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**Legal aspects of the practice of religious activities in selected  
public schools in North Carolina**

**Hall, Wayne Thompson, Ed.D.**

**The University of North Carolina at Greensboro, 1993**

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**LEGAL ASPECTS OF THE PRACTICE OF RELIGIOUS  
ACTIVITIES IN SELECTED PUBLIC SCHOOLS  
IN NORTH CAROLINA**

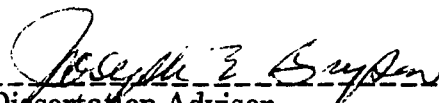
by

**Wayne Thompson Hall**

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the Faculty of the Graduate School at  
The University of North Carolina at Greensboro  
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of the Requirements for the Degree  
Doctor of Education**

**Greensboro  
1993**

**Approved by**

  
-----  
**Dissertation Advisor**

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APPROVAL PAGE

This dissertation has been approved by the following committee of the Faculty of The Graduate School at The University of North Carolina at Greensboro.

Dissertation Advisor Joseph E. Boyden

Committee Members E. J. Brouil  
W. L. Hunt  
C. L. Stovall

February 4, 1983  
Date of Acceptance by Committee

February 4, 1983  
Date of Final Oral Examination

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Although public school prayer was ruled unconstitutional in 1962, the controversy over whether a particular religious activity will be allowed still continues. Court rulings being handed down on religious issues are ambivalent; what is ruled constitutional in one court may have an opposite ruling in another. The public, in particular educators, are unsure of the legal path. Educational administrators are torn among these confusing legal signals, local customs, and their own personal beliefs as they make decisions within their schools.

The purposes of this study were (1) to review the literature on public schools regarding religious practices, (2) to survey randomly selected public school administrators in North Carolina regarding religious practices in their schools, (3) to analyze the data and draw conclusions from the random sample of public school administrators regarding school religious practices, and (4) to provide data so that school officials and school board members may formulate policy consistent with judicial decisions.

Information was gathered for this study by sampling randomly selected principals from public schools in North Carolina. which contained any of the grades seven through twelve. A total of 237 principals were randomly selected to participate in the survey. These principals represented all areas of the state.

Seventy percent (70%) of the principals chosen responded to the survey. Based on the review of the literature and the responses received from the survey the following conclusions were drawn: (1) Religion continues to be a major issue in public education; (2) The Supreme Court



has made decisions in various "landmark" cases which are used as guidelines for establishing local school policies; (3) Principals are beginning to eliminate "stadium" prayers at athletic events although non-school-initiated individual prayer is allowed; (4) Slightly less than 50% of the schools surveyed have a system-wide policy dealing with religion; and (5) Only 30% of the schools' principals observe the state-approved moment of silence each day.

This study includes a list of recommendations which can be used by administrators at the school or system level, as well as by school board members, in an effort to examine local practices and address the religion issue in a factual and legal manner.

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## CHAPTER I

### INTRODUCTION

Religious activities in the public schools are a topic of ongoing, often emotional controversy. In dealing with religious matters, school officials frequently find themselves in a situation of conflict. They are forced to make a choice between public sentiment and their legal obligations. If they follow public sentiment, they will eventually be reprimanded for not performing their obligations in a lawful manner. It is inevitable, however, that when they take the legal standpoint, they will be confronted by public demands to make exceptions to the rules.

One of the major guidelines in determining proper legal actions has been the First Amendment which declares, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...."<sup>1</sup> It can be seen from the language used that this part of the amendment has two distinct parts known as the "establishment clause" and the "free exercise clause". It is due to the use of one or both of these clauses, in addition to the interpretation of the Fourteenth Amendment, that most legal issues regarding religious activities are decided.<sup>2</sup>

The purpose of the free exercise clause is to prevent governmental

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<sup>1</sup> United States Constitution, amend. I.

<sup>2</sup> H. C. Hudgins and Richard S. Vacca, Law and Education: Contemporary Issues and Court Decisions, rev. ed. (Charlottesville, Va.: Michie, 1985), 366.

restrictions from imposing on an individual's right to exercise his faith. Governmental authority could create sufficient pressure so as to restrict a person's free exercise of his faith.<sup>3</sup>

The purpose of the establishment clause is to prevent favoritism toward one faith, or the elimination of another. It is merely to set the standard for neutrality in regard to religion. In a 1947 case before the United States Supreme Court, Justice Black gave his definition of this clause:

The "establishment of religion" clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or remain away from church against his will or force him to profess belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect a "wall of separation between church and state".<sup>4</sup>

Times have changed since the early colonial schools. In those days the schools were basically nonpublic and their aim was to prepare men for the ministry.<sup>5</sup> However, as the schools became more public, the earlier purpose was changed to providing education for all children. The schools

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<sup>3</sup>Wisconsin v. Yoder, 406 U. S. 205 (1972).

<sup>4</sup> Everson v. Board of Education, 330 U.S. 421 (1962).

<sup>5</sup>Hudgins, 366.

had to take a more neutral stand toward religion, due to the large numbers of people served who did not see a need for religion in the schools. The idea of separation of church and state may be summed up by these principles:

**Government in our democracy, state and national, must be neutral in matters of religious theory, doctrine, and practice. It may not be hostile to any religion or to the advocacy of no religion; and it may not aid, foster, or promote one religion or religious theory against another or even against the militant opposite. The First Amendment mandates governmental neutrality between religion and religion, and between religion and non-religion.<sup>6</sup>**

To judge challenges to government acts on the basis of the establishment clause, the Supreme Court has developed a three-part test, known colloquially as the Lemon test, as follows: (1) the governmental act that bears on religion must reflect a clearly secular purpose; (2) it may neither advance nor inhibit religion as its primary effect; (3) it must avoid excessive government entanglement with religion. The act in question must pass all three parts of the test in order to comply with the establishment clause.<sup>7</sup>

The Supreme Court of the United States banned mandatory prayer in the public school classrooms in 1962.<sup>8</sup> In doing so, it also upheld the constitutionality of teaching about religion. Three decades later, teachers and administrators are still confused. People in the education community

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<sup>6</sup> Epperson v. Arkansas, 393 U. S. 97, 103-4 (1968).

<sup>7</sup> Lemon v. Kurtzman, 403 U. S. 602, 91 S. Ct. 2111 (1971).

<sup>8</sup> Engel v. Vitale, 370 U. S. 421 (1962).

have seemingly taken the prayer ban to mean that religion has been banned entirely, but such is not the case. Teaching about religion is allowed as long as it does not conflict with either the establishment clause or the free exercise clause.

It may be carried out, for example, in a social studies class in which the contributions of different religions or their customs are studied. It may also be taught as a part of a literature class in which writings from some of the more popular religions are compared. The establishment clause<sup>9</sup> permits neutral instruction about religion, but forbids sectarian, indoctrinating teaching of religion.<sup>10</sup>

There are three fundamental assumptions which are related either directly or indirectly to the church-state issue.<sup>11</sup> First is the assumption that education is a benefit to the entire society and that the support for education is vested in the legislature's power to tax everyone. The public is taxed for support of education rather than taxing only those who use it. People without children and people whose children are grown, as well as those who send their children to private schools, are taxed the same as those who have children in public education institutions. In 1835, a legislative proposal to repeal general taxation for education in Pennsylvania was defeated. To the charge that it was unfair to tax people to

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<sup>9</sup> Constitution, amend. I.

