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.

FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

CHAPTER 8

8

Religious Holidays in the Public Schools

Religious Holidays in the Public Schools:
Questions and Answers is sponsored jointly by:

American Academy of Religion

American Association of School Administrators

American Federation of Teachers

American Jewish Committee

American Jewish Congress

Americans United Research Foundation

Association for Supervision and Curriculum Development

Baptist Joint Committee on Public Affairs

Christian Legal Society

First Amendment Center

The Islamic Society of North America

National Association of Evangelicals

National Conference of Community and Justice

National Council of Churches of Christ in the USA

National Council for the Social Studies

National Education Association

National School Boards Association

Since 1776 the United States has grown from a nation of relatively few religious differences to one of countless religious groups. This expanding pluralism challenges the public schools to deal creatively and sensitively with students professing many religions and none.

The following questions and answers concern religious holidays and public education, a subject often marked by confusion and conflict. Teachers and school officials, as well as parents and students, should approach this discussion as an opportunity to work cooperatively for the sake of good education rather than at cross purposes.

School districts developing guidelines about religious holidays will want to base their policies in the shared commitment of respect for individual religious beliefs expressed in the constitutional guarantee of religious liberty. This means that public schools may neither promote nor inhibit religious belief or nonbelief. Drafters of such guidelines also will want to take account of the role of religion in history and culture.

The question-and-answers section is followed by a brief legal analysis of the issues. While awareness of legal issues is essential in considering religion and public education, the law does not supply answers to every question. Within the current legal framework, schools—their boards, administrators, teachers, parents and students—must make many practical decisions regarding religious holidays. This work can be done only by showing sensitivity to the needs of every student and indicating a willingness to steer between avoidance of all references to religion on the one hand and promotion of religion on the other.

QUESTIONS *and* ANSWERS: RELIGIOUS HOLIDAYS IN THE PUBLIC SCHOOLS.

What do the courts say?

The Supreme Court has ruled that public schools may not sponsor religious practices (*Engel v. Vitale*, 1962; *Abington v. Schempp*, 1963) but may teach about religion. While it has made no definitive ruling on religious holidays in the schools, the Supreme Court has let stand a lower federal court decision stating that recognition of holidays may be constitutional if the purpose is to provide secular instruction about religious traditions rather than to promote the particular religion involved (*Florey v. Sioux Falls School District*, 8th Cir., 1980).

Do religious holidays belong in the curriculum?

The study of religious holidays may be included in elementary and secondary curricula as opportunities for teaching about religions. Such study serves the academic goals of educating students about history and cultures as well as about the traditions of particular religions in a pluralistic society.

When should teaching about religious holidays take place?

On the elementary level, natural opportunities arise for discussion of religious holidays while studying different cultures and communities. In the secondary curriculum, students of world history or literature have opportunities to consider the holy days of religious traditions. Teachers find it helpful when they are provided with an inclusive calendar noting major religious and secular holidays with brief descriptions of their significance.

How should religious holidays be treated in the classroom?

Teachers must be alert to the distinction between teaching about religious holidays, which is permissible, and celebrating religious holidays, which is not. Recognition of and information about holidays may focus on how and when they are celebrated, their origins, histories and generally agreed-upon meanings. If the approach is objective and sensitive, neither promoting nor inhibiting religion, this study can foster understanding and mutual respect for differences in belief. Teachers will want to avoid asking students to explain their

beliefs and customs. An offer to do so should be treated with courtesy and accepted or rejected depending on the educational relevancy. Teachers may not use the study of religious holidays as an opportunity to proselytize or to inject personal religious beliefs into the discussion. Teachers should avoid this by teaching through attribution, i.e. by reporting that "some Buddhists believe …."

May religious symbols be used in public school classes?

Provided they are used only as examples of cultural or religious heritage, religious symbols are permissible to use as teaching aids or resources. Religious symbols may be displayed only on a temporary basis as part of the academic program. Students may choose to create artwork with religious symbols, but teachers should not assign or suggest such creations.

May religious music be used in public schools?

Sacred music may be sung or played as part of the academic study of music. School concerts that present a variety of selections may include religious music. Concerts dominated by religious music, especially when they coincide with a particular religious holiday, should be

RESOURCE

Resources for Classroom Teachers

Elementary-school teachers may wish to use some of the many books of children's literature containing stories about the religious holidays and traditions of the world's faiths. A list of books often recommended by teachers can be obtained by contacting Euraine Brooks at the First Amendment Center (703) 284-2809.

Calendars of religious and ethnic holidays can be obtained from the following organizations:

National Conference for Community and Justice
71 5th Avenue
New York, NY 10003
(212) 206-0006

Educational Extension Systems
P.O. Box 259
Clarks Summit, PA 18411
(800) 447-8561

avoided. The use of art, drama or literature with religious themes also is permissible if it serves a sound educational goal in the curriculum, but not if used as a vehicle for promoting religious belief.

