

## CHAPTER 2

### RELIGION AND THE PUBLIC SCHOOLS

Religion is one of the most emotional and controversial issues facing public schools as there are strong advocates for the inclusion of prayer and Bible reading in the nation's schools as well as those who vehemently oppose their inclusion. This chapter provides a comprehensive discussion of religious issues that impact public schools with an emphasis on separation of church and state, the principle of neutrality, and the basic intent of the First Amendment to the U.S. Constitution regarding religion.

Page 15 provides an overview of the omission of religious liberties in the constitution as defended by Madison along with Jefferson's view that a religious provision in the Bill of Rights was needed. These actions led to a series of proposals that included amendments aimed at preventing encroachment by the government into the rights and liberties of all citizens. These proposals eventually became the Bill of Rights. Noticeable among these rights was the separation of church and state. It is interesting to note that the composition of the U.S. Supreme Court may affect how separation of church and state is defined. Strict interpretation of this principle is found in the *Lemon v. Kurtzman* and *Early v. Dicenso* cases on page 21. A more liberal view is found in the *Agostini* case on page 20.

In a rather unusual move, the U.S. Supreme Court reversed its decision in the 1985 *Aquilar v. Felton* case which disallowed federal funds to cover salaries for public school teachers who teach in parochial schools. In a 5-4 decision, the court held that it was an unconstitutional establishment of religion for public school teachers to provide remedial classes in religious schools. Justices Powell, Marshall, Brennan, Blackmun, and Stevens voted against providing aid to parochial schools while Justices Rehnquist, O'Connor, Burger and White supported aid to parochial schools. Interestingly, the *Agostini* case was also a 5-4 decision. Justices O'Connor, Scalia, Rehnquist, Kennedy, and Thomas constituted the new majority that supported aid to parochial schools. Justices Souter, Stevens, Breyer, and Ginsberg voted against aid to parochial schools.

School sponsored prayer and Bible reading are emotional issues that permeate public schools today as the Congress, legislators, and President Bush advocate the return of prayer and Bible reading to public schools. A number of states have passed legislation calling for silent prayer and meditation in public schools. These efforts have largely been unsuccessful. In spite of a lack of success, states continue their efforts to achieve this goal.

#### Topical Outline of this Chapter

##### School Sponsored Prayer

*Engle v. Vitale*

##### School Sponsored Bible Reading

*Abington School District v. Schempp*

*Wallace v. Jaffree*

*Lemon v. Kurtzman* and *Early v. Dicenso*

##### Prayer at School Events

*Chandler v. Siegleman*

*Santa Fe Independent School District v. Jane Doe*

##### Aid to Parochial Schools

##### Use of School Facilities by Religious Student Groups

*Bronx Household of Faith v. Community School District No. 10*

##### Religious Activities and Holiday Programs

### Teaching the Bible in Schools

*Gibson v. Lee*

*Wiley v. Franklin*

### Intelligent Design

*Kitzmiller v. Dover Area School District*

### Theory of Evolution

*Epperson v. Arkansas*

*People of State of Illinois ex rel and McCollum v. Board of Education of District No. 71, Champaign County, Illinois*

*Zorach v. Clauson*

### Pledge of Allegiance

### Religious Rights of Teachers in the School Environment

*May v. Evansville*

## **School Sponsored Prayer**

School sponsored prayer is clearly prohibited in public schools. It violates the Establishment Clause of the First Amendment. In spite of the landmark ruling by the U.S. Supreme Court in *Engle v. Vitale*, prayer in public schools remains at the center of controversy as law makers across the country seek to find ways to include prayer in public schools.

### ***Engle v. Vitale***

Discussion: New York state law mandated a brief non-denominational daily prayer to be recited aloud by each class in the public schools in the presence of a teacher. Children who did not wish to recite the prayer were excused from this exercise. This practice was challenged by parents on constitutional grounds as an impermissible accommodation to religion.

#### Points of Emphasis:

1. The state's encouragement of daily recitation of prayer in public schools is unconstitutional.
2. Any statute authorizing prayer recitation in the public schools is in direct violation of the First Amendment which prohibits the establishment of religion by a state.
3. The court stressed that neither the state nor the federal government can constitutionally force a person to profess a belief or disbelief in any religion nor can it pass laws which aid all religions against non-believers.
4. The court used a test which later became the first two prongs of the Lemon test.

