

**Beyond the school wars:**  
*What every public school can do to avoid conflicts over religion –  
and find common ground*

Charles C. Haynes  
First Amendment Center

A report based on the proceedings of a conference on religion in public schools held at the John Seigenthaler Center at Vanderbilt University in Nashville, Tenn., March 4-6, 2007. The meeting was sponsored by:

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## **Preface**

On March 4, 2007, 50 educators, civil libertarians and academics gathered at Vanderbilt University for a two-day conference on the future of religion in public schools organized by the American Civil Liberties Union, the First Amendment Center and the Council on America's First Freedom.

Since the late 1980s, many national civil liberties, religious and educational organizations have worked hard to reach consensus on the role of religion in public schools under the First Amendment. Two decades later, some progress has been made – though conflicts and lawsuits continue to divide many communities. The Vanderbilt conference was convened to examine two key questions:

1. How well public schools are currently handling religious-liberty issues?
2. What should be done to help schools and communities do a better job of addressing these issues in the future?

Over the two days of the conference, participants met in working groups for in-depth discussions about the place of religion in the curriculum and issues related to student religious expression. Although participants represented a broad range of perspectives and organizations (from the American Center for Law and Justice to the American Civil Liberties Union), the dialogue was civil and respectful throughout, in sharp contrast to the culture-war shouting matches often thought to characterize the “religion in schools” debate.

The conference was not designed to draft a joint statement or reach a consensus position on religion in public schools. This report, therefore, is not a summary of the

proceedings or a list of shared recommendations. Rather, it is my attempt to highlight key areas of agreement and disagreement on what is now happening in public schools – and to offer recommendations and strategies for what should happen in the future.

Although the organizers of this conference did not anticipate that there would be complete agreement on many of the issues before us, our belief was confirmed that there is in fact much greater consensus than the culture-war rhetoric often suggests. At a time when many communities continue to be divided and conflicted about the place of religion in their schools, participants in the Vanderbilt meeting modeled civil discourse that seeks the common good while preserving important constitutional values.

Although I am the author of this report, and although it does not necessarily represent the viewpoints of the sponsors or participants, I have attempted to draft it in such a way as to convey what I believe to be broadly acceptable positions and that can be implemented throughout the United States.

## Religious Liberty in Public Schools Today

Contrary to the popular myth of the “godless public school,” there is actually more student religious expression – and more attention to religion in the curriculum – in public schools today than at any time since the 19<sup>th</sup> century. And here is the good news: Religion goes to school today, but mostly through the First Amendment door.

That doesn’t mean schools are home free or that all conflicts over religion are easily resolved. On the contrary, getting religion right in public schools remains a messy business in many communities. The bad news is that there are some places where there are attempts to censor constitutionally permissible student religious expression or avoid teaching about religions. In other places, there are concerted campaigns by some to promote school-sponsored religious activities and beliefs in public schools. All of this means, unfortunately, that lawsuits continue to proliferate. Nevertheless, there has been a quiet revolution in the past two decades that has transformed how many schools deal with religion.

To understand how we got here – and where we need to go – a little history is needed. Twenty years ago, many public schools did, in fact, come close to being religion-free zones. In the wake of controversial court decisions banning state-sponsored religious practices (decisions wildly misrepresented by in the public debates), worried school officials often overreacted by trying to keep all religion out. Textbook publishers largely ignored religion, and teachers wouldn’t touch it with the proverbial ten-foot pole. Administrators mistakenly confused student speech with government speech and told kids to leave their religion at the schoolhouse door.

Of course, some other schools, especially in the rural South, continued to do what they had always done to promote the majority's religion through various school-sponsored practices.

But that was 20 years ago. Today, most state social studies standards and textbooks include considerable mention of religion (though we still have a long way to go to get it right); student religious clubs meet on hundreds, if not thousands of high school campuses; the sight of Christian students praying around the flagpole or in the lunchroom is commonplace; and Muslim students routinely perform daily prayers.

