

Getting religion right in public schools

If we can't get this right in public schools, we have little hope of getting this right in the public square of what is now the most religiously diverse nation on Earth.

By Charles C. Haynes



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Contrary to culture-war rhetoric from the Right, there is more student religious expression and more study about religion in public schools today than at any time in the last 100 years. And contrary to dire warnings from the Left, much of the religion that goes to school these days arrives through the First Amendment door.

Of course, this isn't to suggest that all school districts get religion right. In some parts of the country, school officials continue to unconstitutionally promote school-sponsored religious activities. In other

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places, administrators and teachers wrongly censor constitutionally protected student religious expression. And throughout the country, the public school curriculum still falls short of serious consideration of religious ways of seeing the world (Nord, 2010; Lester, 2011).

Nevertheless, a quiet revolution in public policy over the last two decades is transforming how many (if not most) public schools address religion during the school day. For public school leaders, understanding the new and expanded place of religion in schools — especially what is and isn't permissible under current law — is critical for preventing conflict and building public support for public education.

What's at stake?

Getting religion right in public schools matters because religion and religious liberty matter. For better and for worse, religious convictions play a central role in shaping events in America and throughout the world. A cursory glance at the daily headlines reminds us that religious differences are at the heart of many of the world's most violent conflicts. And in the United States, rapidly expanding religious diversity presents daunting new challenges for building one nation out of many faiths and cultures in the 21st century (Eck, 2001).

Despite the recent increase in study about religion in schools, many Americans still have little or no knowledge about religions other than their own — and even that knowledge is often thin (Pew Forum on Religion & Public Life, 2010; Prothero, 2007). Religious illiteracy may be a contributing factor to the rising intolerance in the United States, including the growing number of hate crimes motivated by anti-Semitism and Islamophobia. If we hope to prevent religious discrimination and division in the United States, schools need to take religion seriously, not only to increase religious literacy, but also to promote religious freedom as a fundamental, inalienable right for every person (Lester & Roberts, 2006).

How we got here

To understand the significance and scope of the recent changes in how many public schools address religion, 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 and widely misrepresented U.S. Supreme Court decisions banning state-sponsored religious practices, worried educators often overreacted by trying to keep all religion out of schools. Textbook publishers largely ignored religion, and teachers wouldn't touch it with the proverbial 10-foot pole. Some administrators mistakenly confused student speech with government speech and told students 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; 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 during the school day — to cite just a few of many examples.

Those determined to “restore” the past need to accept that the sacred public school is no longer tenable in our pluralistic society.

What accounts for this dramatic change in such a relatively short time? Part of the credit, at least, goes to consensus guidelines developed by leading religious, civil liberties, and educational groups on a wide range of issues concerning religious liberty in public schools. In 1987, religious-liberty attorney Oliver Thomas and I convened the first effort to find common ground where there had been none.

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. Endorsed by a broad coalition ranging 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 (Haynes & Thomas, 2007).

The culture-war conflicts of the 1980s — including textbook trials in Tennessee and Alabama — inspired diverse groups to come to the table. But other developments also contributed to changes that would occur 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.

The new consensus

Since the first guidelines on religion in the curriculum in 1988, there have been eight additional

consensus statements. In 2005, for example, the Gay, Lesbian, and Straight Education Network, the Christian Educators Association International, and other groups reached agreement on a common-ground process for ending conflicts over sexual orientation in public schools, one of the most emotional and divisive issues in public education today. We now have widely supported guides on many divisive issues, from how to address religious holidays to the role of the Bible in public schools.

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. Current conflicts regarding Bible elective courses and lawsuits over student religious expression before a captive audience are 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 Davis County, Utah, to Richardson, Texas, to Mustang, Okla., school districts have successfully translated

Avoid conflict and find common ground

The work of building consensus on a national level must continue, expanding to address the new divisions and conflicts. The more urgent need, however, is for local districts to develop their own policies and practices built on the model of a civil public school. After 25 years on the front lines of culture-war fights over religion in schools, I recommend the following six strategies to public school leaders seeking to avoid conflict and find common ground.

TAKE ADVANTAGE OF THE LEGAL “SAFE HARBOR” TO BE PROACTIVE.

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 teachers, parents, and students and increase public support for their school district.

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 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 schools. Building relationships among people of divergent views creates mutual respect that often translates into shared agreements on school policies and practices.

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, local policies should be developed with input from all stakeholders in the community. Given the opportunity (and First Amendment ground rules), most 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.

INFORM THE COMMUNITY ON A

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

PROVIDE PERIODIC PROFESSIONAL DEVELOPMENT.

Many conflicts over religion in schools are caused because 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 professional development opportunities to teachers and administrators focused on the key religious-liberty issues that educators are asked to address in the schools.

