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Prayer in Public Schools

Until the 1950s, prayer was routinely offered in public schools across the nation and generally supported by the courts. This reflected the quest for religious freedom that was part of American history and the religious, mostly Protestant, influences that were common from colonial times to the mid-20th century. Beginning in the 1960s, however, the U.S. Supreme Court issued a series of decisions related to prayer and other religion-oriented activities in schools, setting tests for what is constitutionally permissible, as discussed in this entry.

Early Rulings

More than half the states have, at some point, allowed or required prayer and/or Bible reading in public school classrooms. This was considered to be part of the exercise of freedom of religion, and proponents of religious exercises, mostly prayer and Bible reading, generally argued in defense of the practices as voluntary and traditional. In the 1960s, prayer and Bible reading faced legal challenges. Since the 1960s, there has been a continual battle between church and state, in the form of public schools, over the right of freedom of expression to address prayer in the schools since that time.

Many significant court cases have reflected the will of individuals, areas of the country, and the nation itself. In 1962, in *Engle v. Vitale*, the U.S. Supreme Court resolved its first case involving school prayer, finding that a prayer composed by the New York State Board of Regents was unconstitutional. The dispute arose after a local school board adopted this prayer as part of a policy, requiring it to be recited in class and allowing students to be exempted from this recitation.

Subsequent litigation defined religious exercises as clearly unconstitutional. A year after *Engel,* in the companion cases of *Abington Township School District v. Schempp* and *Murray v. Curlett* (1963), the Supreme Court struck down prayer and Bible reading, creating the first two parts of the tripartite *Lemon v. Kurtzman* (1971) test in deciding that these practices were invalid, because they lacked a secular purpose and they advanced religion.

The *Lemon* Test

The legal battle between religion and the public school sector raged on in the Supreme Court's landmark 1971 decision in *Lemon v. Kurtzman.* While the constitutionality of government aid to religious schools was at issue in *Lemon,* rather than prayer, the Court developed a standard that continues to be applied in questions of the right to prayer in the schools as well as when dealing with state aid to religiously affiliated nonpublic schools. According to the Court, any time that religion and government intersect, first, the statute must have "a secular legislative purpose"; second, its primary effect must neither advance nor inhibit religion; finally, the statute must not foster "an excessive government entanglement with religion" (p. 615). Laws or policies that fail any one of the three parts of the *Lemon* test are invalid.

The Supreme Court turned to the issue of a period of silence in schools in *Wallace v. Jaffree* (1985). At issue were three statutes from Alabama. The Court found that the first, which allowed a period of silence for meditation, was constitutional. Conversely, the Court struck down the second law that authorized teachers to lead willing students in a prayer to "Almighty God . . . the Creator and Supreme Judge of the world" (p. 40). The Court also invalidated a statute that authorized a period "for meditation or voluntary prayer" (p. 57) on the basis that the inclusion of the words, "or voluntary prayer," was made for the specific unconstitutional purpose of returning prayer in public classrooms.

Classroom times for silence for student meditation are constitutional if they are neutrally conducted and if the laws and policies authorizing such times are neutrally written. Applying *Lemon,* the Eleventh Circuit, in *Bown v. Gwinnett County School District* (1997), refused to find an Establishment Clause violation in a law from Georgia that required a moment for silent reflection in all public school classrooms at the beginning of the school day. Similarly, the Fourth Circuit upheld a law from Virginia that provided for a daily observance of one minute of silence in all classrooms, so that students could meditate, pray, or engage in other silent activity (*Brown v. Gilmore,* 2001).

Coercion and Access

The *Lemon* test continues to be applied. Even so, the Supreme Court adopted the coercion test in *Lee v. Weisman* (1992) to evaluate whether individuals were compelled to participate in prayer at graduation ceremonies. In *Lee,* the Court clarified that school-sponsored prayer was unconstitutional. *Lee* arose when a middle school principal invited members of the clergy to give an invocation and benediction at the school's graduation ceremony. Following *Lee,* the lower federal courts remained divided over the question of student-sponsored prayer at graduation.

Eight years later, in *Santa Fe Independent School District v. Doe* (2000), the Supreme Court addressed a school board's policy of permitting student-led, student-initiated prayer at football games. In ruling that the policy violated the Establishment Clause, the Court specified that its purpose and effect were to endorse religion. However, *Santa Fe* did not end this debate. In *Adler v. Duval County School Board* (2001), a high school senior, whom the graduating class elected, was allowed to deliver a message of his own choosing at graduation. These cases demonstrate the controversial and fact-specific nature of the litigation. In *Adler,* the Eleventh Circuit decided that student-initiated prayer was acceptable, because it was part of the entire process of planning the graduation. Yet, in a case from Texas (*Ward v. Santa Fe Independent School District,* 2002), a federal trial court struck down a policy that encouraged students to read religious messages at public events as violating the Establishment Clause.

Additional issues emerged with respect to prayer in schools. In 1984, Congress enacted the Equal Access Act, which allows noncurricular prayer and Bible study clubs to gather during noninstructional time in public secondary schools that receive federal assistance. In *Board of Education of Westside Community Schools v. Mergens* (1999), the Supreme Court upheld the Equal Access Act, reasoning that most high school students could recognize that allowing a religious club to meet in a high school was not the same as a school's endorsing religion.

Recent Issues

Congress has become involved in the status of school prayer in the No Child Left Behind Act (NCLB). The NCLB requires that schools that receive federal funds must certify that they have no policies that either deny or prevent participation in constitutionally protected prayer in schools.

More and more there has been an expression on the part of students to pray before and after school activities. Students may read Bibles or other religious materials, pray, or engage other consenting students in religious instruction during noninstructional time such as passing periods, recess, and lunch. While school officials may impose rules to guarantee order and student rights, they may not prohibit lawful activities that are religiously based. School officials have generally been cautioned not to encourage, discourage, or participate in these activities. Even though the federal Department of Education has supported greater accommodation of religion than in the 1970s and 1980s, courts continue to render controversial decisions in this area. In light of these rulings, the courts are likely to treat challenges to prayer in schools on case-by-case bases.

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See also *Abington Township School District v. Schempp* and *Murray v. Curlett; Board of Education of Westside Community Schools v. Mergens; Engel v. Vitale;* Equal Access Act; *Lee v. Weisman; Lemon v. Kurtzman;* No Child Left Behind Act; Religious Activities in Public Schools; *Santa Fe Independent School District v. Doe*

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