

# Religion in Our Nation's Public Schools



JCRC is the voice of the Jewish community, working to protect Jewish interests by promoting tolerance and religious freedom, fighting anti-Semitism, and supporting U.S.-Israel relations and promoting the Jewish ideals of social justice and *tikkun olam*.

The Jewish Community Relations Council of Minnesota and the Dakotas  
12 North 12<sup>th</sup> St., Suite 480  
Minneapolis, MN 55403  
612-338-7816  
Fax: 612-349-6569

E-mail: [Info@MinnDakJCRC.org](mailto:Info@MinnDakJCRC.org)  
[www.MinnDakJCRC.org](http://www.MinnDakJCRC.org)

Printed November 2002

## RELIGION IN OUR NATION'S PUBLIC SCHOOLS

The current national debate on religion in public schools highlights the fact that many Americans wrongly believe that nearly all religious expression and activities are banned in our nation's public schools. In fact, private religious students' expression in the public schools is almost always protected, while any school endorsement of religious expression is always prohibited.

JCRC combats racial and religious prejudice and adheres to the principle of safeguarding the religious liberties of all people. JCRC consistently advocates a strict interpretation of the Establishment Clause of the First Amendment, which separates church and state, because history has demonstrated that the inevitable result of a union of government and religion is the destruction of freedom for those who believe differently from the majority.

## SCHOOL PRAYER

- **Organized prayer is not permitted in public schools.** The United States Supreme Court has clearly ruled that organized vocal prayer and ceremonial reading from the Bible are unconstitutional practices in the public school classroom. Furthermore, organized prayer is not permitted at student assemblies, athletic activities and special events. The U.S. Supreme Court ruled in *Santa Fe v. Doe* (June 2000) that a school policy that provided for student elected representatives to present a message or invocation prior to school football games violated the First Amendment.
- **Private student prayer is permitted in public schools.** Students have the right to engage in individual prayer that is not coercive and does not substantially disrupt the school's educational mission and

activities. For example, students have the right to say a prayer before a test or grace before a meal, provided school officials are not involved in any way, and provided school activities are not disrupted. School promotion or endorsement of a student's private religious activity is unconstitutional.

- **Organized prayer is not permitted at public school graduation ceremonies, even if such prayer is student initiated.** The United States Supreme Court in a 1992 decision, *Lee v. Weisman*, determined that organized prayers at public school graduation ceremonies are unconstitutional even if the prayers are voluntary and non-denominational. The Supreme Court was specifically concerned that students would be coerced, as a result of public and peer pressure, into participating in such prayer. While one Federal Appeals Court has determined that it was permissible to include a student-led graduation prayer that a senior class voted to include, its decision is inconsistent with the Supreme Court's ruling in *Lee* and in *Sante Fe*, and it is also inconsistent with other federal court opinions.

- **Baccalaureate services may include prayers.** As long as they are privately led, baccalaureate services that are voluntary and not part of the official graduation ceremonies may constitutionally include prayers and religious sermons. School endorsement of such baccalaureate services is not permitted.

- **"Moments of silence" are not constitutional.** Federal Courts have determined that "moments of silence" which have either the purpose or effect of promoting prayer are unconstitutional. In a 1985 case, *Wallace v. Jaffree*, the United States Supreme Court struck down Alabama's moment of silence statute.

## STUDENT RELIGIOUS CLUBS – THE EQUAL ACCESS ACT

The Equal Access Act (EAA) requires federally funded high schools to treat student-initiated religious clubs in the same way they treat other extracurricular, student-initiated clubs. **Under EAA, school officials can disallow all extracurricular clubs, including religious ones.** However, religious clubs may not be singled out and denied the opportunity to meet.

- **School officials may not lead or support student religious clubs under the terms of EAA.** The EAA is only applicable if the religious group is student-initiated, sponsored and led, and participation in the group is voluntary. School personnel may not initiate, sponsor, promote, lead or participate in religious club meetings, but school officials have the right to monitor club meetings to ensure compliance with the EAA. School officials must ensure that there is no appearance of school sponsorship or endorsement of religion. Officials may issue disclaimers clearly stating that the school is not sponsoring, endorsing or promoting any extracurricular student group.

## RELIGION IN THE CURRICULUM

- **School officials may teach about religion in the public schools.** Teaching about religion is permissible when it is presented as part of a secular educational program. Such programs should teach the role of religion in the historical, cultural, economic and social development of the United States and other nations and should instill tolerance and respect for a pluralistic society. Religion must be discussed in a neutral, objective, balanced and factual manner. The curriculum's approach may not be devotional or

doctrinal, nor have the effect of promoting or inhibiting religion.