## **School Sponsored Bible Reading**

School sponsored Bible reading in public school is illegal and in violation of the Establishment Clause. The U.S. Supreme Court ruled against school sponsored Bible reading. Students, however, may read their Bibles during non instructional times. The Bible may also be included as a component of history literature or philosophy courses. The Bible may also be taught so long as it does not violate the Establishment Clause.

## ***Abington School District v. Schempp***

Discussion: This case challenging daily Bible reading emerged in Pennsylvania. A companion case, *Murray v. Curlett* also challenged the practice of daily Bible reading in the public schools in Baltimore. Both cases reached the Supreme Court during the same time period and were consolidated. These practices were obviously held to be unconstitutional by an 8-1 decision of the Supreme Court.

### Points of Emphasis:

1. The primary effect test was invoked by the court to determine the impact of the statute and practice relating to each case.
2. If the primary effect of a law or practice has the effect of advancing or inhibiting religion or creating excessive entanglement between church and state, then it is not permissible.
3. The principle of neutrality is breached when there is no clear line of separation between church and state.
4. The Establishment Clause of the First Amendment was made applicable to the states by virtue of the 14th Amendment.
5. The court did not suggest that the use of the Bible as a historical literary, ethical or philosophical document is impermissible if a secular purpose is clearly served.

## ***Wallace v. Jaffree***

Discussion: The Alabama legislature passed a statute authorizing a daily one minute period of silence for meditation or voluntary prayer in the public schools. The court held that a silent meditation statute which does not demonstrate a clearly secular purpose does violate the Establishment Clause of the First Amendment.

### Points of Emphasis:

1. The statute in *Jaffree* failed the first prong of the tripartite test which found that no secular purpose was served.
2. There was a clear legislative intent to re-establish prayer in the public schools as evidenced by the sponsor of the bill.
3. The inclusion of the phrase “voluntary prayer” suggested that the statute was enacted to convey state approval of a religious activity which again violated the first prong of the *Lemon* test and the First Amendment Establishment Clause.

## **Aid to Parochial Schools**

Public aid to parochial schools has created numerous legal questions and conflicts. School districts have been challenged on issues involving the awarding of free textbooks, transportation, tax credits, and auxiliary services. Many of these issues have received mixed reviews by the courts.

In cases where evidence reveals that the aid directly benefited the child rather than the parochial school, courts have been permissive in allowing certain types of aid under the *child benefit theory*. This theory is valid if parochial children are the primary beneficiaries of a public-supported service provided for all children. Conversely, if the aid serves to benefit primarily parochial schools, it will be deemed impermissible and a violation of the First Amendment. When state activities cannot be clearly separated from religious activities, excessive entanglement occurs, thus preventing a clear line of separation between the two.

## ***Lemon v. Kurtzman* and *Early v. Dicenso***

Discussion: These two cases are among the most significant early cases involving state aid to parochial schools. The U.S. Supreme Court invalidated a Pennsylvania statute that provided state funds to finance the operation of parochial schools.

Simultaneously, the court also considered a Rhode Island case, *Early v. Dicenso*, which involved a statute calling for a fifteen percent salary supplement to parochial school teachers who taught non-religious subjects that were offered in public schools utilizing only public school teaching material.

The Supreme Court held that a law providing state subsidy for non-public teachers is unconstitutional even when the funds are paid only to teachers who teach secular subjects. Similarly, a law providing for state reimbursement to nonpublic schools for expenses incurred in teaching secular subjects is also unconstitutional.

### Points of Emphasis:

1. The tripartite test requires that a statute must have a secular legislative purpose. It must have a principal effect that neither advances nor inhibits religion and lastly must not foster an excessive governmental entanglement with religion.
2. Although both statutes advocated a secular purpose, they both created excessive entanglement and fostered religion.
3. Programs of this nature have a tendency to expand with time and create larger demands on public funds thus creating greater concern for maintaining a clear line of separation between church and state.

## **Prayer at School Events**

Student led prayer at school events have received increased attention during the decade of the 90's and into the twenty-first century. At issue is the constitutionality of student-led prayers in public schools. Is it a freedom of expression right afforded students or is it a violation of the Establishment Clause of the First Amendment?

## ***Chandler v. Siegleman***

Discussion: The American Civil Liberties Union challenged religious practices on behalf of Michael Chandler, an educator in DeKalb County, Alabama. Challenging the practice of offering student-led prayer at athletic events, the Eleventh Circuit Court upheld the students and suggested that students do not shed their rights when they enter the school house door. The court rejected the argument that prayer is forbidden by the First Amendment and supported the concept of free speech as guaranteed by the First Amendment.