<sup>10</sup> Benjamin B. Sendor, "Religion and the Public Schools", Education Law in North Carolina 1 (January 1988): 16-12.

<sup>11</sup> Kern Alexander, School Law (St. Paul, Minn.: West, 1980), 176-177.



educate the children of others, Thaddeus Stevens replied,

It is for their own benefit, inasmuch as it perpetrates the government and ensures the due administration of the laws under which they live and by which their lives and property are protected. Why do they not urge the same objection against all other taxes? The industrious, thrifty, rich farmer pays a heavy county tax to support criminal courts, build jails, and pay sheriffs and jailkeepers, and yet probably he never has had and probably never will have any direct personal use for them.... He cheerfully pays burdensome taxes which are necessarily levied to support and punish convicts, but loudly complains of that which goes to prevent his fellowbeing from becoming a criminal and to obviate the necessity of those humiliating institutions.<sup>12</sup>

In Stevens' opinion, education was a public obligation. It is necessary to educate the general public in order to have a literate and intelligent citizenry which is able to govern. Even those who may not benefit directly gain indirectly from their association with those who have become more enlightened through public education.

The second assumption is that education provided by the state must be of a secular nature and that an individual's religious beliefs should not be inhibited. In America's infancy, much debate was centered around the topic of religion. Centuries of religious strife and persecution in Europe had left an indelible mark on the minds of those who helped develop national and state constitutions.<sup>13</sup> Thomas Jefferson, while working on the Declaration of Independence in 1776, proposed various ideas for the development of a constitution for the state of Virginia. By the time

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<sup>12</sup> V. T. Thayer, The Attack Upon the American Secular School (Boston: Beacon Press, 1951), 26-27.

<sup>13</sup> Alexander, 166.

Jefferson's proposal was enacted into law in 1786, it stated

...that no man shall be compelled to frequent or support any religious worship, place or ministry whatsoever, nor shall be enforced, restrained, molested or burdened in his body or goods, nor shall otherwise suffer on account of his religious opinions or beliefs, but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge or affect their civil capacities.<sup>14</sup>

A third assumption is essential to the idea of a general mass education. It proposes that the state can compel all parents to provide their children with a minimum secular education. It is fundamental in a republic to have an informed electorate. Therefore, the state must have the authority to enforce minimum requirements for education of the populace. The public schools of today are secular. Leo Pfeffer, a distinguished church-state scholar, says that to be secular does not mean the same as "God-less", but merely guarantees that a person's individual religious beliefs will not be violated. In his words,

A secular state requires a secular state school; but the secularization of the state does not mean the secularization of society. Only by accepting a totalitarian philosophy, either in religion or politics or both, can the state be equated with society. We are a religious people even though our government is secular. Our democratic state must be secular for it does not purport or seek to pre-empt all of societal life. Similarly the public school need not and should not be the totality of the education process.<sup>15</sup>

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<sup>14</sup>Ibid., 171.

<sup>15</sup>Leo Pfeffer, Church, State, and Freedom (Boston: Beacon Press, 1967), 123.

### Statement of the Problem

Although public school prayer was ruled unconstitutional in 1962, the controversy over whether a particular religious activity will be allowed still continues. Court rulings being handed down on religious issues are ambivalent; what is ruled constitutional in one court may have an opposite ruling in another. The public, in particular educators, are unsure of the legal path. Educational administrators are torn among these confusing legal signals, local customs, and their own personal beliefs as they make decisions within their schools.

Various religious activities take place in the public schools at some time during the year. Until 1978, courts around the nation unanimously vetoed the common practice of allowing representatives of groups like the Gideons to distribute Bibles to school children.<sup>16</sup> However, since Meltzer v. Board of Public Instruction of Orange County in the Fifth Circuit Court of Appeals<sup>17</sup>, the most common practice may be to simply inform students that Bibles are available in a certain location and that they are free to pick up a copy if they so choose.

Another common practice, probably found more often in elementary schools, is that of invoking a religious blessing before going to lunch. Students may be told that they do not have to participate, but most likely they do anyway. This practice may go on either with or without the knowledge or consent of the principal. Principals who allow this practice have made a

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<sup>16</sup> Sendor, 16-10.

<sup>17</sup> 77 F. 2d 311 (5th Cir. 1978) (*en banc*) (*per curiam*), cert. denied, 439 U. S. 1089 (1979).

decision according to their knowledge of the current legal status, the local customs of that community, or their own personal beliefs.

A third practice, which is common in the Southeast, is that of allowing an invocation before football games. Locally, this practice has gone unchallenged for years. However, a challenge to this practice in Georgia<sup>18</sup>, as well as other places, may cause some school administrators and their boards of education to follow legal standards more closely. In this case, state-directed or state-initiated prayers at football games were ruled improper because the games are school-sponsored events.<sup>19</sup> Nevertheless, it is not uncommon for practices to be allowed to continue until sufficient protest comes from the public to stop it.

### **Purposes of the Study**

The purposes of this study are (1) to review the literature affecting public schools regarding religious practices, (2) to survey randomly selected public school administrators in North Carolina regarding religious practices in their schools, (3) to analyze the data and draw conclusions from the random sample of public school administrators regarding school religious practices, and (4) to provide data so that school officials and school board members may formulate policy consistent with judicial decisions.

It is hypothesized that the responses from the surveys will indicate that administrators' decisions are made as a result of local custom, which

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<sup>18</sup> Jager v. Douglas County School District, 862 F. 2d 824.

<sup>19</sup> J. W. Brinkley, Student's Legal Rights on a Public School Campus (Fort Worth, Texas: Roever Communications, 1990), 46.

may include local board of education policies. A second hypothesis is that of the administrators surveyed, those working in larger, more sophisticated school systems will have a policy regarding religion.

### **Definition of Terms**

For the purposes of this study, the following terms are defined:

**Balancing test.** "A constitutional doctrine in which the court weighs the right of an individual to certain rights guaranteed by the Constitution with rights of a state to protect its citizens from the invasion of their rights; used in cases involving freedom of speech and equal protection."<sup>20</sup>

**Equal Access Act.** Public Law 98-377 of 1984 which states that it is unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings.<sup>21</sup>

**Legal Duty.** "An obligation recognized by law which requires an actor to conform to a certain standard of conduct for the protection of others against unreasonable risk."<sup>22</sup>

**Local Custom.** Religious practices that are traditionally permitted on a local level in public schools.

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<sup>20</sup> **Black's Law Dictionary**, 6th ed., (St. Paul, Minn.: West, 1991), 97.

<sup>21</sup> 20 USC 4071, Section 802(a).

<sup>22</sup> **Black's Law Dictionary**, 6th ed. (St. Paul, Minn.: West, 1991), 620.

