

*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.*

CHAPTER 1

1

From Battleground to Common Ground

The Religious Liberty clauses of the First Amendment to the Constitution are a momentous decision, the most important political decision for religious liberty and public justice in history. Two hundred years after their enactment they stand out boldly in a century made dark by state repression and sectarian conflict. Yet the ignorance and contention now surrounding the clauses are a reminder that their advocacy and defense is a task for each succeeding generation.

—The Williamsburg Charter
1988

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—Religious Liberty Clauses,
First Amendment to the
United States Constitution

More than 200 years after their enactment, the first 16 words of the Bill of Rights undergird the boldest and most successful experiment in religious freedom in human history. Despite periodic outbreaks of nativism, anti-Semitism and religious conflict, Americans can be justly proud that we begin the new century as one nation of many peoples and faiths.

THE CHALLENGE

The challenge for 21st-century America is not only to sustain this extraordinary arrangement, but to expand the principles of religious liberty more fairly and justly to each and every citizen. This is no small task. Today the United States is the most religiously diverse society on Earth and, among developed countries, the most religious. But exploding religious pluralism combined with bitter culture wars are making our public square an increasingly crowded and often hostile arena.

Nowhere is it more important — or more difficult — to address our growing ideological and religious diversity than in the public schools. Not only are our schools a key battleground in the culture wars, they are the principal institution charged with enabling Americans to live with our deepest differences. If we fail in our schools to



teach and model the rights and responsibilities that flow from the First Amendment, then surely we endanger the future of our daring experiment in religious liberty.

This guide is built on the conviction that finding common ground on many of the issues that divide us is possible within the civic framework provided by the Religious Liberty clauses of the First Amendment to the U.S. Constitution. The key is for all sides to step back from the debate and to give fresh consideration to the democratic first principles that bind us together as a people. Then, in light of our shared civic commitments, we can work for policies and practices in public education that best protect the conscience of every student and parent in our schools.

A NEW CONSENSUS

Here is the good news: Although underreported by the media and still unknown to many school leaders, a new model has emerged for addressing religion and religious liberty in public schools. Over the past decade, religious and educational groups from across the



spectrum have adopted the consensus guidelines included in this guide. Where these agreements have been applied in local districts, they have enabled a growing number of divided communities to move from battleground to common ground.

The measure of just how much consensus we now have was highlighted in early 2000 when every public-school principal in the United States received a packet of comprehensive religious liberty guidelines from President Clinton and the U.S. Department of Education. For

the first time in American history, all administrators were given the closest thing possible to a legal safe harbor for addressing perennial conflicts over religion in the schools.

This new consensus on religion in public schools began to emerge as a response to the textbook trials in Alabama and Tennessee in the mid-1980s. Although the constitutional questions were quite different, both cases called attention to the fact that the public-school curriculum largely ignored religious ways of understanding the world. The educational issues raised by the trials were reinforced by several textbook studies. The liberal People for the American Way reached much the same conclusion as the conservative Paul Vitz: Public-school texts included little or nothing about religion.

In the wake of these trials and studies, we convened leading educational and religious organizations in an effort to find common ground on the question of religion in the curriculum. Groups ranging from the National Association for Evangelicals to the Association for Supervision and Curriculum Development agreed that ignoring religion was neither educationally sound nor consistent with the First Amendment. We were convinced that we can (and must) do better in public education.

After a year and a half of discussion and debate, we reached agreement on our first set of guidelines, “Religion in the Public School Curriculum: Questions and Answers.” Four months later we forged a second agreement, “Religious Holidays in the Public Schools: Questions and Answers.” This was soon followed by a third statement providing consensus guidelines for implementing the Equal Access Act. After a long history of shouting past one another, we had begun to find common ground.

BEYOND TWO FAILED MODELS

These agreements of the late 1980s and early 1990s were important first steps in articulating a civic framework that enables school and communities to move beyond culture-war debates that are often dominated by extremes.



On one end of the spectrum are those who advocate what might be called the “sacred public school,” where one religion (theirs) is preferred in school policies and practices. Characteristic of the early history of public education, this approach still survives in some parts of the United States, particularly the rural South. From the “Bible wars” of the 19th century to current fights over posting the Ten Commandments in classrooms, attempts to impose religion in schools have fueled countless lawsuits and bitter fights in communities throughout the nation. Not only is this model unconstitutional, it is also unjust.

