see inside the trees and can't see the forest."

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

Ross 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 former staff members in a monitoring position might cause younger children to think "he staff member of 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, Rabbi 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 Cole Kishner said during the September event that he assumed grades 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 tell 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. 13 without risking disciplinary action.

After parents and parents 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 interfere with protesters as an audience.

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 K-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 JIMMEY 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.

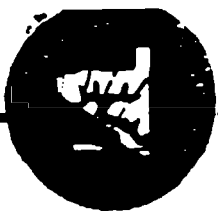
We did offer a room to him or offered to start a club. After a few days, the issue seemed to quiet down. I don't think anyone was offended.

Cordially,



Charles DiCenso
Principal

CD:fmc



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

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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

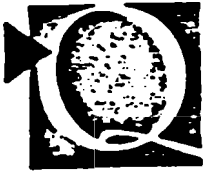
• DR. ROBERT L. YOUNG
District 5

An Equal Opportunity Employer

TOTAL P. 02

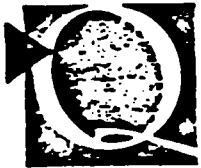
School Prayer Fact Sheet

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.



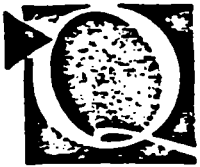
Does it mean students can't pray voluntarily in public schools or read the Bible during free time?

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 devotion 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, 1962

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 source 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.

KASSEBAUM PRAYER AMENDMENT AS ACCEPTED BY ESEA CONFEREES

"Any state or local education agency that is adjudged by a Federal court of competent jurisdiction to have wilfully violated a federal court order mandating that such local agency remedy a violation of the constitutional right of any student with respect to prayer in public schools, in addition to any other judicial remedies, shall be ineligible to receive Federal funds under this Act until such time as the local educational agency complies with such order. Funds that are withheld under this section shall not be reimbursed for the period during which the local educational agency was in willful noncompliance."

Why The Kassebaum Amendment Takes A Much Better Approach To School Prayer As Compared To The Johnson-Duncan Amendment

- The Kassebaum Amendment protects students' rights regarding prayer while avoiding a confusing federal mandate, respecting local control, protecting school children from unnecessary funds cut-offs, and ensuring due process.

1. Clarifying a Confusing Federal Mandate:

The Johnson-Duncan amendment threatens school children with loss of all federal education funding based upon a vague and confusing federal mandate. School officials would have to guess at the parameters of "voluntary, constitutionally protected prayer," even though the federal courts themselves are in sharp disagreement on the subject. Yet the amendment would hold school officials to the impossible standard of having to predict how courts would decide the constitutionality of each request for voluntary prayer.

The Kassebaum amendment spares educational agencies the dilemma of guessing what is required of them. It would trigger loss of all federal funding only after a federal court had ruled that prayer is constitutionally required and an agency disregarded that order.

2. Fairness and Moderation in Use of Funding Cut-offs:

The Johnson-Duncan amendment would authorize the draconian denial of all federal education funding to schools that failed to comply with its confusing federal mandate. All actions – even good faith attempts to comply with the confusing law in this area – that "effectively prevented" protected prayer could trigger loss of funding. All children in a school district could lose federal funding based upon an isolated action of a single teacher or administrator making an honest mistake.

The Kassebaum amendment recognizes that loss of federal funding is an extraordinary and harsh penalty which should not be lightly invoked. It would trigger loss of federal funding if the remedies available under the Constitution for denial of the right to pray proved inadequate to protect students' rights. The amendment would not punish good faith attempts to comply with the law or actions by a lone teacher not fairly attributable to a local education agency.

3. Respecting Local Control:

The Johnson-Duncan amendment would empower federal bureaucrats to second-guess decisions of local and state agencies regarding prayer. It would place the Department of Education in the role of serving as a single "prayer czar," pronouncing upon complex issues of constitutional law which are the subject of conflicting decisions in federal courts in different parts of the country.

The Kassebaum amendment respects the autonomy of locally elected school boards to make decisions on prayer free of federal bureaucratic intrusion. The Department of Education would not be empowered to second-guess local decisions regarding prayer. Instead, those decisions would be subject, as always, to review by the courts. Furthermore, because federal courts in different parts of the country have issued contradictory decisions on school prayer, the Kassebaum amendment would rely upon federal courts in the relevant jurisdiction to decide whether school authorities are in compliance with the law that applies in their jurisdiction.

Procedural Safeguards:

The Johnson-Duncan amendment would permit denial of all federal education funding by administrative order. Funding could be lost without even a court determination that educational officials had in fact interfered with the right to voluntary prayer. Federal bureaucrats could pronounce upon complex issues of constitutional law without the benefit of a judicial decision spelling out whether a constitutional violation had actually occurred.

The Kassebaum amendment would require a court actually to determine that an education agency had violated the constitutional right to pray before the agency would be exposed to the risk of losing federal funds.