What about Christmas?

Decisions about what to do in December should begin with the understanding that public schools may not sponsor religious devotions or celebrations; study about religious holidays does not extend to religious worship or practice. Does this mean that all seasonal activities must be banned from the schools? Probably not, and in any event, such an effort would be unrealistic. The resolution would seem to lie in devising holiday programs that serve an educational purpose for all students—programs that do not make students feel excluded or identified with a religion not their own. Holiday concerts in December may appropriately include music related to Christmas and Hanukkah, but religious music should not dominate. Any dramatic productions should emphasize the cultural aspects of the holidays. Nativity pageants or plays portraying the Hanukkah miracle are not appropriate in the public school setting. In short, while they may recognize the holiday season, none of December's school activities should have the purpose, or effect, of promoting or inhibiting religion.

What about religious objections to some holidays?

Students from certain religious traditions may ask to be excused from classroom discussions or activities related to particular holidays. Some holidays considered by many people to be secular (for example, Halloween and Valentine's Day) are viewed by others as having

Tips for Planning Religious Holidays in Public Schools

Before planning a religious holiday activity in a public school, ask the following questions:

1. Is this activity designed in any way to either promote or inhibit religion?
2. How does this activity serve the academic goals of the course, or the educational mission of the school?
3. Will any student or parent be made to feel like an outsider, not a full member of the community, by this activity?
4. If in December: Do we plan activities to teach about religious holidays at various times of the year or only in December?
5. Are we prepared to teach about the religious meaning of this holiday in a way that enriches students' understanding of history and cultures?

religious overtones. Excusal requests may be especially common in the elementary grades, where holidays often are marked by parties and similar non-academic activities. Such requests are routinely granted. In addition, some parents and students may make requests for excusals from discussions of certain holidays, even when these holidays are treated from an academic perspective. If focused on limited, specific discussions, such requests may be granted in order to strike a balance between the student's religious freedom and the school's interest in providing a well-rounded education. Administrators and teachers should understand that a policy or practice of excusing students from specific activities or discussions cannot be used as a rationale for school sponsorship of religious celebration or worship for the remaining students.

May students be absent for religious holidays?

Sensitive school policy on absences will take account of the religious needs and requirements of students. Students should be allowed a reasonable number of excused absences, without penalties, to observe religious holidays within their traditions. Students may be asked to complete makeup assignments or examinations in conjunction with such absences.

What steps should school districts take?

In a pluralistic society, public schools are places for persons of all faiths and none. Schools may neither promote nor denigrate any religion. In order to respect religious liberty and advance education, we recommend that each school district take the following steps:

1. Develop policies about the treatment of religious holidays in the curricula and inform parents of those policies.
2. Offer pre-service and in-service workshops to assist teachers and administrators in understanding the appropriate place of religious holidays in the schools.
3. Become familiar with the nature and needs of the religious groups in the school community.
4. Provide resources for teaching about religions and religious holidays in ways that are constitutionally permissible and educationally sound.

Religious Holidays and Public Schools: A Brief Legal Analysis

Although many controversies have arisen over religious holidays in public schools, the case law is scant. Because the Supreme Court has not ruled on the issue, there are no final or definitive answers.

The high court has ruled, however, that the government may not erect an explicitly religious symbol (such as a creche or menorah) unless it is part of a larger "secular" holiday display.[1] Many have criticized the Court's ruling, describing it as the "plastic reindeer test" — referring to the nonreligious symbols that must accompany the display. Interestingly, a majority of the justices has stated that Christmas trees, unlike creches and menorahs, have attained a secular status in our society and can be displayed standing alone. This does not mean that schools should erect Christmas trees during the holiday season, but only that they probably can. Many Americans continue to view Christmas trees as religious symbols, and for this reason schools may wish to be more sensitive than the law requires. The Court also has acknowledged approvingly that Christmas carols are frequently sung in public schools.

One federal appeals court has addressed the recognition of religious holidays by public schools. The decision, *Florey v. Sioux Falls School District*, upheld the school district's policy and was allowed to stand by the U.S. Supreme Court. It is frequently cited as the controlling case on this controversial issue.[2] The relevant portions of the policy were as follows:

It is accepted that no religious belief or nonbelief should be promoted by the school district or its employees, and none should be disparaged. Instead, the school district should encourage all students and staff members to appreciate and be tolerant of each other's religious views .... In that spirit of tolerance, students and staff members should be excused from participating in practices which are contrary to their religious beliefs unless there are clear issues of overriding concern that would prevent it.

