

8

DISPLAYING RELIGIOUS MESSAGES

Religious displays are not permitted in public schools. Courts have continually held that school districts may not display religious messages or iconography in public schools, including crosses, the Ten Commandments, bible verses, bibles, religious figures, portraits of Jesus, etc., even if privately paid for. These may not be displayed on public school grounds, public school hallways, offices, classrooms, or anywhere in view of students and parents. *Stone*.

9

YOUTH PASTOR ACCESS TO STUDENTS

Schools may not give religious groups unique access to school property to befriend, proselytize or give presentations to students. Schools may not allow pastors, religious youth clubs, ministers or churches onto school grounds during the school day (e.g., the lunch room) to “talk” with students. It is common sense not to permit outside adults access to prey on students, whatever their agenda.

Ministries often claim expertise in social issues such as suicide prevention or drug addiction in order to infiltrate public schools and lead assemblies, which either directly promote religious messages, or invite students to evening evangelizing events. Public schools must exercise due diligence. Often a quick scan of the website reveals a religious agenda. Genuine experts, such as local police and county mental health experts, offer schools free, secular programs.

10

PROSELYTIZING VIA MUSIC

It is a principle of our public educational system that every activity in a public school ought to have an educational purpose. Elementary school music classes and high school choruses are a frequent source of school First Amendment violations. The line is crossed when that purpose becomes devotional, proselytizing or religiously coercive. Generally speaking, thoughtful courts looking at religious music in public schools consider age of children; proportion of religious songs

sung compared to secular; context (classroom or concert). Is the religious music at a ceremony or event that children must attend, or would wish to partake in, such as a graduation ceremony? If a curriculum is balanced, the inclusion of some classical sacred music in an educational context may not convey endorsement.

A conscientious teacher or music department can set up a curriculum that respects all students, and avoids sending a proselytizing message. *Nurre*. Enlightened school districts have dropped public school concerts timed to coincide only with religious holidays, particularly the Christmas and Easter holidays of the dominant religion, because such timing creates the appearance of school endorsement of one religion’s holiday over others in the eyes of children.

‘VOLUNTARINESS’ IS NO EXCUSE

Public schools that host religious events often excuse them by calling them “voluntary.” Students are a captive audience who, as the Supreme Court has stated repeatedly, cannot be required to forfeit rights or benefits as the price of resisting state-sponsored religious practices.

IT PAYS TO COMPLAIN

If you are aware of these or similar violations in your public schools, report violations to:

www.FFRF.ORG/LEGAL/REPORT

Freedom From Religion Foundation
PO Box 750 | Madison, WI 53701
608/256-8900 | FFRF.ORG

The Freedom From Religion Foundation is a 501(c)(3) educational nonprofit with tens of thousands of members nationwide and regional chapters across the country. FFRF’s purposes are to defend the constitutional principle of separation between state and church and to educate the public on matters relating to nontheism.

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Decisions cited

Berger v. Rensselaer Cent. Sch. Corp., 982 F.2d 1160 (7th Cir. 1993), cert. denied, 113 S.Ct. 2344 (1993)

Bd. of Educ. of the Westside Cmty. Sch. v. Mergens, 496 U.S. 226 (1990)

Borden v. Sch. Dist. of the Twp. of East Brunswick, 523 F.3d 153 (3rd Cir. 2008), cert. denied, 129 S.Ct. 1524 (2009)

Doe v. Elmbrook Sch. Dist., 687 F.3d 840 (7th Cir. 2012), cert. denied, 134 S. Ct. 2283 (2014)

Edwards v. Aguillard, 482 U.S. 578 (1987)

Engel v. Vitale, 370 U.S. 421 (1962)

Epperson v. Arkansas, 393 U.S. 97 (1968)

Kitzmillier v. Dover Area School District, 400 F. Supp. 2d 707 (M.D. Pa 2005)

Lee v. Weisman, 505 U.S. 577 (1992)

Lynch v. Donnelly, 465 U.S. 668 (1984)

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

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Santa Fe Indep. Sch. Dist. v. Doe, 530 U.S. 290 (2000)

School District of Abington Township v. Schempp, 374 U.S. 203 (1963)

Stone v. Graham, 449 U.S. 39 (1980)

Torcaso v. Watkins, 367 U.S. 488 (1961)

West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624 (1943)

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Public School

STATE | CHURCH

Violations

And How to Stop Them

A Guide to Keeping Schools Secular

FREEDOM
FROM RELIGION
foundation

The public school is at once the symbol of our democracy and the most pervasive means for promoting our common destiny. In no activity of the State is it more vital to keep out divisive forces than in its schools, to avoid confusing, not to say fusing, what the Constitution sought to keep strictly apart.

—**McCollum v. Board of Education**
333 U.S. 203, 231 (1948)

The Freedom From Religion Foundation receives and acts upon thousands of violations of the constitutional separation between state and church each year. More than half of these violations, unfortunately, occur in our nation's public schools, violating the rights of our youngest and most vulnerable population. This brochure explains the state of the law, and why it firmly bars divisive religious instruction and rituals in our public schools.