### Points of Emphasis:

1. The First Amendment does not expressly prohibit student-initiated prayer.
2. Student-led prayer must be strictly voluntary. The school can play no role in encouraging or prohibiting student-initiated prayer. School personnel must remain completely neutral.
3. There is nothing in the constitution that prohibits prayer.

## ***Santa Fe Independent School District v. Jane Doe***

**Discussion:** In a contrasting case, the U.S. Supreme Court held in a 6-3 decision that banned student-led prayer at athletic contests, graduation, and other school-sponsored events. The court stated that the delivery of a message by a student, such as an invocation on school property, is illegal. It is particularly troublesome when it occurs on school property under the sponsorship of the school. A critical aspect of this ruling involved school policy that implicitly encouraged public prayer. Thus, it was difficult for school officials to argue that speech by a student was indeed private speech.

### **Points of Emphasis:**

1. The primary difference in the rulings in the *Chandler* case versus the *Santa Fe* case is the school's involvement based on school policy.
2. The principle of neutrality was violated when student-led prayer was sanctioned and encouraged by school faculty.
3. The school implemented a policy in the *Santa Fe* case that allowed the school's student council chaplain to deliver a prayer over the public address system before each home varsity football game.
4. The fact that the school altered its policy to authorize student elections to determine whether invocation should be delivered and to also select the spokesperson to deliver did not alter the court's ruling.
5. The revised policy violated the Establishment Clause of the First Amendment.
6. The Fifth Circuit Court held in *Jones v. Clear Creek Independent School District* and *Adler v. Duval County School Board* that voluntary student-initiated prayer without involvement of school personnel was not an Establishment Clause violation.
7. The Sixth Circuit Court disallowed prayer at school board meetings in stating that prayer at such meetings was potentially coercive to students who attended. Further, it has the tendency to endorse Christianity while excessively entangling the board in religious matters.

## **Use of School Facilities by Religious Student Groups**

Congress attempted to minimize conflict between school officials and student groups when it passed the Equal Access Act in 1984 for the expressed purpose of providing student religious clubs equal opportunities to access high school facilities. Under this statute, it is unlawful for any public secondary school that receives federal financial assistance that has created a "limited open forum" to deny access to student-initiated groups on the basis of religion, political or philosophical content of their speech.

### **Points of Emphasis:**

1. A limited open forum exists when one or more non-curricular-related student groups are allowed to meet on school premises during non-instructional time.
2. Review *Mergens v. Board of Education of the Westside Community Schools* where a district judge ruled that an Omaha district did not create an open forum for student speech and need not allow a Bible student club to meet at high school.
3. In a 1987 case, *Garnett v. Renton School District*, a U.S. district judge ruled that a Seattle district did not have to accommodate a prayer club at the high school. The judge further ruled that the Equal Access Act did not apply in Washington State because the state's constitution contained stricter language regarding separation of church and state than was found in the First Amendment. The appellate court unanimously affirmed the lower court's ruling.
4. When public secondary school officials allow one non-curricular-related student group to meet on school property during non-instructional times, they trigger the requirements of the Equal Access Act. Thus, they may not deny other clubs equal access to meet on school premises during non-instructional time based on the content of their speech.
5. Criteria, rules, and regulations governing access by student clubs should be carefully drawn and communicated to all students.

Legal challenges regarding facility use usually stem from community-based religious groups. The courts generally rely on the free speech test in addressing church/state issues. A leading case, *Lamb's Chapel v. Center Moriches School District* involved a closed forum. An Evangelical Christian Church applied on four occasions seeking approval to use public facilities of a local high school for various non-secular functions including family oriented movies. School officials relied on a New York State law that bars the use of district facilities for religious purposes. The minister of the church brought legal action against the district claiming First and Fourteenth Amendment violations based on state law. The fundamental issue raised is whether state law violates the free speech clause of the First Amendment by denying access to school facilities by the church.

Points of Emphasis:

1. The district, like a private owner of property, could have preserved its property for the use to which it was dedicated and need not have permitted any after-hour use of its property.
2. Once the district voluntarily made its facilities available for use by after-hours groups, it could not enforce rules designed to exclude expression of specific points of view.
3. In effect, the State of New York and the school district created a "limited" open forum.
4. The film in question actually included clips on child rearing and family values which was viewed by the district as having religious connotations.
5. The Supreme Court unanimously held that the district's rule was unconstitutional as applied to the film series.
6. The court concluded that to permit Lamb's Chapel to use the facilities would not violate the Establishment Clause because it would have neither the purpose nor primary effect of advancing or inhibiting religion and would not foster excessive entanglement with religion.

