



**FREEDOM
FORUM**



Religion and Public Schools:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, or to petition the government for a redress of grievances.

A FIRST AMENDMENT GUIDE

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The First Amendment to the U.S. Constitution

Using This Guide

The first two clauses of the First Amendment are the constitutional provisions guaranteeing freedom of religion. Despite periodic outbreaks of religious discrimination and conflict in our history, the United States under the First Amendment remains today one of the boldest and most successful experiments in religious freedom the world has seen.

In the 21st century, however, religious, political and ideological divisions threaten our capacity to live and work together as citizens of one nation. Public schools can play a key role in addressing this challenge by modeling and teaching the constitutional framework provided by the First Amendment for living with deep differences in our diverse democracy:

- Under the establishment clause (*Congress shall make no law respecting an establishment of religion*), public schools may neither inculcate nor inhibit religion. Schools must be places where religious and nonreligious convictions are treated with fairness and respect.
- Under the free exercise clause (*Congress shall make no law ... prohibiting the free exercise thereof ...*) and the free speech clause (*Congress shall make no law ... abridging the freedom of speech*), public schools must protect religious freedom and free speech.

This guide addresses frequently asked questions about issues concerning religion in K-12 public schools. The answers are intended to reflect current law as interpreted by the U.S. Supreme Court and represent broad agreement among many religious, civil liberties and educational groups about the state of the law concerning religion in public schools.

The guide is not intended to render legal advice on specific legal questions; it is designed to give general information about the place of religion in public schools. If users of the guide have specific legal questions, the services of a qualified, licensed attorney in your jurisdiction should be sought. Public school educators seeking legal advice are encouraged to contact the school board attorney for their school district.

Contents

USING THIS GUIDE	3
STUDENT RELIGIOUS EXPRESSION	6
1. Is it constitutional for students to pray and, in other ways, practice their faith in K-12 public schools?.....	6
2. Can student speakers include religious content, including prayers, in their speeches at graduation programs and other school-sponsored events?	6
3. Can students express their religious beliefs in classroom discussions and assignments?	7
4. Can students distribute religious literature in a public school?	7
5. Can students form religious clubs in secondary public schools?	8
6. Are public school students below the secondary level permitted to form religious clubs?.....	8
BACCALAUREATE SERVICES	10
7. Are religious baccalaureate services during graduation weekend constitutional?	10
ACCOMMODATION OF STUDENT RELIGIOUS NEEDS AND REQUIREMENTS	11
8. Can students be excused from parts of the curriculum for religious reasons?.....	11
9. When students and parents request accommodation for religious practices during the school day, how should administrators respond?.....	12
10. Where should public schools draw the line on religious accommodations?	13
RIGHTS AND RESPONSIBILITIES OF TEACHERS AND ADMINISTRATORS	14
11. Can teachers and administrators express their faith during their contract day?.....	14

12. How should teachers respond when students ask about their religious affiliation during a class discussion?	15
TEACHING ABOUT RELIGION	16
13. Is it constitutional to teach about religion in public schools?.....	16
14. Why is it important for public school students to learn about religions?...16	
15. What is the difference between teaching about religion and religious indoctrination?.....	17
16. Can teachers invite outside speakers to help teach about religion? ...	17
17. How should teachers acknowledge religious holidays in the classroom?...18	
18. What should public schools do during the December holiday season? ...	18
19. Can teachers refuse to teach certain topics in the curriculum because the material offends their religious beliefs?.....	19
ACCESS OF RELIGIOUS GROUPS TO PUBLIC SCHOOL FACILITIES	20
20. Can public school facilities be used by religious groups during nonschool hours?	20
21. Do religious groups in the community have the right to distribute their materials to students on campus?	20
22. Can religious groups in the community distribute flyers to students about events or programs for youth?	20
RELEASED-TIME PROGRAMS	21
23. Can public school students be released for off-campus religious instruction during the school day?	21
U.S. SUPREME COURT DECISIONS INVOLVING RELIGION AND PUBLIC SCHOOLS.....	22
RECOMMENDED RESOURCES	25
ACKNOWLEDGMENTS	26

Student Religious Expression

1. IS IT CONSTITUTIONAL FOR STUDENTS TO PRAY AND, IN OTHER WAYS, PRACTICE THEIR FAITH IN K-12 PUBLIC SCHOOLS?

Yes. Students are free to pray alone or in groups. In their free time, they may read their scriptures and gather for worship and prayer. They may say grace or a blessing before or after a meal, either alone or as part of a group. They may also share their religious beliefs with classmates. School officials, however, should intercede if student religious or nonreligious speech is disruptive or rises to the level of harassment of other students.