**Moment of Silence.** A short period of time, usually a minute in length, implemented at the beginning of the school day as a time for completely unstructured private thoughts or contemplation.<sup>23</sup>

**Public Schools.** "Schools established under the laws of the state (and usually regulated in matter of detail by the local authorities), in the various districts, counties, or towns, maintained at the public expense by taxation, and open, usually without charge, to the children of the residents of the city, town, or other district; Schools belonging to the public and established and conducted under public authority."<sup>24</sup>

**Religion.** "Man's relation to Divinity, to reverence, worship, obedience, and submission to mandates and precepts of subnatural or superior beings. . . . As used in constitutional provisions forbidding the 'establishment of religion', the term means a particular system of faith and worship recognized and practiced by a particular church, sect, or denomination."<sup>25</sup>

**Secular.** "Of or belonging to the world and worldly things as distinguished from the church and religious affairs; not sacred or religious."<sup>26</sup>

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<sup>23</sup> North Carolina General Statutes 115C-47: 29 (1985).

<sup>24</sup> Black's Law Dictionary, 5th ed. (St. Paul, Minn.: West, 1979), 1207.

<sup>25</sup> *Ibid*, 1161.

<sup>26</sup> Webster's New World Dictionary, (Cleveland: World, 1968), 1318.

### **Research Questions**

**This study will answer the following questions:**

- 1. What is revealed in the literature regarding religious practices in the public schools?**
- 2. What procedures are followed in selected public schools regarding religious practices?**
- 3. What determines the way an administrator makes a decision about a religious practice in his/her school?**
- 4. What conclusions can be reached regarding the decision-making process of North Carolina's public school administrators dealing with religious practices?**

### **Significance of the Study**

**This study is significant in that it will examine the current legal standards regarding religious issues in the public schools. It will also provide information gathered from practicing public school administrators as to the decisions made concerning religious issues. It will draw conclusions from the survey responses received about the decision-making process of these administrators. It is acknowledged that the decisions made by principals in North Carolina, as administrators in the "Bible belt", may differ from the process used in other geographical areas of the United States.**

### **Limitations of the Study**

This study will be limited to court cases involving religious issues in the public elementary and secondary schools. It will not consider religious issues in colleges and universities.

It will further be limited to a survey of a sample of principals in the public schools in the state of North Carolina which contain any of the grades seven through twelve. Administrators of elementary schools, technical colleges, community colleges, or public or private four-year colleges or universities will not be included in the study.

### **Methodology**

The problems addressed in this study are to determine which religious practices exist in selected public schools in North Carolina, and how principals make decisions regarding religious practices in their schools. Information was gathered by randomly sampling the principals from various schools throughout the state of North Carolina. This information was used to substantiate or refute the hypothesis that most decisions in the public schools are made according to local custom.

Even though administrators may be aware of the legal standards by which they should operate, many of them prefer to operate their schools using local directives, or personal preferences, until they are challenged to abide by legal requirements. Consequently, the validity of this study depended to a large degree on the honesty of the persons completing the survey. If they allow or disallow a particular practice to take place, it is



hoped they have responded honestly, rather than trying to answer as they think it should be answered to satisfy the purpose of the survey.

Data were collected from selected school principals in North Carolina by means of a mailed questionnaire. According to the North Carolina Education Directory 1991-92, there are 134 administrative units in the state.<sup>27</sup> One city unit (Statesville) merged with Iredell County after some of the statistical listings were done, leaving only 133 units. In 1992 there were one hundred county units and thirty-three city units in the state.

These units are grouped into eight educational districts. There are 1,484 schools with grades K- 8, and 296 secondary schools spanning grades nine through twelve. In addition there are 179 schools with a combined grade arrangement.

### **Design of the Study**

The remainder of this study is divided into four major parts. Chapter II is a review of the related literature affecting the attitudes and procedures of practicing public school administrators in North Carolina. Chapter III is a description of the methodology for the study. Chapter IV analyzes the findings from the survey questionnaire distributed to public school principals throughout the state. Chapter V comprises summaries and conclusions derived from the survey and answers the research questions posed in Chapter I.

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<sup>27</sup> North Carolina Education Directory 1991-92. (Raleigh: North Carolina Department of Public Instruction, 1991).

## CHAPTER II

### REVIEW OF THE LITERATURE

#### **Diversity in the Land of Opportunity**

Without citing a single case as authority for its opinion, the Supreme Court decided on June 25, 1962, that a short, nondenominational prayer recited in New York public schools was an unconstitutional practice. Only one justice dissented from the majority. The case was Engel v. Vitale, but it is commonly known as the School Prayer decision.<sup>28</sup>

Ever since that monumental day in judicial history, the decision and people's reactions to that decision have been continually in the spotlight.

A South Carolina Congressman proposed a bill to require that the words "In God We Trust" be inscribed above the bench of the Supreme Court, to remind the justices that "there is an Authority higher than that of the Supreme Court of the United States."<sup>29</sup>

The prayer that was the cause of all of this legal turmoil was composed to be an inoffensive prayer for all faiths. It was undertaken by the New York Board of Regents in an effort to provide a prayer which could be used in the schools without causing a controversy. Little did they realize how much controversy their simple prayer would cause. The Supreme Court's opinion was that the use of the prayer by the public schools was

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<sup>28</sup>Lynda Beck Fenwick, Should The Children Pray? (Waco, Texas: Markham Press Fund, 1989), 130.

<sup>29</sup>Ibid.

"inconsistent" with the Establishment Clause.<sup>30</sup>

Why does one court decision cause so many problems? Why does a nation founded on the premise of religious freedom have so much trouble with the issue of prayer in the public schools? Although the decision was much maligned, the justices who made the decision were considered to be religious men. Their intent was not to declare a disbelief in prayer, but rather to keep a government agency from controlling a freedom guaranteed to each citizen in the United States Constitution.<sup>31</sup>

Public schools are indispensable to American democracy. Their chief responsibility is to develop literate and good citizens for the general and individual welfare. As the Supreme Court has noted, the schools--more than any other institution in society--have a responsibility to demonstrate democracy, not just teach it.<sup>32</sup>

A 1983 survey of school administrators and superintendents in North Carolina indicated that prayer was conducted at various times in 31 percent of the public schools and that daily prayer was held in at least one of every six schools.<sup>33</sup> Public schools are continually being challenged for teaching evolution, and for not allowing Bible reading ; they are accused of instilling a set of values or moral principles known as "secular humanism." The diversity of our public schools, as well as society in general, has played a

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<sup>30</sup>Ibid. 131.

<sup>31</sup>Constitution, amend. 1.

<sup>32</sup>Kristen J. Amundson, Religion in the Public Schools, (Arlington, Va.: American Association of School Administrators, 1986), 1.

<sup>33</sup>Ibid., 2.

major role in the development of differing opinions regarding religion in the schools. Simply to include Christian values in the schools would be a major task. More than 289 denominations are listed in the Handbook of Denominations in the United States. Among these are groups ranging from Adventists to Vadamantists, and even 28 denominations of Baptists.<sup>34</sup> With this kind of diversity, it would be unfair to try to establish one generic method of Bible reading, prayer, or other religious practices without infringing on the individual rights of others.