What accounts for this dramatic change in such a short time? Part of the credit, at least, goes to the consensus guidelines developed by leading religious, civil liberties and educational groups on a wide range of issues concerning religious liberty in public schools. Twenty years ago religious-liberty attorney Oliver Thomas and I convened the first effort to find common ground where there had been none. Concerned about the growing number of lawsuits and fights over religion in schools, leaders of many groups – right to left – came together to see if we couldn't do better.

After a year and a half of intense negotiation, we reached agreement on “Religion in the Public School Curriculum: Questions and Answers” – the first-ever consensus statement on teaching about religion in the public schools. The statement was endorsed by a broad coalition that included everyone from the National Education Association to the National Association of Evangelicals, this statement was the first of a series of “common ground” agreements that would help transform the religious-liberty landscape in public education.\*

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\* All of these agreements may be found in “Finding Common Ground: A First Amendment Guide to Religion and Public Schools” at [www.firstamendmentcenter.org](http://www.firstamendmentcenter.org)

The culture-war conflicts of the 1980s – including textbook trials in Tennessee and Alabama – inspired many of us to come to the table in 1987. But other developments also contributed to the changes that were to take place over the next two decades, most notably the Equal Access Act of 1984 that opened the door to student religious clubs and the California history-social science framework of 1989 that broke with precedent by including significant attention to the study of world religions.

Since the first agreement on religion in the curriculum in 1988, there have been many others. Of particular importance was the Joint Statement of Current Law, drafted under the leadership of the American Jewish Congress and disseminated in 1995. Today we have consensus statements on everything from religious holidays to the Bible. Last year, a few key groups even reached agreement on how to address conflicts over sexual orientation in public schools, one of the most emotional and divisive issues in public education today.

Of course, we still have some distance to go. Agreement on some issues – such as the place of religion in the curriculum or when students may pray together – doesn't mean agreement on everything. Conflicts regarding Bible elective courses and lawsuits over student religious expression before a captive audience are stark reminders of how much work remains to be done.

Nevertheless, a growing number of school districts across the nation have used the “new consensus” to move from battleground to common ground on the role of religion in their schools. From Ramona, Calif., to Davis County, Utah, to Richardson, Texas, to Mustang, Okla., school districts are successfully translating national statements into local policies and practices that take the First Amendment seriously.

How did these districts reach common ground? First, they had to reject the two failed models that have characterized much of the history of religion in public schools – models that many people still carry around as the only two alternatives – models that still survive (in varying degrees) in all too many school districts.\*

The first model is what might be called the “sacred public school,” in which school practices privilege one religion (historically a general form of Protestant Christianity but increasingly a conservative Protestantism). This is the vestige of the 19<sup>th</sup> century public school that many Americans recall fondly as the “good old days” – a time in the past when they imagine we all got along.

When people ask me why we can’t go back to the good old days when we were “one nation, under God,” I need only remind them of the Bible wars in the mid-19<sup>th</sup> century when churches were burned and people died over whose version of the Bible would be read every morning: the Protestant or the Catholic. Another Bible war began in 1952, with the publication of the Revised Standard Edition, which prompted fierce arguments among many Christians about which Bible translation is the most faithful. Even the choice of *which* Bible can be perilous today.

For many Americans, especially many conservative Christians, the fight to preserve the sacred public school is about much more than conflicts over prayers or holiday displays. It’s about the larger questions such as “whose schools are these?” and, even more important, “what kind of nation are we – will we be?”

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\* My description of the “failed models” and the proposal for a “civil public school” is drawn from language used in the Williamsburg Charter, a restatement of First Amendment religious-liberty principles signed by nearly 200 American leaders in 1988. Describing how the Religion Clauses work for each other, the charter states: “The result is neither a naked public square where all religion is excluded, nor a sacred public square with any religion established or semi-established. The result, rather, is a civil public square in which citizens of all religious faiths, or none, engage one another in the continuing democratic discourse.” Williamsburg Charter, June 25, 1988

The theological-political belief that our nation is in spiritual and moral decline because we fail to acknowledge our dependence on God continues to fuel fights when it translates into the promotion of particular religious beliefs by school officials. A few typical examples:

- A teacher in North Carolina was suspended for inviting a guest speaker into the classroom to promote Christianity and attack Islam.
- A few years ago, a principal in Mississippi allowed what amounted to a revival meeting in the school gym during school hours – and required faculty and students to attend.
- And in some districts today, public schools are offering unconstitutional devotional electives that operate largely under the radar.