WORK TO REFORM PRESERVICE

PREPARATION. 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, local schools will find it difficult to avoid confusion and conflict over religion.

— Charles C. Haynes

national statements into local policies and practices that reflect a commitment to the religious-liberty principles of the First Amendment (Haynes & Thomas, 2007, p. 171).

Moving beyond two failed models

How did these districts reach common ground? First, they had to reject the two models that have characterized much of the history of religion in public schools, failed models that many people cling to as the only alternatives (Haynes & Thomas, 2007, pp. 285-301).

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). Many of our current conflicts are triggered by efforts to preserve the vestiges of a Protestant-dominated school system that survived well into the 20th century.

When parents sometimes ask me why we can’t go back to the “good old days” when we were “one nation, under God,” I need only recall the Bible wars in the mid-19th century when churches were burned, and people died over whose version of the Bible would be read every morning: the Protestant or the Catholic. Americans have been fighting over the role of religion in schools since the founding of public education. In other words, there were no “good old days” (Solomon, 2007).

For many Americans, especially many conservative Christians, the fight to preserve the sacred public school is about much more than conflicts over teacher-led prayers or crèches. 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?”

The theological-political belief that the 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.

Consider, for example, the teacher in Mt. Vernon, Ohio, who sued to get his job back after he was fired for decorating his classroom with religious symbols and allegedly promoting his religious views when teaching science. Or the principal in Baltimore, Md., who held a prayer service in her school in 2011 to invoke divine help in raising the district’s test scores.

Even those determined to “restore” the past need to accept that the sacred public school is no longer tenable in our pluralistic society. More important, it is both unjust and unconstitutional.

The second failed model is even more widespread. I’m referring to the “naked public school” — the mistaken idea that freedom *of* religion requires public schools to be free *from* religion. Although the prayer

decisions of the 1960s are often blamed for “kicking God out of the schools,” the U.S. Supreme Court did not mandate a naked public school. While it’s true that the Court 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 (Abington Township v. Schempp, 1963).

A civil school

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.

— “Religious Liberty, Public Education, and the Future of American Democracy,” 1995

A statement of principles endorsed by 24 major education and religious organizations

Confusion about Supreme Court rulings (and fear of controversy) over the past four decades has led some administrators to prohibit all student religious expression in schools. The accounts of students being told that they can’t say grace at lunch or that they must leave their Bibles at home have led many religious people to believe that public education is hostile to their faith. All it takes is a small number of conflicts in relatively few school districts for all public schools to be painted with the same anti-religion brush. In the Internet era, this is easily done.

One example of unnecessary (and possibly unconstitutional) exclusion of student religious expression is a lawsuit filed in 2011 by parents challenging a Cresco, Penn., school district’s refusal to allow their 5th grader to give out an invitation to a church Christmas party. The district has what I would characterize as a misguided policy barring student speech that “seeks to establish the supremacy of a particular religious denomination, sect, or point of view,” according to the plaintiff’s lawsuit.

School administrators in Cresco have apparently forgotten that children are not the government. Perhaps they missed the First Amendment memo that says students are free to express their faith — including the conviction that their religion is the best or

truest — as long as they don't disrupt the school or interfere with the rights of others.

In a few districts, teachers and administrators are seen by some parents and students as actively hos-

Like the sacred public school, the naked public school is also unjust and often unconstitutional.

tile to religion. Consider a case recently decided by the 9th U.S. Circuit Court of Appeals involving a Capistrano, Calif., high school teacher accused by a student of denigrating religion in the classroom. Although the student alleged that many statements by the teacher demonstrated hostility to religion, a lower court found that only the teacher's description of creationism as "religious, superstitious nonsense" violated the Establishment Clause. But the appeals court let the teacher off the hook completely, ruling that absent clear legal precedents drawing the line indicating when teacher speech becomes hostile to religion, this teacher may not have realized that

his comments about religion might be unconstitutional (*C.F. v. Capistrano*, 2011). Notwithstanding this confusing signal from the 9th Circuit, the U.S. Supreme Court has made clear that school "neutrality" under the First Amendment prohibits hostility toward religion. Writing for the Court majority in *Abington v. Schempp*, Justice Tom Clark explained that the Establishment Clause bars the government from establishing a 'religion of secularism' by affirmatively opposing or showing hostility to religion (*Abington v. Schempp*, 1963).

Like the sacred public school, the naked public school is also unjust and often unconstitutional.

A civil public school

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 may be called a civil public school. It is, in fact, what public schools look like when they fully understand and apply the religion clauses of the First Amendment.

What is a civil public school? The best one-stop description 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 education and religious organizations. Principle IV provides a 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. (Haynes & Thomas, 2010, p. 12)

These four sentences describe public schools that live up to the promise of religious liberty under the First Amendment. Rather than saying "no" to religion, the First Amendment opens the door to appropriate student religious expression and the academic study of religion while simultaneously keeping school officials from taking sides in religion.

