

“Nothing in the First Amendment converts our public schools into religion-free zones, or requires all religious expression to be left behind at the schoolhouse door.”

—President Clinton’s Memorandum on Religion in Schools, July 12, 1995

Teachers’ Rights on Public School Campuses

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A. The Battleground

Teachers play a critical role in America. Aside from parents, teachers form the link between our past and future. Aristotle understood the importance of teaching when he stated, “All who have meditated on the art of governing mankind are convinced that the fate of empires depends on the education of youth.” Martin Luther once stated that he was “afraid that schools will prove to be great gates of hell unless they diligently labor in explaining the Holy Scriptures, engraving them in the hearts of youth.” Secular humanist, John Dunphy, stated that the “classroom must and will become an arena of conflict” between Christianity and Humanism.¹

Though schools were originally founded for the purpose of inculcating Judeo-Christian values, particularly to teach people how to read the scriptures, John Dewey, the so-called father of modern education, attempted to replace sectarian education and doctrine with a “religious faith that shall not be confined to sect, class, or race.”² Over the years since John Dewey, public schools have become secularized. Many teachers have the mistaken view that religion is forbidden on public campuses.

B. Teacher as Individual and State Agent

Teachers are both individual citizens and agents of the state. The Supreme Court correctly pointed out that “It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” Since teachers are both individuals and agents of the state, the First Amendment serves to protect their freedom of speech and free exercise of religion, and to prohibit them from establishing religion.

The Supreme Court has interpreted the Establishment Clause of the First Amendment to essentially mean that government must remain neutral in matters of religion. In other words, government may neither actively promote, nor affirmatively oppose, religion. In the context of a public school teacher, to be neutral is to be objective. To be objective, a teacher must present all facets of a subject, both secular and religious. So long as a teacher presents both secular and religious aspects of a subject matter in an objective manner, the teacher may bring religion into any topic. For example, while a student may actively advocate another student to have a saving faith in Jesus Christ, a public school teacher would be prohibited from doing so during class time. However, a public school teacher may objectively teach the Bible and discuss the life of Jesus during history, literature, geography, sociology, or other similar class curriculum.

C. Religion and the Curriculum

While a teacher may not use the classroom to indoctrinate students, a teacher may disseminate information in an objective manner so long as the information is reasonably related to the curriculum. Indeed, no subject can be thoroughly taught without some discussion of religion. The Supreme Court recognized that the study of the Bible or religion when presented objectively as part of a secular program of education is consistent with the First Amendment.

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D. Holidays, Symbols, Music, Art, Drama, and Literature

The constitutional principle regarding religious holidays, symbols, music, art, drama, or literature is simple – mix the secular and the sacred. In other words, if a public school teacher displays or presents a secular aspect along with the religious holiday, symbol, music, art, drama, or literature, then the display or the presentation is constitutional. A teacher may display a nativity scene during the Christmas season so long as within the same context of the religious symbol is a secular symbol of the holiday, such as Santa Claus. Adding the secular aspect to the religious aspect is considered an objective presentation and consequently places the state in a neutral position.

E. Outside Speakers during Curricular Time

Teachers may invite outside speakers to present their views on a particular topic. The teacher may even utilize a debate format to present both sides of an issue. Outside speakers avoid the problem of the school endorsing the speaker and provide an opportunity for experts in various areas to present information to students. Teachers should avoid a regular pattern of inviting only those speakers who present a Christian viewpoint. However, teachers may indeed invite a presenter to discuss a religious viewpoint, or may utilize a debate format with opposing and contrasting views.

F. Use of School Facilities

Some schools allow teachers to utilize a classroom or a lounge to meet with other teachers. If the school allows teachers to use school facilities for secular meetings, then the school should also allow teachers to use school facilities for religious meetings. The school may restrict the use of its facilities by teachers for only class-related meetings or topics. For example, a school may limit use of its facilities to teachers for the sole purpose of planning curriculum. In that case other teachers should be able to use the school facilities to discuss curriculum as it relates to teaching religion in the curriculum. If the school allows teachers to use its facilities for non-curriculum related matters such as socialization and entertainment, then teachers should also be able to use the same facilities for Bible study and prayer.

G. Clothing and Jewelry

A teacher has some restrictions imposed by the Establishment Clause. If the content of the message is not religious, a teacher probably has greater latitude to wear clothing with an inscribed message. However, the First Amendment Establishment Clause places certain restrictions on a teacher with respect to promoting religion. The more objective the writing without promoting a religious view, the more likely the teacher is able to wear the article of clothing or jewelry. If the school allows teachers to wear clothing with secular words or symbols or secular jewelry, then the school probably cannot prohibit a teacher from wearing clothing with religious words or jewelry with religious connotations. For example, if a school permits teachers to wear t-shirts on a particular day supporting the various student clubs, then the school must also allow teachers to wear t-shirts supporting Christian clubs with Christian words and insignia. However, unlike a student who may consistently wear a t-shirt with the message, "Jesus died for you," a school could probably prohibit a teacher from consistently displaying the same message except in specific circumstances.

H. Student Club Sponsors

According to the Equal Access Act, schools may require student-initiated clubs to have a teacher sponsor. Schools may require a sponsor of religious clubs only if the same requirements are imposed on secular clubs. According to the Equal Access Act, the provision of a school sponsor, whether an employee, agent, or otherwise, does not mean that the school endorses the club.¹⁶ A teacher or other school employee as the agent of the school may be present at a religious meeting in a "non-participatory" capacity.¹⁷ This "non-participatory" attendance means that the teacher or school employee should not actively lead or direct the group. The club must be student-initiated and student-led.

Summary of Teachers' Rights

- May exercise the right of free speech and freedom of religion.
- May be limited by the Establishment Clause from actively endorsing or promoting a religious viewpoint.
- May objectively and neutrally overview religion consistent with the topic being taught.
- May objectively study the Bible or other religious literature so long as the presentation is done objectively and is consistent with the subject matter.
- May teach creation science or abrupt appearance as part of an objective overview during a course discussing the origin of the universe.
- May celebrate religious holidays so long as the secular aspect of the same holiday is also represented.
- May display a nativity scene so long as a secular symbol of the holiday is also displayed.
- May present a Christmas pageant with Christian songs so long as other secular songs of the holiday are also sung.
- May wear religious clothing and jewelry on a similar basis to that which the school allows the wearing of secular clothing or jewelry.
- May use school facilities to meet with other teachers on the same basis and receive equal treatment to the use provided teachers for secular purposes.
- May bring in outside speakers to present a particular view or bring in more than one speaker in a debate format presenting opposing views.
- May act as a Bible club sponsor.

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