Even if we wanted to go back to the so-called good old days, the sacred public school is no longer tenable in our pluralistic society. More importantly, it is both unjust and unconstitutional.

The second failed model is even more widespread. I'm talking about what I call the "naked public school" – the mistaken idea that freedom *of* religion requires public schools to be free *from* religion. Contrary to culture-war rhetoric, a naked public school was not mandated by the U.S. Supreme Court. While it's true that the Court in the 1960s struck down teacher-led prayer, school-sponsored devotional Bible reading and other state-sponsored religious practices, the Court has never banned prayer or God from the public schools. Moreover, the Court has gone out of its way to emphasize that teaching *about* religion – as distinguished from religious indoctrination – is an important part of a good education. Ironically, some of those who most want religion in public schools have



been among the loudest proclaiming that the Supreme Court took it out. Their vociferous and incorrect language has in some cases encouraged others to act as if it were true. This polarized language has thus had the counterproductive affect of pushing sensible discussion of religion out of schools.

Confusion about Supreme Court rulings (and fear of controversy) over the past four decades, has led to horror stories of educators prohibiting student religious expression in schools. This has led many religious people to believe that public schools are hostile to their faith. All it takes is a few conflicts in a few school districts – and all public schools are painted with the same brush. In the Internet era, this is easy to do.

We have all heard the stories:

- A lawsuit filed in Pennsylvania by a parent angry because her child was told he couldn't dress up as Jesus for the Halloween parade – even though the school allows devils, witches and a skeleton covered with blood.
- A New Jersey girl was told that she couldn't sing "Awesome God" in the school talent show.
- A superintendent in Michigan a few years ago told a student that she couldn't bring her Bible to school.
- A teacher in Texas asked students to write about their "favorite person" in history. When a student wanted to write about Jesus, the teacher told her to choose someone else.

All of these incidents appear to be caused by a widespread confusion among school officials about the difference between government speech and student speech. Like the sacred public school, the naked public school is also unjust and unconstitutional.

Although some culture warriors on both sides will tell you otherwise, Americans do not have to choose between imposing religion in schools and keeping it out altogether. This is a false choice between two unconstitutional alternatives.

The third model – the approach built on the new consensus – is what I call the civil public school. It is, in fact, what public schools look like when they take the First Amendment seriously. It is grounded in the understanding that the First Amendment separates church from state, but not religion from public life or public schools.

What does a civil public school look like? The best one-stop definition of the civil public school is found in an agreement I helped negotiate in 1995 entitled *Religious Liberty, Public Education, and the Future of American Democracy*, a statement of principles endorsed by 24 major organizations. Principle IV defines the shared vision for religious liberty in public schools:

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 describe what schools look like when we live up to the promise of religious liberty under the First Amendment, our shared commitment to “no establishment” and “free exercise.” Rather than saying “no” to religion, the First

Amendment opens the door to appropriate student religious expression while simultaneously keeping school officials out of the religion business.

This statement is extraordinary not only for what it says, but also for who says it. In what is surely a first, both the Christian Coalition and People for the American Way are on the list. The Christian Educators Association International is listed, but so is the National Education Association. The National Association of Evangelicals, the Catholic League for Religious and Civil Rights, the Anti-Defamation League, the Council on Islamic Education join with the American Association of School Administrators, the National PTA, and the National School Boards Association to endorse this statement.

Who says America no longer works?