Schools exist to educate, not to indoctrinate. As government bodies charged with educating children of all citizens, regardless of religion or irreligion, public schools may not advance or endorse religion. When a school sponsors religion, it signals to “nonadherents ‘that they are outsiders, not full members of the political community and [sends an] accompanying message to adherents that they are insiders, favored members of the political community.’” *Santa Fe*, quoting *Lynch*. School-endorsed religion not only violates the law, but excludes the rapidly-growing percentage of nonreligious citizens, including 35% of Millennials (those born after 1981).

TOP TEN STATE/CHURCH SCHOOL VIOLATIONS TO BEWARE

1

PRAYER AT SCHOOL EVENTS

School events, including graduations, may not include prayer. For more than 50 years, the U.S. Supreme Court

has consistently struck down prayer in public schools, beginning in 1962. *Engel*. By 1963, devotional bible reading and recitation of the Lord's Prayer in public schools were ruled unconstitutional. *Schempp*.

“We repeat and again reaffirm that neither a State nor the Federal Government can constitutionally force a person ‘to profess a belief or disbelief in any religion.’ Neither can constitutionally pass laws or impose requirements which aid all religions as against nonbelievers, and neither can aid those religions based on a belief in the existence of God as against those religions founded on different beliefs.” *Schempp*, quoting *Torcaso*.

The Supreme Court has successively clarified and strengthened its rulings against religious ritual and indoctrination in public schools. In 1992, the court ruled prayers at public school graduations impermissible: “the State cannot require one of its citizens to forfeit his or her rights and benefits as the price of resisting conformance to state-sponsored religious practice.” *Lee*. In 2000, the court ended prayer at school events even when student-led. *Santa Fe*.

School staff, including coaches, may not organize, endorse, promote, or participate in prayers with students. Teachers and coaches may not lead prayers or deputize students to lead prayer. Even a public school coach's silent participation in student prayer circles has been ruled unconstitutional. *Borden*. Schools and athletic teams may not appoint or employ a chaplain or other spiritual leader.

2

COMPELLING PLEDGES OF ALLEGIANCE

Students have a constitutional right not to participate in the Pledge of Allegiance. Nor can students be required to stand or otherwise be penalized for exercising this right. Even before “under God” was belatedly added to the previously secular pledge in 1954, the U.S. Supreme Court had eloquently affirmed this right:

“If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism,

religion, or other matters of opinion or force citizens to confess by word or act their faith therein.” *Barnette*.

3

SCHOOL BIBLE DISTRIBUTIONS

The distribution of bibles to students on public school property is prohibited. Allowing bible distributions in public schools or on public school property is an “affront not only [to] non-religious people but [to] all those whose faiths, or lack of faith, does not encompass the New Testament.” *Berger*. Unfortunately, Gideons International views schools as ripe missionary territory, specifically targeting fifth-graders. The aggressive tactics of the Gideons to visit classrooms to personally distribute bibles to small children flagrantly violates not only parental authority but public school law, as does complicity by public school principals or staff.

4

CREATIONISM

Schools may not teach religious doctrine, including creationism and “intelligent design.” The Supreme Court has firmly struck down attempts to prohibit evolution or teach “scientific creationism” in public schools. *Epperson*, *Aguillard*. “Intelligent design,” like creationism, is a religious belief and may not be taught in public schools. *Kitzmiller*.

No controversy exists in the scientific community regarding evolution, which, like gravity, is a fact. Teaching that there is controversy about the validity of evolution in science class is akin to teaching astrology along with astronomy, or alchemy with chemistry. The scientific literacy of students and our nation is at stake.

5

DENIAL OF ATHEIST STUDENT CLUBS

Schools may not ban atheist/ secular clubs if other non-curricular clubs are allowed. Under the Equal Access Act, if public secondary schools permit non-curricular clubs, they cannot discriminate against student clubs based on their religious, political, philosophical or other beliefs. All clubs must receive the same rights and privileges. If a teacher is unwilling to serve as advisor for a secular club, a school administrator should be assigned.

The EAA further requires that student clubs be run by students, not adults, teachers or other outsiders, such as youth ministers. School staff may only supervise club meetings; participation is forbidden. *Mergens*.

6

GRADUATION IN CHURCHES & SCHOOL BACCALAUREATES

School events, including graduations, should not be held in houses of worship. Public school programming, including graduations, testing and recitals, should not occur in churches, because any student could “reasonably conclude that the District would only choose such a proselytizing environment aimed at spreading religious faith . . . if the District approved of the Church's message.” *Elmbrook*. Budget considerations cannot trump students' rights.

Public schools may not organize religious baccalaureates. Schools and school staff may not plan, host, participate in or supervise baccalaureate programs (religious services that include prayer and worship). If privately sponsored baccalaureate services are renting space in public schools, the schools must take significant steps to ensure that there is no appearance of school endorsement.

7

CHURCHES MEETING IN SCHOOLS

Churches must abide by school rental policies, pay fees, and only use property during rental hours. Granting a fee waiver or discount to a church is illegal preferential treatment, forcing taxpayers to subsidize religion. Rental rates should minimally cover extra costs, including AC, heat, janitorial overtime and clean-up, etc. The church may not use school property during non-rental hours — including to store equipment, park a trailer, or display messages or advertising. The practice of churches renting public schools for worship remains divisive and controversial because of the inevitable appearance of school sanction, spurring ongoing litigation.