Contrary to a widespread misconception, the U.S. Supreme Court did not banish prayer or religion from public schools in the 1960s “school prayer” decisions. Instead, the high court struck down *state-sponsored* religious exercises in public schools, ruling that the establishment clause prohibits government from promoting religion. The justices underscored that guarding against state imposition of religion in public schools is particularly important to protect the rights of young people who are required by attendance laws to be in school.

In many public schools today, students may be seen praying at the flagpole before school, saying grace at meals, worshipping together in student-led religious clubs, and, in other ways, expressing their faith while at school.

2. CAN STUDENT SPEAKERS INCLUDE RELIGIOUS CONTENT, INCLUDING PRAYERS, IN THEIR SPEECHES AT GRADUATION PROGRAMS AND OTHER SCHOOL-SPONSORED EVENTS?

School officials may not mandate or organize prayer at graduation or other school-sponsored events. Student speakers at graduation, student assemblies and noncurricular activities such as sporting events may not be selected on a basis that either favors or disfavors religious perspectives.

According to guidance issued by the U.S. Department of Education, “Where student speakers are selected on the basis of genuinely content-neutral, evenhanded criteria and retain primary control over the content of their expression, that expression is not attributable to the school and therefore may not be restricted because of its religious (or anti-religious)

content, and may include prayer. By contrast, where school officials determine or substantially control the content of what is expressed, such speech is attributable to the school and may not include prayer or other specifically religious (or anti-religious) content. To avoid any mistaken perception that a school endorses student speech that is not in fact attributable to the school, school officials may make appropriate, neutral disclaimers to clarify that such speech (whether religious or nonreligious) is the speaker's and not the school's speech."

To be clear, this answer addresses speech or prayer from the podium directed at people in attendance, not the private speech of individual students or discrete groups of students engaging in prayer in a nondisruptive fashion by themselves.

3. CAN STUDENTS EXPRESS THEIR RELIGIOUS BELIEFS IN CLASSROOM DISCUSSIONS AND ASSIGNMENTS?

Yes. Students can express their religious views during class discussions, in written assignments, or in art projects if their speech is relevant to the discussion and meets the requirements of the assignment. Teachers should allow students to express their views about religion but should draw the line if a student invites the class to participate in a religious practice.

4. CAN STUDENTS DISTRIBUTE RELIGIOUS LITERATURE IN A PUBLIC SCHOOL?

Yes. Students have the right to distribute religious literature to their schoolmates on the same terms as they are permitted to distribute other literature that is unrelated to the school curriculum. School officials, however, may impose reasonable [time, place and manner restrictions](#) on student distribution of nonschool literature. School officials may, for example, specify when and where the distribution may occur.

School officials may not prohibit literature simply because it is considered offensive by some. However, they may prohibit distribution when school officials can show that the content is likely to cause a substantial disruption or invade the rights of others.

Materials that may violate the rights of others include literature that is libelous, invades the privacy of others or infringes on copyright. Other

examples of materials that can be barred from distribution are literature that is obscene, lewd or sexually explicit and commercial materials that advertise products unsuitable for minors.

5. CAN STUDENTS FORM RELIGIOUS CLUBS IN SECONDARY PUBLIC SCHOOLS?

Yes, under specific conditions. The Equal Access Act enacted by Congress in 1984 requires secondary schools to permit students to form religious and political clubs if the school allows other student clubs that are not directly related to the curriculum. Although schools do not have to allow any extracurricular clubs, once they do, they have created what is called “a limited open forum” (limited because it applies only to students) and may not exclude a student group because of the content of its speech, including religious speech.

Under the EAA, student religious clubs must be initiated and led by students. Nonschool people may attend some meetings but may not direct, conduct or regularly attend activities of student religious groups. Teachers and staff may be present as monitors as is often required for insurance purposes, but they may not participate in religious student meetings.

School officials have the authority to establish reasonable time, place and manner regulations for extracurricular clubs, as long as all clubs included in the limited open forum are treated in the same way. For example, schools may designate meeting days, assign rooms, and maintain order and discipline during meetings.