Serious Problems Engendered By The Johnson/Duncan School Prayer Amendment

1. The Johnson/Duncan amendment forces school authorities to navigate an exceedingly complex and unsettled area of constitutional law under threat of losing all federal funding. School boards would have a very difficult time figuring out what prayer is and is not constitutionally protected. The law governing so-called "student initiated prayer" became highly unsettled last year, when a Fifth Circuit case, Jones v. Clear Creek, diverged from previous legal precedent in taking an expansive view of constitutionally protected prayer. Other decisions flatly contradict the Clear Creek case.

2. The Johnson/Duncan amendment applies to any action – intentional or unintentional, direct or indirect – which "effectively prevents" participation in prayer. It risks punishing students with the draconian penalty of a total loss of federal funding on the basis a broad range of actions by a single teacher or administrator, including those which have the unforeseeable, unintended or indirect effect of preventing prayer.

3. The Johnson/Duncan amendment would actually encourage violations of the Constitution. Of course, our 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 students troubled by the coercive aspect of state-sponsored prayer in the public schools. Because of the tremendous in terrorem effect of its penalty, the Johnson/Duncan amendment distorts the calculus school authorities must make in following the commands of our constitution. Because they would lose federal funds only if they do not make room in the school day for "student-initiated" prayer, school authorities would be forced to err on the side of violating the Establishment Clause.

4. The Johnson/Duncan amendment would increase distracting campaigns by some fundamentalist activists to force widespread prayer into the public schools. Self-described "swat teams" of activists from Pat Robertson's American Center For Law and Justice have threatened litigation citing the Clear Creek decision unless schools permit sectarian, proselytizing prayer at school events. If the Johnson/Duncan amendment become law, the activists would be able to threaten school districts with the far more serious threat of losing all federal funds unless their demands are met.

5. The Johnson/Duncan amendment would drastically increase federal intrusion into decisions by local school boards and would place federal bureaucrats in the role of pronouncing upon complex issues of constitutional law. The D.O.E. would be given the power to second-guess individual policy decisions by school authorities and to withhold federal funds if they did not like the results. Furthermore, bureaucrats with little or no constitutional expertise would be vested with the power to pronounce upon the exceedingly complex and sometimes contradictory commands of the constitution in this sensitive area.

6. The Johnson/Duncan amendment is unnecessary. There is no reported judicial case of any individual student being prevented from exercising the constitutional right to pray on his or her own time in school. Schools respect clearly established rights to prayer, and there is no reason to threaten them with loss of federal funding to insure compliance. A decade ago, in considering the Equal Access Act, Congress considered and rejected a funds cut-off remedy provision. Nothing has changed to justify this drastic measure.

The Confused State of the Law on Voluntary School Prayer and the Johnson/Duncan Amendment's Vague Federal Mandate

The Johnson/Duncan amendment would impose a federal mandate upon school officials never to violate, intentionally or unintentionally, rights to voluntary prayer. This mandate is unfair and would place schools in an untenable position because the lower federal courts have issued conflicting opinions on the constitutionality of what has come to be known as "student-initiated" school prayer. Just looking at the case law regarding graduation prayer, for example, school administrators would be confronted by flatly conflicting guidance from the lower courts:

In the 1992 case of Lee v. Weisman, 112 S. Ct. 2649, the Supreme Court held prayer at a secondary school graduation to be unconstitutional in a situation in which the 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.

Thus, the Third Circuit Court of Appeals, in ACLU v. Blackhorse Pike Regional Board of Education, No. 93-5368 (3d Cir., June 25, 1993), last year enjoined a school board from conducting any school-sponsored graduation ceremony that included a 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, No. 93-730-A (E.D. Va., Dec. 22, 1993), that "a constitutional violation inherently occurs" when 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. That decision was later vacated on standing grounds by the Eighth Circuit, 995 F.2d 802 (8th Cir. 1993).

By contrast, the Fifth Circuit has permitted student-initiated high school graduation prayer, upholding, in Jones v. Clear Creek Independent School District, 977 F.2d 963 (5th Cir. 1992), cert. denied, 113 S. Ct. (1993), a school district policy allowing such prayer. 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.

Given these conflicting lower court decisions, Congress should not impose a federal mandate upon school officials that places them in the untenable position of having to choose among them, with a loss of federal funds the penalty for making the wrong "choice."

**NATIONAL ORGANIZATIONS OPPOSED TO
THE HELMS SCHOOL PRAYER AMENDMENT**

American Association of School Administrators
American Baptist Churches
American Civil Liberties Union
American Ethical 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
The First Church of Christ, Scientist
Friends Committee on National Legislation
General Conference of Seventh-day Adventists
National Association of Elementary School Principals
National Association of State Boards of Education
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
Women of Reform Judaism, The Federation of Temple Sisterhoods

**National PTA
Council of the Great City Schools
National Education Association
American Association of School Administrators
National Association of Elementary School Principals
National School Boards Association
Council of Chief State School Officers
National Association of State Boards of Education
American Federation of School Administrators - AFL-CIO**

August 18, 1994

School Prayer Amendment

Dear Conferee:

On behalf of America's educators, administrators, parents, students and education policymakers, we are writing to urge you to oppose any language in the Improving America's Schools Act conference agreement that conditions the receipt or retention of federal funds on prohibitions or requirements for school prayer. Such provision places an untenable burden on schools and is an intrusion into state and local control of education. As you are aware, the Senate defeated such an amendment.