In recent decades, however, some on the other end of the spectrum have pushed for a “naked public school,” where religion is excluded in the name of the Establishment clause of the First Amendment. The influence of this mistaken view of the First Amendment is apparent in the virtual silence about religion in most of the curriculum and the confusion among many school leaders about the religious-liberty rights of students. But the First Amendment does not mandate that public schools be religion-free zones. This approach is also unjust and, when the rights of students are violated, unconstitutional.

The process of finding consensus during the past decade has yielded a third model – what might be called a “civil public school” – articulated in the various guidelines included in this guide. The shared vision of this model is captured best in “Religious Liberty, Public Education, and the Future of American Democracy,” a statement of principles found in Chapter 2. Twenty-four major religious and educational organizations define religious liberty in public schools this way:

Public schools may not inculcate nor inhibit religion. They must be places where religion and religious conviction are treated with fairness and respect.

Public schools uphold the First Amendment when they protect the religious liberty rights of students of all faiths or none. Schools demonstrate fairness when they ensure that the curriculum includes study *about* religion, where appropriate, as an important part of a complete education.

These four sentences restate the civic framework of the religious-liberty clauses of the First Amendment — our constitutional commitment to “no establishment” and “free exercise” — as they apply to public education. They describe what schools might look like if we finally lived up to the promise of religious liberty. Rather than simply telling public schools what they may not do, the statement calls for protecting student religious expression and including religious perspectives in the curriculum, while simultaneously rejecting government endorsement or promotion of religion.

YES, BUT HOW?

For many years now, the First Amendment Center has worked with school districts throughout the nation to implement the model of a civil public school. We have found that where communities are committed to coming together in the spirit of the First Amendment, consensus is reached, new policies are drafted, and significant changes take place in the classroom. Significantly, support for these efforts comes from both the “right” and “left” of the political and religious spectrum.

The starting point for local communities must be an agreement on First Amendment ground rules as described in Chapters 2 and 3. In the spirit of the First Amendment, all perspectives have a right to be heard, and each citizen has an obligation to protect the freedom of conscience of all others. Agreeing on civic principles allows the dialogue to begin and enables people of all faiths or none to work toward consensus on the proper role of religion in the public schools.

If the resulting agreements and policies are to inspire broad support in the community, all stakeholders must be fully represented in the discussion. When reaching out to critics of the schools, particularly conservative religious groups, school leaders must look beyond

stereotypes to find those representatives most interested in dialogue and consensus. Given the lack of civility in the public square of America today, it is not easy to build bridges of understanding and trust, but it can be done.

While there are extreme voices in the debate, we know from experience that most teachers, parents, administrators and school board members are committed to a principled dialogue, and to fair, open public schools. This includes the vast majority of parents often labeled as members of the “religious right” or the “secular left.” Sadly, a few groups on either side thrive on “demonizing” the opposition, often lumping all individuals and groups under one frightening label. Tactics such as these may successfully raise millions of dollars through direct mail, but they destroy the fabric of our life together as citizens. And the media sometimes fuel the conflict by allowing extreme voices to dominate the debate.

To get beyond the labels, trust needs to be carefully rebuilt. Building trust, of course, requires a willingness to listen. But listening is meaningless if parents or others in the community sense that most questions have been answered before the process begins. A number of school-reform advocates, for example, stress the importance of local participation, but then resist the possibility that local communities may not endorse the reform. Some state mandates encourage communities to write “mission statements,” but leave little room for local decision-making about the educational mission of the schools.

Listening and trusting are also difficult, if not impossible, in districts unprepared for conflict concerning religion and values in the schools. Every district should have comprehensive policies on these issues, developed and endorsed by a broad spectrum of the community and followed up by teacher and administrator education focused on implementation. Using this guide to



take a pro-active — rather than crisis-management — approach to areas of potential controversy is an opportunity for public schools to demonstrate a genuine interest in the concerns of parents, and a concrete commitment to applying religious-liberty principles in public schools.

A COMMON VISION OF THE COMMON GOOD

National consensus statements and guidelines are essential, but they are only starting points in the effort to find lasting common ground. Creating truly civil public schools — schools that take religious liberty seriously — requires school districts willing to do the work of translating these agreements into effective, community-supported policies and practices.



The new consensus represented by the agreements in this guide provides Americans with an historic opportunity. After more than 150 years of shouting past one another about religious liberty in schools, we finally have a model widely agreed-to across our differences. It is now possible to address our differences with civility, reach mutual understanding and forge policies that protect the First Amendment rights of every parent and student.

If we take this opportunity, a common vision of the common good may be realized in public schools and in our communities. The time is now to re-commit ourselves, as American citizens, to the vision of “We the People” — the ongoing and difficult task of building one nation out of many peoples and faiths.



Resources

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