In the face of such profound changes, practices which may have been objectionable to no one in the time of Jefferson and Madison may today be highly offensive to many persons, the deeply devout and nonbelievers alike.<sup>35</sup>

Even with of so much diversity, Americans still clamor for a return of religious practices to our public schools. The results of a telephone poll of 500 American adults (conducted by Yankelovich Clancy Shulman on October 10, 1991) were recently published.<sup>36</sup> In that poll, Americans were asked several questions regarding religion in public schools. The questions and their responses were as follows:

Which of these activities should be allowed on school grounds?  
--Voluntary Bible classes: 78%

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<sup>34</sup>Ibid., 3.

<sup>35</sup>Justice Brennan, concurring opinion, Abington School District v Schempp, 374 U.S. 203, 241 (1963).

<sup>36</sup>Nancy Gibbs, "America's Holy War," Time 138, no. 23 (December 9, 1991) 64.

- Voluntary Christian fellowship groups: 78%
- Prayers before athletic games: 73%
- Church choir practice: 56%

Do you favor or oppose:

- Allowing children to say prayers in public schools?: Favor 78%  
Oppose 18%

- Allowing children to spend a moment in silent meditation in public schools?: Favor 89%  
Oppose 9%

Other questions asked in the poll showed that 55% of the people think there is too little religious influence, 65% think religious influence is decreasing, 67% favored displaying religious symbols on government property (26% opposed), 74% opposed removing references to God from all oaths of public office (20% in favor), and in a very critical opinion, 63% said they would not vote for a presidential candidate who did not believe in God; 29% said they would. (In this poll, "Not sure" answers were omitted.)

### **The Separation of Church and State Issue**

From the earliest days of the American colonies until today, religion has been at the core of education. The first public law to establish schools in America was developed by the Massachusetts colony in 1647. The purpose of the law was to promote literacy and scriptural knowledge in order to resist the "old deluder, Satan."<sup>37</sup>

The early colonists had their own religious beliefs and developed their own intolerances for those who held differing beliefs. Just as they had

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<sup>37</sup>Julius Menacker, School Law: Theoretical and Case Perspectives (Englewood Cliffs, NJ: Prentice-Hall, 1987), 58.

experienced prejudice in their former homelands, people brought their prejudices to the new world. Since communities were homogeneous, religious instruction in school was not an issue because they all had the same beliefs. It became an issue in the mid-nineteenth century when states began to establish public schools which encompassed various religious communities.

It was left to the courts of the twentieth century, particularly the U.S. Supreme Court, to define the relationships of church and state in public education and even in private education.<sup>38</sup> These relationships have been defined variously. Earlier decisions used the states' authority to define these relationships. However, the use of the United States Constitution's First Amendment has become the main defense mechanism, citing the establishment and free exercise clauses.

The Supreme Court's first sectarian-schools decision was in 1908. In Quick Bear v. Leupp<sup>39</sup>, the focus was on using federal money for contracting with sectarian schools to provide an education for Indian children on reservations. When this case arrived at the Supreme Court level, it determined (1) trust fund money in the litigation was private, not public money; (2) that the Sioux Indians had requested a pro rata share for sectarian school support; and (3) that the request was a free exercise of religion, constitutionally protected.

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<sup>38</sup>Ibid., 59.

<sup>39</sup>210 U.S. 50, 8 (1908).

The 1923 Meyer v. Nebraska<sup>40</sup> decision became supremely important in the chronology of church-state decisions. Even though it is barren of church-state terminology, the decision established the premise that the compelling interest of the state in the educational process may not encroach on parents' constitutional guarantees to direct their children's education.

Another major church-state issue was addressed in the 1925 Pierce v. Society of Sisters case.<sup>41</sup> An Oregon law required all children aged eight to sixteen years to attend public schools. Parents who wanted to send their children to nonpublic schools brought suit, with the case eventually reaching the Supreme Court. In citing Meyer, the Supreme Court insisted that parents have a constitutional guarantee to determine the placement of their children in either public or nonpublic elementary schools.

In 1930, the Supreme Court was faced with another important decision. A Louisiana case tested the Fourteenth Amendment's prohibition of using public funds for private purposes. In Cochran<sup>42</sup>, a state statute allowing the public loan of textbooks to parochial schools was challenged. The Court agreed with the state's contention that providing books, free of charge, to all students was aid to children, not to religious schools. The schools receive nothing from them, nor are they relieved of a single obligation. The "school children and the state alone are the

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<sup>40</sup>262 U.S. 390 (1923).

<sup>41</sup>268 U.S. 510 (1925).

<sup>42</sup>Cochran v. Louisiana State Board of Education, 281 U.S. 370 (1930).

beneficiaries."<sup>43</sup> Although the plaintiff argued that his property was being taxed for private education purposes, Chief Justice Hughes accepted the state rationale:

Viewing the statute as having the effect thus attributed to it, we cannot doubt that the taxing power of the state is exerted for a public purpose. The legislature does not segregate private schools or their pupils, as its beneficiaries, or attempt to interfere with any matters of exclusively private concern. Its interest is education, broadly; its method, comprehensive. Individual interests are aided only as the common interest is safeguarded.<sup>44</sup>

This decision gave rise to the "child-benefit theory". The term is used to describe a situation in which it can be determined that the use of public money, directly or indirectly, benefits a child in attendance at a nonpublic school. Legal reasoning can determine whether the beneficiary of public funds is the child or the school. If the school is the primary beneficiary, the action will not be upheld.

Another case in the chronology of landmark church-state education decisions is Cantwell v. Connecticut.<sup>45</sup> This case is important because the Supreme Court recognizes the applicability of the First Amendment for states through the Fourteenth Amendment.

The First Amendment declares that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. The Fourteenth Amendment has rendered

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<sup>43</sup>Ibid., 375.

<sup>44</sup>Ibid., 375.

<sup>45</sup>310 U. S. 296 (1940).



the legislatures of the states as incompetent as Congress to enact such laws.<sup>46</sup>

The child-benefit theory was tested again in 1947. The Everson<sup>47</sup> decision addressed a New Jersey statute which authorized local school districts to make contracts for the transportation of its children to and from schools. The appellee, a township board of education, acting in line with this statute, authorized reimbursement to parents of money expended for the transportation of their children on regular buses operated by the public transportation system. Part of this money was to reimburse parents for the transportation of their children to Catholic parochial schools.

The Court said the legislation was aid to children and it satisfied a public need. The majority (five to four) recognized a possible collision between the establishment clause and the free exercise clause by stating "we must not strike that state statute down if it is within the State's constitutional power even though it approaches the verge of that power."<sup>48</sup>

While there were five members rejecting the First Amendment challenge to the child-benefit theory, there were four vigorous dissents which supported an interpretation of the establishment clause demanding total denial of state support to nonpublic schools and students.

It is of no importance in this situation whether the beneficiary ...is primarily the parochial school or incidentally the student, or whether the aid is directly bestowed on the pupil with indirect benefits to the school. The State cannot maintain a Church and

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<sup>46</sup>Ibid., 303.