Within a First Amendment framework, we now have broad agreement on many of the religious liberty rights of public-school students: Under current law, students have the right to pray in public schools, alone or in groups, as long as the activity doesn't disrupt the school or infringe on the rights of others. Students have the right to share their faith with others and to read their scriptures. When it's relevant to the discussion and meets the academic requirements, students have the right to express personal religious views in class or as part of a written assignment. Students have the right to distribute religious literature in school, subject to reasonable time, place and manner restrictions. And under the Equal Access Act, students have the right in secondary schools to form religious clubs if the school allows other extracurricular clubs.

This constitutional right of students to express their religious views does not, however, empower them to pressure other students to accept those beliefs. Public

schools should not be converted into recruiting grounds where students or administrators unduly use their influence to coerce others

We also have broad agreement on the need to include study about religion in the public school curriculum. Schools have moved from asking “Is it constitutional to teach about religion?” to asking “How should we do it?” Twenty years ago, state social studies frameworks ignored religion – and textbooks followed suit. Today, according to a study we published a few years ago, all existing state social studies standards include considerable mention of religion. As a consequence, history textbooks now integrate some study of religions into discussions of American and world history.

This doesn’t mean, of course, that all public schools are now civil public schools – or even close to it. Because of our bad history and the ongoing culture wars many school officials are still afraid to implement the new consensus. Moreover, some teachers remain skittish about discussing religion, whatever the standards or textbooks say.

Getting religious liberty right in every public school won’t be easy. And agreement on many issues – such as the place of religion in the curriculum or when students may pray together – doesn’t mean agreement on all issues.

Consider the current push for Bible electives. Competing Bible bills are popping up in state legislatures around the country. If this movement were only about Bible literacy, then legislation wouldn’t be necessary since most districts are free to propose electives now. But the Bible bills appear to be less about education and more about partisan politics and stealth attempts to promote one religious view of the Bible in public schools.

And, of course, there is also the latest challenge to evolution from the advocates of intelligent design. Although a federal judge in Pennsylvania struck down as unconstitutional the Dover school district's inclusion of intelligent design in the biology classroom, the fight is far from over. Efforts are currently underway in many states to mandate teaching criticism of evolution (or "scientific alternatives") in science courses. More lawsuits are inevitable.

All of these ongoing conflicts involve deeply-held religious and philosophical convictions (on all sides) and none are easy to negotiate. Although religious, civil liberties and educational groups continue to draft consensus guidelines for addressing some of these issues, the real need is for local districts to develop their own policies and practices built on the model of a civil public school.

Even in those areas where we agree in principle, much work remains to be done. Apart from more mention of religion in history standards and textbooks, the overall public-school curriculum too often ignores religion. The conventional wisdom of public school educators appears to be that students can learn everything they need to know about all subjects without learning anything about religion (other than brief, often inadequate, discussions in history and literature).

But surely this is wrongheaded. Yes, the curriculum must be neutral concerning religion under the First Amendment. But it is hardly "neutral" (and certainly unfair) to leave religion out and thus implicitly convey the sense that religion is irrelevant in the search for truth. In addition to the First Amendment argument, there are, of course, significant *educational* reasons for taking religion seriously. As Warren Nord has pointed out, a broad, liberal education should expose students to the major ways in which

humanity has attempted to make sense of the world – and some of those ways of understanding are religious. “Mentioning” religion isn’t enough; we must find ways to acknowledge the importance and complexity of religious voices across the curriculum.

Even though we might agree about the importance of study about religion, we have much to put in place before it can be done properly in public schools. Teacher education will have to change for teachers to receive adequate preparation in the study of religion. More textbooks and supplementary materials that treat religious perspectives accurately and academically will need to be written. And, if religious studies electives are to be offered in greater numbers, certified teachers must be available to teach them.

In his recent book, *Religious Literacy*, Boston University professor Stephen Prothero argues that more inclusion of study about religion in the core curriculum would not be enough. He wants public high schools to require two religion courses: one in Bible and another in world religions.