The diversity of groups endorsing this statement of principles is truly remarkable. 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

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A Parent's Guide to Religion in the Public Schools (available in English and Spanish)

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Rights, the Anti-Defamation League, the Council on Islamic Education join with the American Association of School Administrators, the National PTA, the National School Boards Association, and Phi Delta Kappa to endorse this shared understanding of the First Amendment.

Where we agree

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

Public schools can (and should) teach *about* religion, where appropriate, as part of a complete education.

activity does not 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 relevant to the discussion and within the academic requirements, students may express their religious (or antireligious) views in a class discussion 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 to form religious clubs in secondary schools if the school allows other extracurricular clubs.

There is also broad agreement among education, civil liberties, and religious organizations that public schools need to include study about religion in the curriculum. In recent years, many 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 largely ignored religion — and textbooks followed suit. Today, all existing state social studies standards include considerable mention of religion (Douglass, 2000). As a consequence, history textbooks now integrate some study of religions into discussions of American and world history.

Although public school officials must be neutral in their treatment of religion — neither inculcating nor denigrating religion — neutrality under the First Amendment does not mean ignoring religion. Public schools can (and should) teach *about* religion, where

appropriate, as part of a complete education. Such teaching must be fair, objective, and based on sound scholarship.

Although only one school district (Modesto, Calif.) has a required world religions course, many others have extensive units on world religions in history classes and a growing number offer religious studies electives. Fairfax County Public Schools in Virginia, for example, has encouraged in-depth study of world religions since the late 1990s. In addition to the considerable coverage of world religions in the required world history course (as mandated by Virginia’s history standards), Fairfax County has elective world religions courses in seven of the district’s 25 high schools as well as in two alternative schools.

Where we still disagree

This doesn’t mean, of course, that all public schools are now civil public schools or even close to it. Because of our long history of fights and lawsuits, many school officials are still afraid to implement the new consensus, and some teachers remain skittish about discussing religion, whatever the standards or textbooks say. Moreover, the culture wars are still with us, triggering new arguments over religion in schools. Post 9/11, for example, teaching about Muslims and Islam has triggered textbook debates in Texas and a lawsuit in California over the use of

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“role playing” to teach about Islam (Eklund v. Byron, 2005).

At present, the most contentious conflict over religion in the curriculum is over how to teach the Bible, the latest battle in the long-running Bible wars. School districts across the country are fighting over proposals for elective Bible courses. If Bible literacy was the only issue, then finding agreement on the importance of learning about the Bible might be easily reached. After all, how can students understand much of what they see in museums, read in literature, or encounter in history and current events if they are biblically illiterate?

But much of the current pressure for Bible courses comes from the National Council on Religion in the Public School Curriculum, a conservative Christian group that promotes a Bible curriculum that many biblical scholars conclude unconstitutionally promotes one religious view of the scriptures. School districts that go down this path risk winding up in court (Chancey, 2007). An alternative approach emerged in 2005 when the Bible Literacy Project released a new textbook, *The Bible and Its Influence*, in an effort to provide an academically sound presentation of the themes, narratives, and characters of the Hebrew Scriptures and New Testament.

Since 2006, these two approaches have clashed in local communities as well as in state legislatures. State legislators in Georgia, Texas, South Carolina, and Tennessee have adopted a collection of “Bible bills” to encourage school districts to offer Bible electives in high schools. Unless school districts are careful about how they design Bible electives, more litigation is inevitable.

Can we do this?

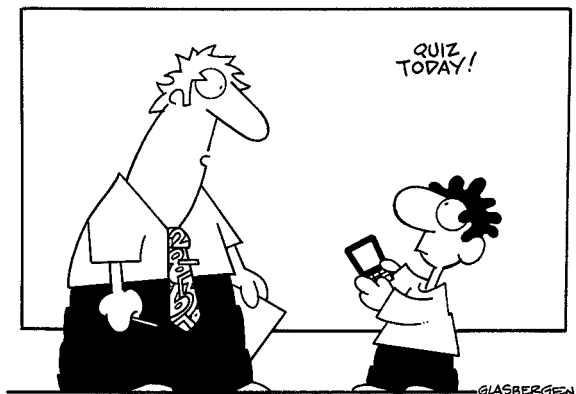
In order to live with our deepest differences in the United States, we must get religion right in public

education, the institution primarily responsible for preparing young people for citizenship in a pluralistic democracy. If we cannot get this right in public schools, we have little hope of getting this right in the public square of what is now the most religiously diverse nation on Earth.

Without minimizing the remaining barriers and challenges, I am convinced 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. Can we do this in public schools? We must. **K**

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