- School officials may not engage in religious instruction in the public schools. It is clearly unconstitutional for educators to teach religion or engage in religious indoctrination and practice in the public schools.

### **RELIGIOUS HOLIDAYS/SYMBOLS**

- It is unconstitutional to celebrate religious holidays through religious worship or practice.
- Religious symbols may be displayed in the classroom. Religious symbols such as crosses, crèches and menorahs may be used, but only as teaching aids, provided they are displayed as a symbol of the cultural and religious heritage of a holiday. They must be temporary in nature. They may not be used as decorations. Symbols of religious holidays that have acquired secular meaning, such as Christmas trees, may be permissible as decorations.
- Teachers and administrators should be sensitive to students who represent different religions. Displaying a symbol of any one particular religious holiday or religion for an extended period of time may make students feel excluded, alienated and uncomfortable.
- School assemblies or special events may include religious music or drama provided that they are part of a secular program of education. The content of these programs or events must be primarily secular, objective, educational, and not focus on any one religion or religious observance. If the religious beliefs of students or their parents conflict with the content of the activity, students should be excused without any adverse consequences.

### **CREATIONISM**

- Public school science teachers' right to teach evolution cannot be restricted. The United States Supreme Court has determined that it is unconstitutional to restrict an educator's right to teach evolution.
- Educators who teach evolution cannot be required to teach creationism. The United States Supreme Court has determined that it is unconstitutional to require educators who teach evolution to teach creationism as well. Creationism – which includes any theory that the universe was created by a divine being – may not be taught as a scientific fact in public schools. However, creationism may be included in a class on comparative religion as an example of how some religious groups believe human life began.

### **CENSORSHIP**

- It is inappropriate for public schools to censor books based on religious objections. The Supreme Court has ruled that it is unconstitutional to alter the curriculum in response to the practices or prohibitions of any religion. This includes the banning of books unacceptable to certain religious groups. A Federal Court of Appeals (the United States Court of Appeals for the 6th Circuit) ruled that schoolchildren do not have the right to be excused from using textbooks (in this case the Holt Rinehart and Winston basic reading series) simply because they or their parents find the books offensive. A public school could constitutionally require all students to use a prescribed set of books as long as they were merely required to read and discuss the materials and were not required to do something contrary to their religion.

### **DISTRIBUTION OF RELIGIOUS MATERIALS BY OUTSIDERS**

- Public schools may not allow outsiders to distribute religious materials on school grounds. Public schools may not allow outsiders to distribute religious materials, including Bibles, to students on school premises.
- Outsiders do not have an unlimited right to distribute religious materials on public property near a public school. While outsiders may distribute religious materials to students on public property off school premises, reasonable time, place and manner restrictions may be implemented which prevent distribution of materials from disturbing the work of the school or interfering with the well being of students. These restrictions must be content-neutral and not treat outsiders distributing religious material differently from outsiders distributing other types of material.

### **DISTRIBUTION OF RELIGIOUS MATERIALS BY STUDENTS**

- Students do have a right to distribute religious materials in public schools. However, this right may be limited if it substantially interferes with the school's activities or infringes upon the rights of other students. There can be no school endorsement or appearance of endorsement of the religious materials being distributed.

### **FREE EXERCISE OF RELIGION**

- In addition to preventing government establishment of religion, the First Amendment also protects the free exercise of religion. The First Amendment

protects students' rights to wear religious clothes or symbols (i.e. yarmulke, tallit, etc.) and protects student-initiated religious expression, provided there is no school endorsement.

The JCRC Educational Resource Center (ERC) provides speakers and materials on a wide range of topics, including curricula and lesson plans dealing with the Holocaust, Israel and the current situation in the Middle East, diversity, and civic involvement.

Tolerance Minnesota is an innovative program offering integrated lesson plans and art residencies for participating schools. Themes vary from civil rights to immigration; gender equity to religious freedom.



The Jewish Community Relations Council of Minnesota and the Dakotas  
12 North 12<sup>th</sup> St., Suite 480  
Minneapolis, MN 55403  
612-338-7816  
Fax: 612-349-6569  
E-mail: [Info@MinnDakJCRC.org](mailto:Info@MinnDakJCRC.org)  
[www.MinnDakJCRC.org](http://www.MinnDakJCRC.org)

JCRC is a beneficiary agency of the Minneapolis Jewish Federation, the St. Paul United Jewish Fund & Council, the Sioux Falls Federation and the Bismarck, Fargo, Grand Forks, Rochester and St. Cloud Jewish communities.