### ***Bronx Household of Faith v. Community School District No. 10***

Discussion: This case was distinguished from Lamb's Chapel by ruling that: (1) the use of school facilities by community groups created an open forum rather than a traditional public forum; (2) under the First Amendment, government restrictions on speech in a public forum are held to a very strict scrutiny; (3) in a limited open forum such as a public school, the government can restrict speech if it makes reasonable and viewpoint neutral distinctions among speeches; and, (4) public school officials reasonably might wish to avoid the appearance of sponsoring religious services.

Points of Emphasis:

1. The use of public school facilities may be used for religious discussions if a school district has a limited open forum.
2. Religious services may be disallowed even though the district has a limited open forum to avoid the appearance of sponsoring religious services.
3. The use of school facilities by community groups created an open forum rather than a traditional forum.

### **Religious Activities and Holiday Programs**

Releasing public school students for religious instruction has not been a major issue in recent years. Landmark cases emerged in 1948 when the U.S. Supreme Court held that excusing students to attend religious classes for a part of their secular schedule is unconstitutional.

## ***People of State of Illinois ex rel and McCollum v. Board of Education of District No. 71, Champaign County, Illinois***

Discussion: An Illinois school board permitted representatives of several religious groups to teach classes to students in grades four through nine whose parents signed permission slips to allow them to do so. Classes were held during school hours inside the school building. Class attendance records were maintained by religious instruction resulting in a close relationship between the school and religious organizations. The state supreme court affirmed the trial court's decision upholding this practice. The U.S. Supreme Court reversed that decision by concluding that "the state may not permit religious teaching on tax-supported public school property during regular school hours." This practice aids religion through the implementation of compulsory attendance laws and is deemed to be a violation of the First Amendment which created a wall of separation between church and state that must be respected.

### Points of Emphasis:

1. The First Amendment prohibits state establishment of religion.
2. The use of school buildings for religious instruction is unconstitutional because it fails to meet the separation of church and state requirement.
3. The use of public school personnel to monitor attendance is tantamount to state support of religious class attendance.

## ***Zorach v. Clauson***

Discussion: This case involved the same subject matter—released time for religious instruction but had a slightly different twist. This New York City case permitted public schools to release students during the school day to attend religious instruction at religious centers at locations around the city. All administrative activities were coordinated by religious organizations which assumed responsibility for transportation and attendance reporting. The U.S. Supreme Court upheld this practice based on non-compulsory attendance and no use of public school resources.

### Points of Emphasis:

1. While both programs were voluntary in nature, *McCollum* involved public school resources while *Zorach* did not.
2. Public school classrooms were used during the day in *McCollum*.
3. Religious centers were used in *Zorach* rather than classrooms.
4. Public school services were provided in *McCollum* in the form of attendance reporting and monitoring of students attending religious services.
5. All administrative services including attendance, transportation, etc. were provided by the religious center in *Zorach*.
6. The primary difference in the two cases involved the use of school resources in one and an absence of school resources in the other.

## **Teaching the Bible in Schools**

It has been established by the courts that the Bible may be used in a secular context. The U.S. Supreme Court held in the *Schempp* case and in *Stone v. Graham* that the Bible may be used constitutionally as an appropriate study of history, civilization ethics or comparative religion. The American Association of School Administrators (AASA) has also endorsed the teaching of the Bible in public schools. In spite of support for Bible teaching in schools, there is also opposition which leads some school officials to be reluctant to pursue this issue for fear of legal challenges. There is tension between church and state as reflected by the following cases:

## ***Gibson v. Lee***

Discussion: Plaintiffs challenged the practice of teaching the Bible in public school by alleging that the specific curricula adopted by the school board did not present the Bible objectively as a part of a secular education. The court held for the school district in ruling that the district satisfied the secular purpose requirement by adopting a curriculum which was modified on the advice of the school board's legal counsel. The court noted further that teachers had been properly trained on how and what to teach and what not to teach.