Student religious clubs must be given the same access to the public address system, school newspaper, bulletin board and other school media as other extracurricular student groups. As a matter of good practice, schools should consider including disclaimers on notices about extracurricular club meetings, noting that they are not organized by the school and that involvement by students is completely voluntary.

6. ARE PUBLIC SCHOOL STUDENTS BELOW THE SECONDARY LEVEL PERMITTED TO FORM RELIGIOUS CLUBS?

The Equal Access Act applies only to secondary schools. It does not apply to public schools not defined as secondary by state law. During congressional

consideration of the act, many lawmakers expressed doubt that younger students could initiate and lead religious or political clubs. For this and other reasons, Congress declined to apply the EAA below the secondary level.

Nevertheless, some lower courts have held that the First Amendment's free speech clause protects the rights of upper elementary and middle school students, including in states where middle schools are not designated as secondary, to form religious or political clubs if students in those grades are permitted to form other extracurricular clubs. U.S. Department of Education guidance on issues concerning religion in public schools states that students may organize religious clubs to the same extent that students are permitted to organize other noncurricular student groups. The guidance does not specify grade levels and makes no distinction between older and younger students. Although the law on this question is not entirely settled, recent U.S. Supreme Court rulings on free exercise of religion likely mean that elementary school principals who allow students to form extracurricular clubs may not bar students from organizing religious and political clubs.

Note that under current law, school districts are required to allow religious community groups to meet after school at elementary and middle schools if the district allows nonreligious community groups such as the Girl Scouts and Boy Scouts or other youth groups to meet on school property immediately after school. (See Question 20)

Baccalaureate Services

7. ARE RELIGIOUS BACCALAUREATE SERVICES DURING GRADUATION WEEKEND CONSTITUTIONAL?

Yes, when religious baccalaureate services celebrating graduates are privately sponsored, they are constitutional. Under the establishment clause, public schools are prohibited from sponsoring religious baccalaureate services.

Parents, religious groups and community organizations are free to organize religious baccalaureate ceremonies for students who wish to attend. Schools may not organize or help run religious baccalaureates and may neither encourage nor discourage students from attending. Schools may announce the baccalaureate in the same way it informs students of other community events. As a matter of good practice, schools should consider including disclaimers on notices of community-sponsored religious baccalaureate ceremonies, noting that they are not organized by the school and that involvement by students is completely voluntary.

If the school allows community groups to rent or otherwise use school facilities during nonschool hours, then a privately sponsored baccalaureate may be held on campus under the same terms offered to any private group.

School officials are free to participate in a religious baccalaureate in their personal capacity as individual members of the community. Students may choose to attend but may not be required by the school to do so.

Accommodation of Student Religious Needs and Requirements

8. CAN STUDENTS BE EXCUSED FROM PARTS OF THE CURRICULUM FOR RELIGIOUS REASONS?

Subject to state laws, public schools have substantial discretion to excuse individual students from lessons or activities that are objectionable to the students and parents on religious grounds. Most public school teachers and administrators try to accommodate opt-out requests from parents and students when focused on specific class discussions, assignments or activities. Such targeted, limited accommodations are routinely granted in most schools in an effort to strike a balance between a family's religious freedom and the school's interest in providing a well-rounded education.

Under current First Amendment law, public schools may not be required to grant opt-out requests for religious reasons unless students are excused for other, nonreligious reasons. In many states, however, religious freedom laws and state constitutional provisions may require schools to excuse students if:

- Specific lessons, readings or activities substantially burden the student's free exercise of religion.
- The school cannot demonstrate a compelling state interest that it cannot otherwise achieve except by requiring participation with no possibility of a religious opt out.

For example, if a family requests that their child be excused from reading a couple of stories in the assigned reader because the content deeply offends their faith, refusing to accommodate may constitute a substantial burden on the family's free exercise of religion. Although the school clearly has a compelling state interest in teaching children to read, the school may be able to accomplish that interest without requiring that the child read every story in the book.

When parental requests to be excused from portions of the curriculum are extensive—for example, asking for their children to opt out from a wide range of readings or discussions because the content runs counter

to their religious beliefs—school officials may decide that granting the opt out would deprive the student of core educational content mandated by state law. The school may also conclude that accommodating an extensive excusal request is too burdensome and disruptive for teachers. Lower courts have generally deferred to the judgment of educators in cases when school officials have refused to allow students to opt out of significant portions of the required curriculum.