<sup>47</sup>Everson v. Board of Education, 330 U.S. 1 (1947).

<sup>48</sup>Ibid., 15-16.

it can no more tax its citizens to furnish free carriage to those who attend a Church. The prohibition against establishment of religion cannot be circumvented by...reimbursement of expenses to individuals for receiving religious instruction and indoctrination....<sup>49</sup>

Another dissenting justice believed: "Not simply an established church, but any law respecting an establishment of religion is forbidden....The prohibition broadly forbids state support ...of religion in any guise, form, or degree. It outlaws all use of public funds for religious purposes."<sup>50</sup>

The practice of releasing public school students during regular school hours for the purpose of religious instruction began in the United States in Gary, Indiana, in 1914.<sup>51</sup> Since that time, the Supreme Court has heard two cases involving release time. The first case was in 1948. In McCullum<sup>52</sup>, pupils were released from secular instruction to attend religious instruction in the classrooms of the public school building. McCollum requested a court order forcing the school board to

adopt and enforce rules and regulations prohibiting all instruction in and teaching of religious education in all public schools... and in all public school houses and buildings in said district when occupied by public schools.<sup>53</sup>

McCullum's argument was that public schools were promoting religion in opposition to the First Amendment. The Illinois state court denied his allegation and McCollum appealed to the Supreme Court. The

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<sup>49</sup>Ibid., 24.

<sup>50</sup>Ibid., 31 and 33.

<sup>51</sup>Alexander, 232.

<sup>52</sup>People of the State of Illinois ex rel McCollum v. Board of Education of School District No. 71, 333 U.S. 203, 68 S.Ct. 461 (1948).

<sup>53</sup>Ibid., 205.

Court's majority opinion, written by Justice Hugo Black, stated: "This is beyond all question a utilization of the tax-established and tax-supported public school system to aid religious groups to spread their faith."<sup>54</sup> This decision forbids the use of released time for religious instruction on campus during the school day.

The second case addressing released time was Zorach v. Clauson.<sup>55</sup> This case is different from McCollum in that it used released time for off-campus religious instruction. A New York statute allowed students to leave the school building and grounds to attend religious centers for religious instruction. Students who did not participate in the religious instruction stayed in their classes, with no supervision or approval of activities required. The Supreme Court, in a 6-3 vote, found that this statute did not violate the separation of church and state doctrine. The dissenting justices claimed the released-time program forced religion on school children. Justice Jackson stated that school "serves a temporary jail for a pupil who will not go to church. It takes more subtlety of mind than I possess to deny that this is governmental constraint in support of religion."<sup>56</sup>

Prayer and Bible reading have contributed greatly to the business of the judicial system. Over half the states have allowed or required Bible reading or prayer at some point in the history of their public schools. Prior

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<sup>54</sup>Ibid., 210.

<sup>55</sup>343 U.S. 306, 72 S.Ct. 679 (1952).

<sup>56</sup>Ibid., 324.

to 1962 at least twelve states and the District of Columbia required Bible reading.<sup>57</sup>

In 1962, the Engel<sup>58</sup> case came to the Supreme Court. The constitutionality of the New York State Board of Regents' mandated prayer was at question: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country."<sup>59</sup> The plaintiffs claimed the prayer violated the establishment clause of the First Amendment. After being denied in the New York courts, they met approval at the Supreme Court level with only one dissenting vote. This case has become known as the School Prayer Case, since it is used as a measuring instrument for similar cases. The specific language used indicates that any religious minorities must succumb to the beliefs espoused in this prayer. Therefore, it is unconstitutional to force one group's beliefs on another group. The point of Engel is that prescribed prayer in public school classrooms, led by teachers and recited by students, will be deemed unconstitutional.

One year later, another case addressed the legality of Bible reading and prayer recitation in the public schools. In Abington School District v. Schempp, and a companion case, Murray v. Curlett<sup>60</sup>, at issue was the Pennsylvania statute requiring Bible reading and recitation of the Lord's

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<sup>57</sup>Alexander, 238.

<sup>58</sup>Engel v Vitale, 370 U.S. 421 (1962).

<sup>59</sup>Ibid., 422.

<sup>60</sup>374 U.S. 203, 83 S. Ct. 1560 (1963).

Prayer at the beginning of the school day. The statute was ruled unconstitutional by the federal district court. The school board appealed to the Supreme Court, where the district court's decision was sustained. Justice Douglas, in a concurring opinion, stated that "through the mechanism of the State, all of the people are being required to finance a religious exercise that only some of the people want and that violates the sensibilities of others."<sup>61</sup>

Another important statement is made by the Court:

The test may be stated as follows: What are the purpose and the primary effect of the enactment? If either is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constitution. That is to say that to withstand the strictures of the Establishment Clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion.<sup>62</sup>

This is the beginning of the tripartite test which will be completed in Lemon I.<sup>63</sup> The first two parts are (1) there must be a secular legislative purpose, and (2) there must also be a primary effect that neither advances nor inhibits religion. These two questions, along with the third part developed later, remain the Supreme Court's First Amendment standard until the 1990s.

Another case in 1968 addressed the issue brought forward in the

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<sup>61</sup>Ibid., 228.

<sup>62</sup>Ibid., 222.

<sup>63</sup>Lemon v. Kurtzman, 91 S. Ct. 2111 (1971).

Cochran decision. In Allen<sup>64</sup>, the plaintiff claimed the loaning of textbooks to parochial students failed constitutional muster by advancing religion at the expense of the taxpayers. The New York trial court agreed, but was overturned by the Court of Appeals. When the Supreme Court received the appeal, it concurred with the Appeals Court. Again, the child benefit theory surfaced when the Court said the Board of Education had not established that the "process of secular and religious training in religious schools are so intertwined that secular textbooks furnished to students by the public are in fact instrumental in the teaching of religion."<sup>65</sup>

Justice White's language in speaking for the majority left some indecision on the part of both public and parochial school leaders. He failed to specify the limitations required by the First Amendment when he applied the public purpose theory. He apparently reasoned that the state could provide funds to parochial schools as long as the money was used to pay for secular services.

In 1971, the Supreme Court was faced with the indecision left by Justice White's remarks when it was asked to rule on two state statutes which aided parochial schools. The two states, Rhode Island and Pennsylvania, were using the vagueness caused by Justice White to apply the secular purpose standard to the use of public funds to pay for such items as textbooks, teachers' salaries, supplements, and instructional

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<sup>64</sup>Board of Education v. Allen, 392 U.S. 236 (1968).

<sup>65</sup>Ibid., 248.

materials in certain secular subjects. In Lemon v. Kurtzman (Lemon I)<sup>66</sup>, the Court ruled both states' statutes unconstitutional. After applying the Schempp test, the Court then added a third test: Does the act excessively entangle government and religion? With this question added, the "tripartite test" was now complete. In this case, the Court ruled there was excessive entanglement between the state and religion. A later challenge of this ruling in 1973<sup>67</sup> again met with refusal by the Court, this time citing that reimbursing parents of nonpublic school students for a portion of tuition expenses had a primary effect of advancing religion.