## ***Wiley v. Franklin***

Discussion: The court held in this case that the account of the resurrection of Jesus Christ as presented in the New Testament constitutes the central statement of the Christian religious faith. The court also noted that the only reasonable interpretation of the resurrection is a religious interpretation. The court concluded that it was difficult to conceive how the resurrection might be taught as secular literature or history.

### Points of Emphasis:

1. An infringement of plaintiffs' First Amendment rights guaranteed by the Establishment Clause even for minimal periods of time constitutes irreparable injury.
2. This is no First Amendment conflict with separation of church and state when the Bible is used appropriately in a secular context in the study of history, ethics, literature, etc.
3. Proselytization of students by teachers of the Bible violates the Establishment Clause of the First Amendment.
4. The role of religion in the development of western civilization may not receive proper treatment based on apprehension among school officials to allow Bible teaching in public schools.

## **Intelligent Design**

Intelligent Design has generated considerable controversy as it has been integrated into public school curricula by a number of school officials. Opposition has emerged from parents and some teachers who rejected intelligent design as a viable scientific alternative to the Theory of Evolution. Parents have challenged its inclusion into school curricula on Constitutional grounds by suggesting that Intelligent Design is a means of inserting Christian beliefs into science classes which constitutes a violation of the First Amendment's requirement regarding separation of church and State. This challenge is reflected in the case below.

## ***Kitzmiller v. Dover Area School District***

Discussion: Eleven parents, in conjunction with the American Civil Liberties Union of Pennsylvania, filed suit challenging the school district for its policy which requires students to be introduced to the Intelligent Design Theory along with the Theory of Evolution in 9<sup>th</sup> grade biology classes. Based on the policy, four paragraphs would be read to biology students describing Evolution as not being factual while simultaneously introducing Intelligent Design. Plaintiffs argue that the theory is not a science and should not be taught in public schools because it violates the Constitution. The U.S. District Judges agree in ruling that it is unconstitutional to teach Intelligent Design, a concept which is critical of Darwin's Theory of Evolution. The judge held that Intelligent Design has religious connotations.



### Points of Emphasis:

1. Intelligent Design is the belief that certain aspects of human and animal life depict signs of having been formed by an unnamed guiding force.
2. Supporters of Intelligent Design attempted to demonstrate that the concept has scientific legitimacy.
3. The vast majority of scientists have rejected Intelligent Design as a scientific theory.
4. Plaintiffs argued that Intelligent Design is not a scientific concept but rather a faith based belief similar to biblically based creationism.
5. A U.S. District Court rejected the scientific legitimacy and held that the theory has religious connotations.

## **Theory of Evolution**

The Theory of Evolution advances the view that all life is related and descended from a common ancestor. There have been numerous legal challenges regarding the inclusion of this theory in public school curricula. A number of states banned evolution from public school curricula in the past based on the view that it was in direct conflict with the Biblical version of creation. An early case based on this view is discussed below.

### ***Epperson v. Arkansas***

Discussion: The Supreme Court examined the constitutionality of an Arkansas law that made it illegal for teachers to teach the Theory of Evolution. The court held that Arkansas law could not be defended as an act of religious neutrality. The court found that the law did not attempt to ban curricula in schools and universities regarding all discussion of the origin of man but rather a particular theory because it was thought to conflict with the Biblical account.

The *Epperson* ruling was in striking contrast to the famous “Scopes Monkey Trial” of Tennessee in 1927 in which the Tennessee courts upheld a law that prohibited the teaching of any theory that conflicted with the Genesis version of creation.

### Points of Emphasis:

1. Legislatures in a number of states have sought to discount the Theory of Evolution in supporting the teaching of creationism in public schools.
2. Recent attempts by legislatures to insert creationism into public school curriculum have been reflected in their attempts to incorporate Intelligent Design as a legitimate scientific theory.
3. In 1987, the Supreme Court invalidated Louisiana’s statutes that called for equal time for creationism science during times in which evolution was introduced into the curriculum in the *Edwards v. Aquillard* case.
4. The court further concluded that the law’s intent was to discredit a scientific focus in order to advance religious beliefs which violate the establishment clause of the First Amendment.
5. The First Amendment does not allow the state to require that teaching and learning be tailored to the principles or prohibitions of any religious sect or dogma according to the Supreme Court in *Keyishian v. Board of Regents*.