9. WHEN STUDENTS AND PARENTS REQUEST ACCOMMODATION FOR RELIGIOUS PRACTICES DURING THE SCHOOL DAY, HOW SHOULD ADMINISTRATORS RESPOND?

Public schools may, and in some circumstances must, accommodate students who wish to practice their faith during the school day. School accommodation for student free exercise of religion is permissible under the First Amendment’s establishment clause if school officials do so in ways that do not convey school endorsement of religion or interfere with the rights of others. Accommodation also provides students with the important civics lesson that all students’ religious beliefs and practices are to be respected whether or not they understand or agree with religious beliefs.

Most public schools offer a range of religious exemptions or accommodations on a regular basis. Muslim students, for example, often request permission to fulfill their prayer obligations during their free time in the school day. If space is available, schools uphold religious freedom by routinely accommodating this practice. Of course, school officials must then treat other student requests for prayer space in the same way. However, under the establishment clause, school officials may not organize the prayers or in other ways sponsor or endorse the religious activity.

In some instances, accommodation may involve exempting religious students from school policies. For example, many high schools do not allow students to wear head coverings as part of efforts to combat gang activity in schools. But to uphold religious freedom, most schools routinely grant exemptions to students required by their faith to cover their heads.

Some religious parents, Jehovah’s Witnesses for example, ask that their children be excused from birthday parties and holiday activities because

participation in these celebrations would violate their faith. Schools routinely accommodate these requests by arranging for these students to participate in an alternative activity or spend time in the school library.

Public schools should not, however, accommodate parents who ask school officials to make sure their children adhere to religious practices such as a special diet or clothing while at school. Enforcement of religious requirements is the responsibility of parents, not teachers and administrators.

Schools may, and in some states must, release students for religious education programs off campus during the school day. (See Question 23)

10. WHERE SHOULD PUBLIC SCHOOLS DRAW THE LINE ON RELIGIOUS ACCOMMODATIONS?

Under current First Amendment law, schools may not be required to give students religious exemptions or accommodations unless they are giving other students exemptions for nonreligious reasons.

In more than half the states, however, religious freedom laws and state constitutional provisions may mandate a higher level of accommodation for free exercise of religion than is currently required under the First Amendment. In these states, when religious beliefs or practices of families are substantially burdened by school policy, school officials must offer an accommodation unless the school can demonstrate that it is acting in furtherance of a compelling state interest (e.g., education or welfare of children) and is pursuing that interest in a way that is the least restrictive, or the least burdensome, to free exercise of religion.

For example, public schools may have a compelling state interest in teaching students how to prevent the spread of sexually transmitted diseases, but the school may be able to carry out this interest without requiring participation by students from families with strong religious or moral objections to certain curriculum content. That is why policies in many states allow excusal from all or portions of the sex-education curriculum for religious or moral reasons.

Rights and Responsibilities of Teachers and Administrators

11. CAN TEACHERS AND ADMINISTRATORS EXPRESS THEIR FAITH DURING THEIR CONTRACT DAY?

As state employees, public school officials are subject to the establishment clause. The U.S. Supreme Court has held that the establishment clause requires teachers and administrators, when acting in those capacities, to remain neutral in their treatment of religion, neither inculcating nor denigrating religion. They must be neutral among religions and between religion and nonreligion. By neutrality, the Supreme Court does not mean hostility toward religion, nor does it mean ignoring religion. Under the establishment clause, neutrality by school officials means avoiding school endorsement or promotion of religion while simultaneously recognizing and upholding the religious liberty rights of all students. When acting in their official capacities, teachers, administrators and other school employees are prohibited by the establishment clause from participating with students in prayer or other religious practices.

That said, the Supreme Court rules in 2022 that school employees retain some free speech and free exercise protections when on school property. In that case, the court held that the establishment clause did not prohibit a coach who was a school employee from praying publicly in the middle of the football field after games. This means that teachers and administrators may express their faith when it is clear from the context that such expression is private and personal. Teachers, for example, may bow their heads and say grace in the lunchroom or read scriptures at their desk during teachers' free time.

Teachers and administrators are also free to meet with a group of colleagues for prayer or scripture study in the faculty lounge or other free space if the activity does not interfere with their duties.

Teachers and administrators may wear religious jewelry, such as a cross or Star of David. They should also be allowed to wear religious headgear, such as hijabs, turbans and yarmulkes.