Since Warren Nord and I have long argued for a high-school religious studies requirement, I obviously agree with part of Prothero’s solution. Religion is too important and too complex to be handled adequately by brief discussions in history or literature courses. Some high schools currently offer electives in world religions (there are 11 such courses in Fairfax County, Va., alone). And at least one school district (Modesto, Calif.) requires a one-semester course in world religions at the 9<sup>th</sup> grade level. A study of that course by professors Emile Lester and Patrick Roberts, published in 2006 by the First Amendment Center found after taking the course students were more tolerant of other faiths and more likely to support their First Amendment rights. It is important to note that the course did not cause students to change their commitment to their own religious

convictions. If done well, a world-religions course can be taught without controversy or lawsuits and with broad community support.

A required Bible course is another matter. Given its place in Western civilization, schools should include substantial study about the Bible in history and literature courses. And, if handled well, a Bible elective can be a valuable option for students. But in my view, a required Bible course comes too close to privileging the Jewish and Christian traditions. Moreover, many school districts are already embroiled in conflicts over Bible electives. Requiring all students to take a Bible course would only up the ante.

Whatever your favored solution, don't expect significant reform any time soon. Enormous challenges remain before the "civil public school" becomes the universally accepted model for addressing religion in public education. Nevertheless, without minimizing the barriers and challenges, it is still fair to say that a shared vision for religious liberty in public schools – a First Amendment vision that includes people of all faiths and none – is much closer to reality today than ever before in our history.

## **How public schools can avoid conflict – and find common ground:**

### **Recommendations and Strategies**

The single most effective way for schools to avoid lawsuits involving religion issues is to undertake a conscientious, fair, balanced and open approach to developing policies and curriculum. Such a program would seek input from the community and avoid adopting a one-sided agenda from any ideological or religious groups. The

following are specific suggestions for local communities and national organizations interested in finding common ground on the role of religion in public schools.

**1. Take advantage of the legal “safe harbor” to be pro-active.**

Common ground agreements reached by national groups over the past two decades provide school leaders with a constitutional “safe harbor” (or the closest thing to it) within which to address religion in schools on a local level. When school officials use national guidelines to explain the role of religion in public schools under the First Amendment, they build trust among parents and students and increase public support for their school district.

**2. Develop sound policies that reflect a commitment to the First Amendment and an understanding of current law.**

School districts with sound religious-liberty policies are much less likely to experience conflicts and lawsuits over issues related to religion in schools. Some school boards and superintendents appoint a task force comprised of educators and community representatives to help develop policies that uphold the First Amendment and adhere to current law. The task force can also serve as an ongoing forum for discussing issues as they arise in the schools. Building relationships among people of divergent views creates mutual respect that often translates into shared agreements on school policies and practices.



### **3. Include all sides in the decision-making process.**

Public schools belong to all citizens and serve the entire community. Just as the national consensus statements were drafted by people with a broad range of perspectives, so local policies should be developed with input from all of the stakeholders in the community. Given the opportunity (and First Amendment ground rules), the vast majority of parents, local leaders, students, educators and school board members will commit to principled dialogue and will work for policies and practices that serve the common good.

### **4. Inform the community on a regular basis.**

No policy, however well-crafted, will be effective unless the broader community is aware of what the policy says and how it is working. Beyond community participation in the policy-development process, school leaders should inform parents and other citizens through publications, web sites, and regular community meetings about how the policies are being implemented.

### **5. Provide periodic in-service education.**

Many conflicts over religion in schools are caused when teachers and administrators are unclear about what is and isn't permissible under the First Amendment. Even good policies are of little value unless school officials understand how to carry them out. Teaching about religions, for example, requires an understanding of the First Amendment guidelines and adequate academic preparation. School districts should

offer periodic in-service opportunities to teachers and administrators focused on the key religious-liberty issues that educators are asked to address in the schools.

## **6. Reform pre-service education.**

Since few schools of education address religion in public schools, few teachers and administrators are adequately prepared to deal with religious-liberty issues as they arise in the classroom and school culture. All educators should receive First Amendment training as part of their certification process. Moreover, prospective teachers should know something about the relationship of religion to the subjects they will be teaching. National educational associations and religious-liberty advocacy groups should work together to bring about these reforms. Until schools of education take the First Amendment seriously, it will be difficult for local schools to avoid confusion and conflict over religion.