## **Pledge of Allegiance**

The daily ritual of reciting the pledge was heard by the Ninth Circuit Court in California. The plaintiff, Michael R. Newdow, an atheist, filed a suit on his daughter's behalf challenging the inclusion of "under God" in the pledge. Newdow did not have custody of his daughter. Interestingly, the Ninth Circuit Court held in a 2-1 ruling that the inclusion of "under God" was an unconstitutional establishment of religion by the government. A larger panel of Ninth Circuit judges heard the case and supported the prior decision of the three judge panel. The Supreme Court on June 14, 2004, overturned the Ninth Circuit decision on technical grounds thus preserving the contested phrase "under God we trust" in the pledge. The court further held that Newdow as a non-custodial parent had no legal standing to challenge the pledge since he was not the custodial parent of his ten-year-old daughter.

### Points of Emphasis:

1. The U.S. Supreme Court fell short of addressing whether the inclusion of the reference to God was an impermissible practice regarding an unconstitutional blending of church and state.
2. The case, since the court did not rule on the merits of this ruling, does not prevent a similar lawsuit in the future on this very same issue. Another challenge has emerged by other plaintiffs and Newdow.
3. Forty-nine states filed briefs supporting the Pledge of Allegiance.
4. "In God we trust" found on U.S. coins, has been held to be a national slogan rather than the government's endorsement of religion.

## **Religious Rights of Teachers in the School Environment**

The First Amendment guarantees religious freedom to all citizens. Title VII of the Civil Rights Act of 1964 further prohibits any forms of discrimination based on religion. Teachers, like all citizens, possess religious rights that must be respected. As with all rights, religious rights are not without reasonable limits. Restrictions may be imposed on teachers where the exercise of their religious rights infringe upon others in the school environment and adversely affect teaching the prescribed curriculum or create excessive entanglement.

### ***May v. Evansville***

Discussion: This case arose regarding the use of school facilities by teachers for religious meetings. A teacher brought suit against the school board, its members, and the superintendent seeking an injunction to prohibit banning religious meetings by teachers on school property. The U.S. district court granted summary judgment for the school board. The teacher appealed. The court of appeals held for the school district

### Points of Emphasis:

1. The court held that teachers had no right under the First Amendment free speech clause to hold prayer meetings on school property before the school day begins and students arrive.
2. This prohibition does not preclude teachers holding such meetings at facilities away from the school before the school day begins; thus, their religious rights may be exercised but not in public school facilities.
3. School officials in this case had consistently applied a policy of prohibiting the use of school facilities for religious activity. Thus, the school district did not have an open forum as the teacher contended.

## Multiple Choice

1. School sponsored prayer may be permitted if:
  - a. Students are not required to participate
  - b. Students are allowed to enter the building after prayer is offered
  - c. The community strongly support it
  - d. None of the above
  
2. Student initiated prayer in public schools is permitted if:
  - a. The school allocates a special time for students to pray
  - b. The school develops policies governing time and place in which prayer occur
  - c. Prayer is strict voluntary
  - d. None of the above
  
3. The Bible may be used as a:
  - a. Literary document
  - b. Historical document
  - c. Ethical and/or a philosophical resource
  - d. All of the above
  
4. Silent prayer and meditation is prohibited based on:
  - a. The *Engel* case
  - b. The *Schempp* case
  - c. The *Jaffree* case
  - d. None of the above
  
5. Silent prayer and meditation may be offered in public schools if:
  - a. Students are not coerced to participate
  - b. Only one minute is set aside
  - c. Students elect to pray voluntarily
  - d. None of the above
  
6. The Child Benefit Theory was established in:
  - a. *Cochran v. Louisiana*
  - b. *Lemon v. Kurtzman*
  - c. *Early v. Dicenso*
  - d. *Aguilar v. Felton*
  
7. Which of the following is not included in the *Lemon v. Kurtzman* criteria?
  - a. School practices must have a secular purpose
  - b. School practices must not coerce students to participate
  - c. School practices must neither advance nor inhibit religion
  - d. School practices must not create excessive entanglement
  
8. Which of the following examples are legally permissible as determined by the courts?
  - a. Free public transportation for parochial school students
  - b. Tuition reimbursement to parents or parochial school children
  - c. Shared time and community education programs for parochial school students
  - d. State financing of auxiliary services and direct loans for instructional equipment and materials for parochial schools

9. Public schools may use religious symbols if:
  - a. They are discussed in conjunction with various holidays
  - b. They are placed on the bulletin board during various holidays
  - c. They are used to explain various cultural and religious groups
  - d. None of the above
  