12. HOW SHOULD TEACHERS RESPOND WHEN STUDENTS ASK ABOUT THEIR RELIGIOUS AFFILIATION DURING A CLASS DISCUSSION?

Teachers may answer the question briefly being sure to indicate that they are expressing their personal beliefs, not the beliefs of the school or government. Some teachers choose not to answer the question either to keep class discussion focused on the topic or to avoid appearing to favor one religion over another, especially in subjects that include teaching about a variety of religious traditions. Other teachers may choose to give a brief and straightforward answer in the interest of transparency.

Teaching about Religion

13. IS IT CONSTITUTIONAL TO TEACH ABOUT RELIGION IN PUBLIC SCHOOLS?

Yes. In the 1960s, the U.S. Supreme Court held that the establishment clause prohibits public schools from sponsoring prayers or devotional Bible reading. In those decisions, however, the court made it clear that the public-school curriculum may and, indeed, should include academic teaching *about* religion as distinguished from teaching religion in a devotional manner. Writing for the majority in *School District of Abington Township, Pennsylvania v. Schempp* (1963), Associate Justice Tom Clark wrote:

“It might well be said that one’s education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing 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 consistently with the First Amendment.”

14. WHY IS IT IMPORTANT FOR PUBLIC SCHOOL STUDENTS TO LEARN ABOUT RELIGIONS?

Through the academic study of religions, students gain religious literacy: the ability to understand how different religious traditions impact society and how society impacts religious traditions. Understanding the beliefs, practices and history of religions is an essential component of the study of history, literature, art, music and other subjects where religious issues and ideas naturally arise.

Religious literacy is also important for promoting understanding across religious divides and countering intolerance and discrimination. Religious freedom depends not only on the law; it also depends on the willingness of citizens to uphold the rights of others, including those of different faiths and beliefs. Religious literacy, therefore, is a necessary condition for sustaining and expanding religious freedom for all.

15. WHAT IS THE DIFFERENCE BETWEEN TEACHING ABOUT RELIGION AND RELIGIOUS INDOCTRINATION?

Under the First Amendment, public schools must distinguish between religious indoctrination or faith formation, which is unconstitutional in a public school, and teaching about religion, which is constitutionally permissible. The distinction may be summarized this way:

- The public school's approach to the study of religion must be *academic*, not *devotional*.
- Public schools strive for student *awareness* of religion's role in history and society but do not press for student *acceptance* or *rejection* of any religion.
- Public schools sponsor *study* of religion, not the *practice* of religion.
- Public schools *expose* students to a wide range of religious views but do not *impose* any particular view.
- The public school curriculum *educates* about a variety of religions but does not *promote* or *denigrate* any religion.
- Public school teachers *inform* students about various religious and nonreligious beliefs but do not seek to make students *conform* to or *reject* any particular belief.

Classroom discussions concerning religion must be conducted in a learning environment free of advocacy on the part of the teacher. When teaching about religions, teachers should guard carefully against injecting personal bias. Students, however, are free to express their own religious or nonreligious views if such expression is relevant to the topic under discussion.

16. CAN TEACHERS INVITE OUTSIDE SPEAKERS TO HELP TEACH ABOUT RELIGION?

Yes. If the school district has a policy permitting guest speakers in classrooms, teachers may use outside speakers as a teaching resource on the same terms as with outside speakers on nonreligious topics.

Religious studies faculty from local colleges and universities can be good resources for scholarly presentations about religious traditions. Local religious leaders may also be a resource for introducing students to religious beliefs and practices of religious groups under discussion in the classroom. Religious leaders may inform students about the beliefs and practices of their religion but may not try to persuade students to change their religious beliefs or invite students to engage in any religious activity. Invited speakers should be informed of these parameters in advance and agree to them as a condition of speaking at the school.

17. HOW SHOULD TEACHERS ACKNOWLEDGE RELIGIOUS HOLIDAYS IN THE CLASSROOM?

Religious holidays can serve as opportunities to teach students about some of the religious traditions represented in the classroom and community, especially in the elementary grades. Older students can learn about religious holy days in the context of studying history or geography, courses that include considerable study of the world's religions.

However, teachers must be mindful of the distinction between teaching about religious holidays, which is constitutional, and celebrating religious holidays, which is not. Recognition of religious holidays should focus on how and when they are celebrated, their origins, histories and the variety of meanings within religious traditions. The use of religious symbols to teach about holidays is permissible as teaching aids or resources. They may be temporarily displayed in the classroom to illustrate the tradition being studied.