With the tripartite test in place, the Supreme Court had a steady surface on which to base its decisions in religion cases. Applied in many cases throughout the nation, the test helps establish a guideline for school districts to follow as they consider activities of a religious nature.

These cases, from Quick Bear to Lemon I, have provided a substantial basis for litigation in the realm of religion. The principles established in these proceedings have remained until the early 1990s.. Through the legal process, the educational system of the nation has evolved from one of local sectarian schools established for salvation, to one which allows students to attend schools which are now closely scrutinized to assure that religion will neither be established nor have free exercise prohibited.<sup>68</sup>

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<sup>66</sup>403 U.S. 602, 91 S. Ct. 2105.

<sup>67</sup>Sloan v. Lemon, 413 U.S. 472 (1973).

<sup>68</sup>U. S. Constitution, Amendment I.

### **Recent Court Decisions**

In this section, the most recent federal and Supreme Court decisions on religious practices are set forth. A detailed scenario is not given here, since only the pertinent information used to determine legal attitudes is necessary at this point. General background information about each case can be found by researching the citation listed.

#### **Prayer Before Athletic Contests**

The most recent case regarding prayer before an athletic contest is a 1989 Georgia case which was decided by the Eleventh Circuit Court of Appeals. In Jager v. Douglas County School District<sup>69</sup>, the court reinforced its former decision not to let the state get involved with activities regarding prayer. The court said:

When a religious invocation is given via a sound system controlled by school principals and the religious invocation occurs at a school sponsored event at a school-owned facility, the conclusion is inescapable that the religious invocation conveys a message that the school endorses the religious invocation.<sup>70</sup>

The Supreme Court refused to hear the case. School districts around the country evaded the decision. One school board in Florida justified their decision to continue pre-game prayers by saying they didn't feel a need to

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<sup>69</sup>862 F2d 824.

<sup>70</sup>Ibid.



change until somebody complained.<sup>71</sup> This is probably the rule at this time rather than the exception.

### Moment of Silence

Although we often hear it said that students may not pray at school, this is not the case. School officials may not lead in prayer, but students have a right to pray alone or with others. In 1963 Madalyn Murray and her son William sued the Baltimore Board of Education to eliminate group prayer in the school. Their case was eventually reviewed by the Supreme Court, causing a national outpouring of emotion on the school prayer issue.

Since that time, the most recent case dealing with school prayer is Wallace v. Jaffree.<sup>72</sup> In this case an Alabama statute authorizing a moment of silence for meditation or "voluntary prayer" was ruled unconstitutional. The indication by the statute that prayer was permitted gave the statute the appearance that the government endorsed prayer, which was clearly a violation of the First Amendment. The particular wording seemed to be the only problem with the statute.

In 1985, North Carolina enacted a moment of silence as a general statute.<sup>73</sup> At present, the statute still stands as constitutional, since it does not specify prayer as an intended action to be taken. Some schools use this as a regular part of the beginning of each school day, while others choose

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<sup>71</sup>Education Week 8 (May 10, 1989), 3.

<sup>72</sup>105 S. Ct. 2479 (1985).

<sup>73</sup>North Carolina General Statutes 115C-47 (29), 1985.

not to practice it. It would appear that, at this time, it will stand constitutional examination.

**Prayer at Graduation and Baccalaureate Services**

No North Carolina court has ruled on the constitutionality of prayer recited as an invocation or benediction in public school graduation ceremonies. Courts around the nation have not reached a consensus on the constitutionality of this practice.<sup>74</sup>

In four cases, graduation prayers have been upheld as constitutional. In Grossberg<sup>75</sup>, Wood<sup>76</sup>, Weist<sup>77</sup>, and Stein<sup>78</sup>, general reasons cited for approval include the following:

...attendance at graduation is voluntary; the presence of parents and other adults minimizes the proselytizing potential of the prayers; the prayers are isolated events that take only a few moments once a year, rather than daily rituals; and no evidence suggested that speakers had intended to use prayers to promote particular religious beliefs.<sup>79</sup>

Three other courts have decided that graduation prayers should not be allowed on the grounds that they fail all parts of the Lemon test.<sup>80</sup> In

<sup>74</sup>Sendor, 16-7.

<sup>75</sup>Grossberg v. Deusebio, 380 F. Supp. 285 (E. D. Va. 1974).

<sup>76</sup>Wood v. Mt. Lebanon Township School District, 342 F. Supp. 1293 (W. D. Pa. 1972).

<sup>77</sup>Weist v. Mt. Lebanon School District, 457 Pa. 166, 320 A. 2d 362, *cert. denied*, 419 U.S. 967 (1974).

<sup>78</sup>Stein v. Plainwell Community Schools, 610 F. Supp. 43 (W. D. Mich. 1985), *rev'd*, 822 F. 2d 1406 (6th Cir. 1987).

<sup>79</sup>Sendor, 16-7.

<sup>80</sup>Graham v. Central Community School District, 608 F. Supp. 531

their arguments in these cases, the plaintiffs state that violation of the establishment clause is evident. Using a Christian prayer promotes the Christian religion. Even the use of a "nondenominational" prayer would advance religion over both agnosticism and atheism.<sup>81</sup>

A recent case has addressed this issue once more. In Weisman v. Lee<sup>82</sup>, a middle school student, Deborah Weisman, and her parents complained about a prayer given by a rabbi at her graduation ceremony. The district court said the prayer would have been fine if all references to God had been left out. The school board said that so long as the prayer was not coercive, it did not violate the establishment clause of the First Amendment.<sup>83</sup> The appellate court affirmed the district court's decision.

It was now up to the Supreme Court to decide whether such a prayer is constitutional. This case would also be the first test for Justice Clarence Thomas, who remarked in 1985, "My mother says that when they took God out of schools, the schools went to hell. She may be right."<sup>84</sup> In 1992 the United States Supreme Court upheld the lower court decision to disallow the prayer.<sup>85</sup>

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(D. Iowa 1985); Doe v. Aldine Independent School District, 563 F. Supp. 883 (S. D. Texas 1982); Bennett v. Livermore Unified School District, 193 Cal. App. 3d 1012, 238 Cal. Reporter 819 (Cal. Ct. App. 1987).

<sup>81</sup>Sendor, 16-8.

<sup>82</sup>908 F. 2d 1090 (1st Cir. 1990).

<sup>83</sup>Gibbs, 62.

<sup>84</sup>Ibid., 63.

<sup>85</sup>Lee v. Weisman, 112 S.Ct. 2649 (1992).

Baccalaureate services are still held in many areas of the country. This is a service conducted within a few days of commencement. It is religious in nature and includes prayer, and attendance is voluntary. There appear to be no published court decisions on the constitutionality of these services. This must mean that it can be continued and remain in compliance with the establishment and free exercise clauses.