We may differ on the constitutionality and desirability of some of the manifestations of school prayer addressed by the amendment. However, we are united in strongly opposing the use of a federal funds cut-off as a club with which to compel a uniform national policy.

Under the House amendment, any state or school district that lacked a policy on "constitutionally protected school prayer" would lose its federal funds. In a recent Washington DC press conference, the chief council of Pat Robertson's American Center for Law and Justice proclaimed that, when coupled with lawsuits, the Helms amendment would be a "very, very important weapon" in their struggle against school systems.

Further, the amendment would place school officials in the position of constitutional law scholars and judges. Whatever they decide, they would necessarily risk either losing desperately needed federal funds or violating constitutional rights of students. The risk is heightened under a Helms/Johnson/Duncan-like amendment because it would bar not only policies directly prohibiting voluntary student prayer, but also those which have the "effect" of doing so. That is a vague and uncertain standard for school boards, teachers and school administrators. In addition, such an amendment is a serious and insupportable intrusion into the proper role of state and local educational agencies and the courts.

We note that when Congress enacted the Equal Access Act, it refused to include a fund cut-off provision on the ground that it was too stringent a penalty given the constitutional uncertainties then surrounding the subject. The uncertainties remain. No one knows what constitutes "constitutionally protected prayer". The Fifth and Eleventh Circuits have reached dramatically opposed results on the issue of the constitutionality of prayer at school events when approved by a majority of students. Other courts and state attorneys likewise have reached conflicting results.

Voluntary prayer takes place every day in the nation's schools without objection or interference. The question of student-led prayer at school events is currently being debated in the courts. Several state legislatures are considering legislation to allow voluntary student-led prayer. The House amendment goes beyond that issue. It is a draconian federal measure to cut off resources to improve the education of children and youth and to dictate state and local education policy and instruction.

We urge you to oppose any such language in the final conference agreement.

12-14-94

Jay Sekulow recently went on the "700 Club" to discuss the school prayer amendment, which both he and Robertson agree should go much farther than is proposed, to the point of nullifying the Lemon Test.

Pat Robertson:

"I have learned to my chagrin that in 1982, when there was a prayer amendment offered by the Reagan administration, insiders in the administration realized they didn't have the votes to pass it and yet they threw it to evangelicals as a kind of sop or bone. People went to the well for it; worked extremely hard to get votes in favor of it and yet there were about 18 or 19 Republicans who shot the amendment down and the people who were proposed it knew that was going to happen. Now I don't think that evangelicals this time should get themselves hung out on some kind of limb in regards to school prayer, voluntary prayer, certainly not a moment of silence because we've already got that. And we've also got the right to pray voluntarily in the schools right now through Supreme Court decisions. It's a much broader issue, so if we're going to fight, we ought to make sure what we're going to get."

Sekulow:

"The problem has been the Lemon Test. We've talked about that I don't know how many times on the "700 Club." But the Lemon Test and the way church-state separation is being viewed does things like a nativity scene being removed from the public square, allows for a student to be arrested for handing out a gospel tract in school. So in the whole context of the school prayer amendment debate, what we're hoping to see come out of it not just a focus on students being able to pray, but a religious liberties protection. That's what America needs."

Robertson:

"We don't want to get a fight on this thing, when we've got family tax relief, you've got budget cuts, you got the dismantling of the liberal welfare state."

"The language that needed has got to confront the Lemon Test, not just let children voluntarily pray, which they can do now."

Sekulow:

"I'm not even sure the language that's proposed, Pat, will protect the student, because it says no person shall be denied. There are cases that say under the age of majority, they're not entitled to the full benefits and protections. So we're going in and saying if you add six or seven words max, what we want it to say is protect religious expression in public places and not just limit it to what would be deemed a prayer at school, but

affirmatively protect religious expression so you eliminate hostility toward religion,"

Robertson:

"Nothing in this Constitution shall prohibit the religious expression in public schools..."

Sekulow:

"...in public schools and public places and may also use the word public institutions for Congress ~~and~~ the courts."

Robertson:

"That would be a major blow for liberty and it was one that would stop the liberal juggernaut that wants to remove religion from the marketplace."

Sekulow:

"And that's where we're trying to go with it. If we can get that kind of language in there, we can get positive production."

Robertson:

"Now that's worth fighting for."

Legislation

(1) Hatch amendment (prayer → religious expression)

A Hatch

A Hyde - VSEC

A lost House last year

(2) What is now allowed in schools (Haynes)

(3) School vouchers