The Sioux Falls School District recognizes that one of its educational goals is to advance the students' knowledge and appreciation of the role that our religious heritage has played in the social, cultural and historical development of civilization...

The practice of the District shall be as follows:

1. The several holidays throughout the year which have a religious and a secular basis may be observed in the public schools.
2. The historical and contemporary values and the origin of religious holidays may be explained in an unbiased and objective manner without sectarian indoctrination.
3. Music, art, literature and drama having religious themes or bases are permitted as part of the curriculum for school-sponsored activities and programs if presented in a prudent and objective manner and as a traditional part of the cultural and religious heritage of the particular holiday.

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4. The use of religious symbols such as a cross, menorah, crescent, Star of David, creche, symbols of Native American religions or other symbols that are a part of a religious holiday is permitted as a teaching aid or resource, provided such symbols are temporary in nature. Among these holidays are included Christmas, Easter, Passover, Hanukkah, St. Valentine's Day, St. Patrick's Day, Thanksgiving and Halloween.

5. The school district's calendar should be prepared so as to minimize conflicts with religious holidays of all faiths.[3]

It is important to note that the Sioux Falls policy was permissible, not required. A better policy might have included more non-Christian holidays such as Rosh Hashana, Ramadan and Yom Kippur. Moreover, particular practices and activities under such a policy, such as Nativity pageants and reenactments of the Hanukkah miracle, might still be unconstitutional.

Any teacher or administrator should ask herself the following questions as she plans holiday activities:

1. Do I have a distinct educational purpose in mind? If so, what is it? It should not be the purpose of public schools to celebrate or observe religious holidays.

2. If I use holidays as an opportunity to teach about religion, am I balanced and fair in my approach? If I teach about Christmas and Easter, for example, do I also teach about non-Christian holidays?

3. Does the planned activity have the primary effect of advancing or inhibiting religion? Does it, for example, promote one faith over another or even religion in general? Remember that the school's approach should be academic, not devotional. It is never appropriate for public schools to proselytize.

A common misconception is that it is permissible to promote Christianity at Christmas, provided that other religions receive similar treatment at other times. For example, some teachers may try to justify celebrating Christmas by celebrating Hanukkah. This approach is wrong. First, Hanukkah is not a major Jewish holiday and should not be equated with Christmas, one of the two most important holidays in the Christian year. Second, one violation of the First Amendment does not justify another. If it is wrong to promote religion in the public schools at Christmas, it is wrong every other day of the year. Instead of "balancing" Christmas with Hanukkah, teachers should work to ensure that all holiday activities focus on objective study about religion, not indoctrination.

We have discussed what schools should and shouldn't do regarding religious holidays, but what about the school's duty to accommodate students and teachers who wish to observe religious holidays on their own time? What obligation do schools have to accommodate these concerns?

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Schools are not required to close on a particular religious holiday but may choose to do so as a matter of administrative convenience as, for example, when large numbers of students are likely to be absent. When schools choose not to close on particular holidays, conflicts may arise. Most states have laws permitting a certain number of excused absences for religious holidays. Where no statutory exemption exists, the First Amendment's Free Exercise clause would seem to require a reasonable number of excused absences for such religious observance.[4] In no event should a student be penalized for being absent from school to observe religious holidays.

A slightly different rule applies to teachers who wish to be absent to observe religious holidays. Title VII of the Civil Rights Act of 1964 requires school boards to make "reasonable accommodation" of their employees' religious needs. School boards may offer any accommodation that is reasonable, however, and are not required to accept the accommodation proposed by the employee.[5] Moreover, schools are not required to accommodate an employee's religious needs if doing so would cause "undue hardship" on the employer, such as disturbing the board's collective-bargaining agreement with the teachers' union or imposing more than *de minimis* costs on the employer.[6] Courts have split over whether schools may provide teachers with extra days off with pay in order to observe religious holidays. Schools that provide employees with paid "personal" days, however, should not be allowed to deny their use for religious observances.

The Authors

Endnotes

[1] *Lynch v. Donnelly,* 465 U.S. 688 (1984); *County of Allegheny v. American Civil Liberties Union,* 492 U.S. 573 (1989).

[2] See e.g. *Johnson v. Shiverman,* 658 S.W. 2d. 910 (Mo.App. 1983).

[3] 619 F.2d. 1311 (8th Cir.1980).

[4] See e.g. *Church of God v. Amarillo Independent School District,* 511 F.Supp. 613 (N.D. Tex. 1981), aff'd 670 F.2d. 46 (5th Cir. 1982).

[5] *Ansonia Board of Education v. Philbrook,* 479 U.S. 60 (1986).

[6] *T.W.A. v. Hardison,* 432 U.S. 63 (1977); *Estate of Thornton v. Caldor*, 472 U.S. 702 (1985).