10. Which of the following practices was held to be permissible by a court?
  - a. Posting the Ten Commandments in public schools
  - b. Placing the Ten Commandments in a conspicuous location in every classroom
  - c. Allowing a monument that was erected in 1962 to remain on state property for historical and educational purposes
  - d. Posting a religious motto in a public school building
  
11. Prayer at athletic contests are permissible if:
  - a. The coaches do not participate
  - b. Students are not compelled to attend
  - c. The school does not encourage prayer at these events
  - d. None of the above
  
12. The Equal Access Amendment was passed to:
  - a. Allow outside religious groups to use school facilities during non-instructional time
  - b. Allow student religious clubs in all schools the opportunity to access school facilities during non-instructional time
  - c. Allow student religious clubs in high schools to access school facilities
  - d. Allow any student organization to use school facilities during non-instructional time
  
13. Release time for religious instruction off school grounds involving students was ruled unconstitutional in:
  - a. *Cochran v. Lawson*
  - b. *McCullum v. Board of Education*
  - c. *Everson v. New Jersey*
  - d. *Zorach v. Clauson*
  
14. Distribution of religious material in public school is permissible if:
  - a. Students are not coerced to accept religious materials
  - b. Parents consent to allow their child to accept these materials
  - c. Materials are distributed after school hours
  - d. None of the above
  
15. Which cases did address the Pledge of Allegiance in public schools?
  - a. *Newdow v. United States* and *West Virginia State Board of Education v. Barnette*
  - b. *Meltzer v Board of Public Instruction of Orange County* and *Tudor v. Board of Education of Borough of Rutherford*
  - c. *Garnett v. Renton School District* and *Clark v. Dallas Independent Schools*
  - d. *Lanner v. Winner* and *Johnson-Loehner v. O'Brien*

### True or False Questions

1. The Establishment Clause is intended to establish a clear separation of church and state.  
 True  False
  
2. The Bible cannot be used in public schools.  
 True  False

3. Free textbooks and transportation cannot be provided to students who attend parochial schools.  
 True  False
4. Students can be released to attend religious instruction in public schools with parental consent.  
 True  False
5. Students may be disciplined for refusing to recite the Pledge of Allegiance.  
 True  False
6. The use of public funds to provide instruction for Title I students does not violate the Establishment Clause.  
 True  False
7. The inclusion of the phrase “under God” found in the pledge is unconstitutional.  
 True  False
8. High school students in religion clubs may be denied access to meet on school property if the school does not have a limited open forum.  
 True  False
9. School officials may disallow religious groups to use school facilities in an effort to avoid a conflict of church and state even though other nonreligious groups use the facilities.  
 True  False
10. A student may be disallowed from distributing religious literature in public schools.  
 True  False
11. Religious displays in public schools violate the Establishment Clause of the First Amendment.  
 True  False
12. The Lemon test suggests that certain practices in public schools must have a sectarian purpose.  
 True  False
13. Public school students in some jurisdictions may initiate student-led prayer in schools.  
 True  False
14. Public schools may observe holidays through school sponsored programs, if they do not create a devotional atmosphere.  
 True  False
15. Public school teachers may use religious exhibits to discuss various holidays.  
 True  False
16. A teacher may refuse to teach certain subjects that conflict with his/her religious beliefs.  
 True  False
17. Teachers’ religious rights are covered under Title VII of the Civil Rights Act of 1964.  
 True  False

## Essay Questions

1. Discuss the Establishment Clause and the Free Exercise Clause and illustrate by example how a school administration may violate each. (Be specific)
2. You have just been appointed principal of a high school of 1200 students in a conservative community. You discover on your very first day that prayer is recited over the intercom, a scripture is read and blessings are given before some students eat.
  - A. What specific components of the First Amendment are involved here?
  - B. Discuss these violations with your faculty in the context of the following:
    - a. Establishment Clause
    - b. Free Exercise Clause
    - c. Excessive entanglement
    - d. Principle of neutrality
    - e. Devotional atmosphere
  - C. What steps should be taken to address the violations cited above?

## Chapter 2 Answer Key

### Multiple Choice

1. d.
2. d.
3. d.
4. c.
5. d.
6. a.
7. b.
8. a.
9. d.
10. c.
11. d.
12. c.
13. b.
14. d.
15. a.

### True/False

1. T
2. F
3. F
4. F
5. F
6. T
7. F
8. T
9. F
10. F
11. T
12. F
13. T
14. T
15. F
16. F
17. T

