

*Religion in the Public Schools:  
Can We Pray, Say the Pledge,  
Celebrate Christmas*

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*United States Constitution*

- **Fundamental Law of the Land**
  - **1<sup>st</sup> Amendment – Freedom of Speech, Assembly and Religion**
    1. **Establishment Clause – prohibits government endorsement of religion**
    2. **Free Exercise Clause – protects freedom to practice religion**
  - **When may you practice religion in public schools?**

## *Supreme Court Precedents*



- Court Precedents – “the making of law by a court in recognizing and applying new rules while administering justice.” *Black’s Law Dictionary*
- As opposed to statutes (laws) created by the Legislative Branch. The Supreme Court interprets the U.S. Constitution and is the highest court of the land.

## *Court Precedents*

- **Engels v. Vitale (1962) Required Morning Prayer**

– **Facts:**

- New York state law requiring students cite non-denominational prayer each morning at school. Hyde Park School District required: “Almighty God, we acknowledge our dependence on Thee, and we beg Thy blessings upon us, our parents, our teachers, and country.”





## *Court Precedents*

- **Engels v. Vitale**
  - **Supreme Court:**
    - **First Amendment guarantees that government cannot control, support, or influence the kinds of prayers citizens can say. Prayer did not serve secular purpose.**

## *Court Precedents*

- **Abington v. Schemp (1962) Required Bible Reading**

- **Facts:**



- **Pennsylvania law required reading ten verses from the Bible. Abington School District required reciting “Lord’s Prayer” each morning.**



## *Court Precedents*

- Abington v. Schemp
  - Supreme Court:
    - Violated neutrality of Establishment Clause, using machinery of government for the majority to practice its beliefs.

## *Court Precedents*

- Lemon v. Kurtzman (1971)

- Facts:

- Government was paying teachers in religious schools to teach secular subjects such as math.





## *Court Precedents*

- **Lemon v. Kurtzman**
  - **Supreme Court:**
    - **Three Prong Test:**
      1. **Secular purpose**
      2. **Primary effect to advance or inhibit religion**
      3. **Excessively entangles government with religion.**

If practice fails at least one criteria, violates the First Amendment.
    - **Court found excessive entanglement since teachers would have to be monitored to make sure they were not teaching religion**

## *Court Precedents*

- **Stone v. Graham (1980) Ten Commandments Posted**

- **Facts:**

- **Kentucky law requiring the “The Commandments” be posted in public classrooms.**





## *Court Precedents*

- **Stone v. Graham**
  - **Supreme Court:**
    - Utilized “Lemon” Three Prong Test and concluded the posting served no educational purpose and was not secular. Advancement of religion.

## *Court Precedents*

- **Marsh v. Chambers (1983)**  
**Legislature’s Prayer**
  - **Facts:**
    - Nebraska Legislature begins each session with a prayer from a chaplain. The U.S. Congress has also opened its sessions with prayer for over 200 years, since the First Congress drafted the First Amendment. Most states have a similar practice.





## *Court Precedents*

- **Marsh v. Chambers**
  - **Supreme Court:**
    - Historical context was considered. Distinguished public school prayer because the practice was amongst adults who are not as susceptible to religious indoctrination or peer pressure.

## *Court Precedents*

- **Wallace v. Jaffree (1985) Voluntary Morning Prayer**

- **Facts:**

- 1981 Alabama law requiring schools to observe a “period of silence not to exceed one minute in duration...for meditation or voluntary prayer.”





## *Court Precedents*

- Wallace v. Jaffree

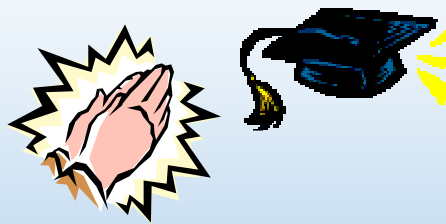
- Supreme Court:

- Used “Lemon” Three Prong Test – lacked secular purpose and had a problem with the specific reference to “voluntary prayer.” Justice O’Connor implied moment of silence might be ok.

## *Court Precedents*

- Lee v. Weisman (1992) Graduation Prayer

- Facts:



- School sponsored non-sectarian prayer given by clergy at graduation.



## *Court Precedents*

- **Lee v. Weisman**
  - **Supreme Court:**
    - Coercion Test – “unconstitutional coercion occurs when:
      1. Government directs
      2. A formal religious exercise
      3. In such a way as to oblige the participation of objectors”
    - Ruled the state-sponsored prayer was coerced of participants forced to stand and remain silent.

## *Court Precedents*

- **Santa Fe ISD v. Doe (2000) Football Game Prayer**

- **Facts:**



- Students elected to have invocations at football games and then elected spokesperson. Purpose was to solemnize event, promote good sportsmanship and safety, and establish an environment for competition. (Texas Case)



## *Court Precedents*

- **Santa Fe ISD v. Doe**
  - **Supreme Court:**
    - Used Lee v. Weisman Coercion Test. Not “private speech”, done in public forum. Effect of coercing the minority into government endorsed religious activity. Violates Establishment Clause.

## *Court Precedents*

- **Locke v. Davey (2004) Religion Scholarship**

- **Facts:**

- Washington State college scholarship program prohibited funding to pursue a degree in theology. Student sues based on rights of Free Exercise clause.





## *Court Precedents*

- **Locke v. Davey**
  - **Supreme Court:**
    - State's interest in not funding religious degree programs is substantial to avoid establishment clause.

## *Court Precedents*

- **Elk Grove Unified School District v. Newdow (pending)**  
**Pledge**
  - **Facts:**
    - In 1954, Congress added the phrase “under God” to the Pledge of Allegiance to distinguish the U.S. from communist countries. Newdow is raising his daughter in California in accordance with his atheistic beliefs. Claims violation of Establishment Clause





## *Court Precedents*

- **Elk Grove Unified School District v. Newdow** (pending) Pledge
  - **Supreme Court:**
    - Oral argument in the case was presented on March 24, 2004. No decision has been reached. Ninth Circuit Court of Appeals ruled it was a violation of the Establishment Clause.



## *Practical Questions*

### 1. Prayer

- Moment of silence with no reference to prayer
- Can't require prayer, reference voluntary prayer, or permit student led prayer.
- How about student prayer group meetings?



## *Practical Questions*



### 2. Pledge

- Elk Grove v. Newdow pending before the Supreme Court
  - What about currency... “In God We Trust”?
  - Singing “God Bless America” in school?

## *Practical Questions*

### 3. Christmas

- School play of nativity?
  - Probably not.
- Party with gift exchange?
  - Could be secular.
- Mother sends presents for class with story of Jesus? Private speech/Free Exercise?
  - How do you respond?





## *Sources*

- **Santa Fe ISD v. Doe, 530 U.S. 290 (2000)**
- ***Texas Lone Star*, “OK To Pray?”, Vol. 19 No. 3, Joy Surratt Baskin and Jennifer C. Severinson, April 2001**
- “Santa Fe ISD v. Doe”,  
<http://ins.cccd.edu/1ckeith/SANTAFE.html>
- **Elk Grove Unified School District v. Newdow, Michael et al, by Shana Wilson, Medill News Service**
- “Supreme Court Upholds Religion Scholarship Ban,” by James Vicini, Reuters (Feb. 25, 2004)