Teachers may also use art, drama, music and literature drawn from religious traditions to enrich the study of various religions. These resources should be selected for their academic or aesthetic value but may not be used as a vehicle for promoting religious beliefs or practices.

18. WHAT SHOULD PUBLIC SCHOOLS DO DURING THE DECEMBER HOLIDAY SEASON?

The December holiday season has historically been a time of controversy in many school districts due to classroom activities and school assemblies that promote a religious message in violation of the First Amendment. To avoid conflict and uphold the law, public schools should focus on

educating students about religious holidays in December and at various times of the year and avoid celebrating or promoting religious messages.

This means that school-sponsored concerts in December should expose students to a variety of seasonal music, sacred and secular, in a way that is educational, not devotional. Traditional Christmas carols, for example, may be included if religious music does not dominate the program.

In December, or in other months of the school year, the academic study of music, art, drama and literature in public schools should include learning about religious works in each of those subjects. After all, much music, art, drama and literature throughout history has been derived from religious ideas and images. But such study of religion in any subject must be done objectively and fairly without either promoting or denigrating religion.

19. CAN TEACHERS REFUSE TO TEACH CERTAIN TOPICS IN THE CURRICULUM BECAUSE THE MATERIAL OFFENDS THEIR RELIGIOUS BELIEFS?

Generally, teachers are subject to the school authorities in matters of curriculum and class instruction.

A teacher who objects to specific parts of the curriculum may request accommodation from school authorities (e.g., having another teacher cover a specific lesson) or, if no resolution is found, seek legal relief under the federal law known as Title VII of the Civil Rights Act of 1964, which prohibits discrimination against employees based on race, color, religion, sex or national origin, or pertinent state law provisions that govern religious accommodations. Such a teacher may also seek relief under state and federal constitutional guarantees against compelled speech or burdening religion. The law in this arena is far from settled, however, and the operating assumption should be that the school normally has ultimate control over classroom teaching.

Access of Religious Groups to Public School Facilities

20. CAN PUBLIC SCHOOL FACILITIES BE USED BY RELIGIOUS GROUPS DURING NONSCHOOL HOURS?

Yes. Although public schools are not required to open their facilities to any community group, once they do, all groups—including those with a religious viewpoint—must be treated the same. School officials may impose reasonable restrictions such as when meetings may be held, how long they may last, whether they may continue during periods when school is not in session, what maintenance fee must be paid, and what insurance might be required, as long as these restrictions apply to both religious and nonreligious groups. Public schools may also limit the use of school facilities to community nonprofits, as long as they do not engage in viewpoint discrimination by excluding nonprofits with a religious viewpoint.

21. DO RELIGIOUS GROUPS IN THE COMMUNITY HAVE THE RIGHT TO DISTRIBUTE THEIR MATERIALS TO STUDENTS ON CAMPUS?

Allowing outside adults to distribute religious literature to students on campus is likely to violate the establishment clause. This restriction applies to school property but not to public sidewalks, streets or private property bordering school property. However, some lower courts have upheld passive distribution of materials to students by religious and other community groups. In this approach, outside groups, religious and secular, leave materials on a table for students to browse and take only if they wish to do so. The school posts a disclaimer explaining that the school does not endorse these materials.

22. CAN RELIGIOUS GROUPS IN THE COMMUNITY DISTRIBUTE FLYERS TO STUDENTS ABOUT EVENTS OR PROGRAMS FOR YOUTH?

Yes. If a public school allows outside groups to send informational flyers about their programs home with students (including permission slips), schools may not deny that privilege to religious groups.

Public schools may also announce community events and meetings of religious and other community groups. All these groups must receive the same treatment. The school should make it clear, however, that it does not sponsor or endorse religious meetings or events.

Released-Time Programs

23. CAN PUBLIC SCHOOL STUDENTS BE RELEASED FOR OFF-CAMPUS RELIGIOUS INSTRUCTION DURING THE SCHOOL DAY?

Yes. If the school district has a policy allowing for a released-time program, students who have parental permission may attend off-campus religious instruction during the school day. Note that a school district is not required by the First Amendment to allow released time, but it may do so without violating the First Amendment. Some states have laws requiring public schools to release students for released-time programs with parental permission, while other states have laws permitting but not requiring the release of students, and some states do not address released time.