#### Religious Groups on Campus: The Equal Access Act

In 1984, the Congress of the United States enacted Public Law 98-377, known as the Equal Access Act (EAA).<sup>86</sup> This act, as its name implies, allows equal access, or fair opportunity, to use a facility for group meetings. For many years school administrators have been overly cautious in their decisions about the use of their school facilities by religious groups. They have many times denied their use, citing the fact that they cannot allow religious groups to meet on school grounds due to their belief that it would constitute a violation of the First Amendment. It may also be said that use of the facility by a religious group may cause unnecessary "entanglement" of a government agency (the school) with religion.<sup>87</sup>

Throughout the 1980s, many devotional groups were interested in having meetings in public schools during noninstructional time. This created many legal controversies. The Supreme Court ruled in 1981 that students attending state-supported institutions of higher education could

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<sup>86</sup>20 USC 4071, Section 802(a).

<sup>87</sup>Lemon v. Kurtzman, 403 U.S. 602, 91 S.Ct. 2111 (1971).

not be denied access unless there was a "compelling governmental interest."<sup>88</sup> In Widmar, a distinction between college students and secondary school students was implied. College students were considered to be "young adults" while high school students were still considered to be "impressionable". From this, there appears to be a double standard allowed by the court.

Between 1980 and 1985, student-initiated devotional groups were not allowed to have meetings during noninstructional time on public school campuses.<sup>89</sup> Five federal appellate courts endorsed this double standard, saying, in effect, that a minimal amount of restriction on the rights of high school students' to assemble and express religious views is necessary in regard to the establishment clause of the Constitution.<sup>90</sup> The Supreme Court declined to review all but one of the cases.

In the one case it did review, Bender v. Williamsport Area School District, the Supreme Court reversed the decision of the lower court which

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<sup>88</sup>Widmar v. Vincent, 454 U.S. 263, 102 S. Ct. 269, 70 L.Ed. 2d 440(1981).

<sup>89</sup>Martha M. McCarthy, "Student Religious Expression: Mixed Messages from the Supreme Court", In West's Education Law Reporter, 64 (1991): 2.

<sup>90</sup>Bender v. Williamsport Area School District, 741 F.2d 538 (3d Cir. 1984), *vacated*, 475 U.S. 534, 106 S. Ct. 1326, 89 L.Ed. 2d 501 [30 Ed. Law Rep. 1024] (1986); Bell v. Little Axe Independent School District No. 70, 766 F. 2d 1391 [26 Ed. Law Rep. 152] (10th Cir.1985); Nartowicz v. Clayton County School District, 736 F. 2d 646 [18 Ed. Law Rep. 273] (11th Cir. 1984); Lubbock Civil Liberties Union v. Lubbock Independent School District, 669 F. 2d 1038 [2 Ed. Law Rep. 961] (5th Cir.1982, *cert. denied*, 459 U.S. 1155, 103 S.Ct. 800, 74 L. Ed. 2d 1003 (1983); Brandon v. Board of Education of Guilderland Central School District, 635 F. 2d 971 (2d Cir. 1980), *cert. denied*, 454 U.S. 1123, 102 S. Ct. 970, 71 L. Ed. 2d 109 (1981).

had disallowed a devotional group meeting in the public high school. The Court did not render any opinions on the merits of the case, however.

After having so much difficulty with achieving any level of acceptance in the pre-collegiate level, Congress passed the Equal Access Act. This act stipulates that if a public school receives federal assistance, and it provides an "open forum" for noninstructional groups to meet during noninstructional time, then that open forum cannot be denied based on the "religious, political, philosophical or other content of the speech at such meetings."<sup>91</sup>

In January of 1989 the Ninth Circuit ruled in Garnett v. Renton School District No. 403<sup>92</sup> that the Equal Access Act was "not triggered if school officials defined all student clubs as curricular related."<sup>93</sup> The legislative history of the EAA provided school districts with the discretion to determine whether clubs were curriculum-related or non-curriculum-related.<sup>94</sup> In order for the EAA to apply, there must be non-curricular clubs resulting in a limited open forum. This case marked the first time that the EAA was used by a plaintiff as a general guarantee to providing access to school facilities for a student-initiated religious activity--namely, a

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<sup>91</sup>20 U.S.C. 4071.

<sup>92</sup>865 F. 2d 1121 [51 Ed. Law Reporter 399] (9th Circuit 1989).

<sup>93</sup>Lawrence F. Rossow, "Limits on Discretion in Applying the Equal Access Act: Mergens v. Board of Education of Westside Community Schools", in West's Education Law Reporter 56 (1990): 1.

<sup>94</sup>*Ibid.*, 1.

student religion club.<sup>95</sup>

The most recent case to date regarding the Equal Access Act is the Mergens case.<sup>96</sup> In this case, a group of public high school students in Omaha, Nebraska requested the use of the school facilities in order to form a Christian club for Bible reading, fellowship, and praying together. Membership was to be voluntary and open to all, regardless of religious affiliation. Access was denied on the grounds that a faculty sponsor could not be provided and violation of the establishment clause would occur if the religious club were allowed to meet.

As a result of this denial, a suit was filed in the United States District Court for the District of Nebraska for relief against the school board and various individual school officials. In the plaintiffs' opinion, the Equal Access Act, along with other laws, was violated. The Court, however, ruled in favor of the defendants, saying that the high school did not have a "limited open forum" within the terms of the EAA, because its clubs were all curriculum-related, and were thus tied to the educational function of the school.

The United States Court of Appeals for the Eighth Circuit reversed this ruling, based on the fact that several of the existing clubs (for example, the chess club) were non-curriculum-related and did not violate the establishment clause. On reviewing the case, the Supreme Court

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<sup>95</sup>Lawrence F. Rossow, "Equal Access Act: Garnett v. Renton School District No. 403". In West's Education Law Reporter, 54 (1989): 391.

<sup>96</sup>Board of Education of the Westside Community Schools, (District 66), et al. v. Bridget C. Mergens, by and Through her Next Friend, Daniel N. Mergens, et al., 495 U.S.--, 110 L. Ed. 2d 191, 110 S. Ct. 2356 (1990).

concurrent with the Court of Appeals. Six members of the Court (O'Connor, White, Blackmun, Scalia, Kennedy, Justices; and Rehnquist, Chief Justice) agreed that the Equal Access Act did not violate the establishment clause. Justice Stevens dissented.

Another vehicle for equal access is the school's public address system. A recent publication states, "If other non-curricular club members are permitted to use school P.A. systems, distribute flyers, or place ads in school newspapers to publicize meetings, then so may the members of religious clubs."<sup>97</sup> This seems to be consistent with facilities use.

#### Distribution of Religious Literature on Campus

The right of students to distribute literature is a part of the right of free speech, as determined by the Supreme Court.<sup>98</sup> The Court does establish certain criteria to be met. Material that is "libelous, obscene, disruptive of school activities, or likely to create substantial disorder, or which invades the rights of others" can be restrained.<sup>99</sup> The Court did not include the word "religious" in that criteria. To do so would have suppressed the right to free speech. A school may not allow nonreligious groups to distribute their literature while restraining others whose literature is of a religious nature. This has been established in Widmar v.