When a public school creates a released-time option, the program must take place off campus and must be entirely organized and run by the religious or community groups sponsoring the classes. Schools may designate a specific day of the week for released time and may limit the time allotted for the program.

School officials may neither encourage nor discourage participation by students or in any way penalize students who do not attend. Teachers should ensure that students not participating have meaningful schoolwork while their classmates are off campus.

U.S. Supreme Court Decisions Involving Religion and Public Schools

[Minersville School District v. Gobitis](#) (1940) A Pennsylvania state regulation requiring public school students to salute the flag and recite the Pledge of Allegiance is ruled constitutional. All students, including those with religious objections, must participate in the flag salute. (Overruled by *West Virginia State Board of Education v. Barnette*)

[West Virginia State Board of Education v. Barnette](#) (1943) Requiring compulsory flag salute and recitation of the Pledge of Allegiance in public schools violates the free speech clause of the First Amendment. (This decision overturned *Gobitis*.)

[Everson v. Board of Education of the Township of Ewing](#) (1947) The establishment clause does not prohibit a state from spending tax funds to pay for bus transportation for parochial school pupils as part of a general program under which it pays for transportation of pupils attending public schools. Although not a case involving religion and public schools, *Everson* was the first Supreme Court decision to apply the establishment clause to the states through the due process clause of the 14th Amendment (“nor shall any State deprive any person of life, liberty, or property, without due process of law”). By applying the First Amendment guarantee of religious freedom to the states, the court opened the door to the many religion and school cases that followed.

[McCullum v. Board of Education](#) (1948) The practice of having religious instructors from different faiths enter public schools to offer religious lessons during the school day to students whose parents requested them is unconstitutional.

[Zorach v. Clauson](#) (1952) An arrangement by which public schools excused students during the school day so they could attend religious classes away from school property is constitutional.

[Engel v. Vitale](#) (1962) The establishment clause is violated when public schools write prayers for students to recite, even if students may opt out.

[School District of Abington Township, Pennsylvania v. Schempp](#) (1963) Public schools violate the establishment clause if they include devotional Bible reading and prayer in the curriculum. However, teaching about religion in history, music, art or other classes is permissible.

[Epperson v. Arkansas](#) (1968) A state cannot prohibit teachers in state-supported schools and universities from teaching or using a textbook that teaches the theory of evolution.

[Stone v. Graham](#) (1980) A Kentucky law requiring all public schools to post a copy of the Ten Commandments is unconstitutional.

[Edwards v. Aguillard](#) (1987) A law prohibiting teaching the theory of evolution in public schools unless it's accompanied by instruction in creation science violates the establishment clause.

[Board of Education of Westside Community Schools v. Mergens by and through Mergens](#) (1990) The Equal Access Act of 1984 is constitutional. It requires public secondary schools to permit religious and political student extracurricular clubs if the school allows other extracurricular clubs.

[Lee v. Weisman](#) (1992) A school-sponsored prayer led by an invited clergyman at a public middle school commencement violates the establishment clause.

[Lamb's Chapel v. Center Moriches Union Free School District](#) (1993) A law banning a religious group from using a public school on the same terms as other outside groups violates the free speech clause.

[Santa Fe Independent School District v. Doe](#) (2000) The establishment clause prohibits public schools from sponsoring student-recited prayer at high school football games.

[Good News Club v. Milford Central School](#) (2001) The free speech clause of the First Amendment prohibits an elementary school from excluding an evangelical Christian program for children from meeting on school property on the same basis as other community after-school activities.

[Kennedy v. Bremerton School District](#) (2022) In a case involving a football coach praying publicly in the middle of the football field after games, the court held that the free exercise and free speech clauses protect school

employees engaging in a personal religious observance at a school event from government reprisal. The Constitution neither mandates nor permits the government to suppress such religious expression.

Recommended Resources

Ronald B. Flowers, Melissa Rogers, and Steven K. Green. *Religious Freedom and the Supreme Court*. Waco, Texas: Baylor University Press. 2008.

Michael D. Waggoner and Nathan C. Walker, eds. *The Oxford Handbook of Religion and American Education*. New York: Oxford University Press. 2018.

Charles C. Haynes, ed. *Teaching about Religion in the Social Studies Classroom*. Silver Spring, Maryland: National Council for the Social Studies. 2019.

James C. Carper and Thomas C. Hunt, eds. *The Praeger Handbook of Religion and Education in the United States*, two volumes. Westport, Connecticut: Praeger. 2009.

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