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<sup>97</sup>Brinkley, 28.

<sup>98</sup>Martin v. Struthers, 319 U.S. 141 (1943).

<sup>99</sup>Frasca v. Andrews, 463 F. Supp 1043 1050 (1979).



Vincent.<sup>100</sup>

In Burch v. Barker,<sup>101</sup> the issue of obtaining prior approval is addressed. This case states that school officials may require that students get prior approval before they distribute literature to the student body if, and only if, the school policy for the distribution of literature is "accompanied by appropriate procedural safeguards, including adequate criteria, definitions, and provisions for appeal."<sup>102</sup>

The right to distribute literature does not extend to an individual or organization off campus, nor may students be hired to distribute literature by an organization while they are on campus. However, if a student or students from a campus club freely choose to distribute printed material published by an off-campus organization, they may.<sup>103</sup> A 1987 case illustrates this point.

Religious students at a Pennsylvania junior high school distributed a newspaper entitled "Issues and Answers" which was published by an out-of-state religious group, Student Action for Christ. In Thompson v. Waynesboro Area School District, the district court in Pennsylvania indicated that school officials:

would not be violating the establishment clause of the First Amendment by permitting the distribution of "Issues and

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<sup>100</sup>454 U.S. 263 (1981).

<sup>101</sup>651 F. Supp 1157 (1987).

<sup>102</sup>Brinkley, 42.

<sup>103</sup>Ibid.

**Answers" in Antietam Junior High School according to reasonable time, place, and manner restrictions as those restrictions are enforced with respect to the other activities which take place in the school's limited open forum.<sup>104</sup>**

Students should not think from the information given here that they enjoy unbridled freedom to distribute school-sponsored publications with any views they want to present. In the most recent Supreme Court ruling, the Court has said:

**we hold that educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns.<sup>105</sup>**

This is a confirmation that schools may control their own printed materials in much the same way that students may control what they exchange with each other through spoken word or print.

### **Summary**

Through a multitude of litigations, issues regarding religion in the public schools continue to be a sensitive topic. As Hudgins has stated,

**Out of the litigious 1960's came the legal mandate that public school students shall not be deprived of their first amendment protections while in attendance at school, unless school authorities can show a compelling reason for infringing upon those guarantees.<sup>106</sup>**

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<sup>104</sup>673 F. Supp 1379 (1987).

<sup>105</sup>Hazelwood v. Kuhlmeier, 484 U.S. (1989).

<sup>106</sup>Hudgins, 362.

It remains obvious that first amendment concerns should be recognized. However, the courts have kept the citizens guessing in some cases. There still remains inconsistency in rulings handed down in religious cases, and those which may relate to religion. The variations still appear to be affected by individual circumstances and geographical regions. The underlying basis for many of these decisions could also be found in the Tinker Test which comes from the 1969 case heard before the United States Supreme Court.<sup>107</sup> This test asks two questions: (1) Does the action interfere with or disrupt the work of the school? and (2) Is the action forcing beliefs upon other students? It would seem that public school officials could use this test to determine their involvement with religious activities in order to be legally sound.

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<sup>107</sup>Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969).

## CHAPTER III METHODOLOGY

### Introduction

This study addressed the following: (1) Do religious practices exist in selected public schools in North Carolina? and (2) How do principals make decisions regarding religious practices in their schools? These issues were addressed by means of a mailed survey.

Information was gathered by randomly selecting thirty-two (32) percent of both the county school systems (100 county units in the state) and the city systems (33 city units)<sup>108</sup>. This resulted in thirty-two (32) county units and eleven (11) city units being selected for the survey. North Carolina has been organized into six regions known as Technical Assistance Centers, which have replaced the former eight Regional Education Centers. School systems in each of the six State Technical Assistance Centers are included in this study. A comparison of the numbers of each type of school system selected from the jurisdiction of each of the Technical Assistance Centers shows this breakdown:

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<sup>108</sup> Henry Stephen Grill, "A Study of the Evaluation Process of School Superintendents in North Carolina.", (University of North Carolina at Greensboro, 1978), 75.

TABLE I

State Technical Assistance Centers

<u>Technical Assistance Centers</u>	<u>City Units</u>	<u>County Units</u>
Northeast	1	5
Northwest	1	4
Western	1	8
Southeast	3	8
Southwest	2	3
Raleigh	3	4

Due to the nature of the questions on the survey, it was decided to include only principals whose schools had grade organizations which included any of the grades seven through twelve. This was brought about because some of the questions dealt with activities such as athletic contests which are sanctioned by the State Board of Education beginning at the seventh grade level. Therefore, principals whose schools contained grade organizations below the seventh grade would have questions which would not apply to their school situations, thus yielding less information for the purpose of the study. It is feasible that a similar survey, with modifications of particular questions could be done for those schools containing grades kindergarten through six.

### **Developing and Testing the Instrument**

The instrument was developed by using major issues litigated in court cases involving religion and religious practices in schools. Questions

were formulated to address each particular issue. The instrument was submitted to Dr. Rita O'Sullivan, Assistant Professor of Educational Research at the University of North Carolina at Greensboro who specializes in statistics and data-gathering techniques. After receiving suggestions for changes, the investigator modified the instrument and presented it to principals in his own school system as a pilot test. A review of their comments brought about more subtle changes. The final review for the survey instrument came from the dissertation committee members who made several recommendations to focus the questions on the intended areas of concern. The completed instrument is contained in Appendix D.

The inventory addressed the more general issues and not the subtle. The questions also addressed practices which are knowledgeable. There may be activities going on which are not known by the principals.

Only four questions requested demographic data. These were asked to establish the range of principals' administrative experience, differences in grade organizations, school law background, and location of the particular school system being polled.

Principals' responses to the survey questions were based on the presence or absence of particular religious practices in schools. The principals were also assured that individual responses would be kept in complete confidence. Thus, illegal practices by school principals in specific schools cannot be identified by this study. The focus of the survey was to get a collective response for each question. Also, principals were provided a copy of the results if they desired (A space was provided on the last page of the survey for them to list their name and address if they would like a copy.)

### **Administration of the Instrument**

The survey instrument, a letter of introduction (found in Appendix A), and a pre-addressed postage-paid return envelope were distributed by mail to the principals of schools having any of the grades seven through twelve and located in the thirty-two county units and eleven city units which were randomly selected state-wide. The total number of schools surveyed was two hundred thirty-seven (237).

Upon receiving the packet, the principals were asked to complete the survey and return it in the pre-addressed envelope by the specified date. Follow-up procedures were used to keep track of the surveys as they were returned. An initial return rate of sixty-five percent (65%) was achieved. After making phone calls to principals who had not returned the forms within a reasonable wait time, a response rate of slightly over seventy percent (70%) was obtained.

As the surveys were returned, they were divided into two groups-- those from county administrators and those from city administrators. They were then divided into three groups, determined by the size of the school district. Small districts were determined to have student populations of up to 3,000 , medium districts had populations of from 3,001 to 10,500 students, and large districts had student populations in excess of 10, 500.<sup>109</sup> This was to allow two different comparisons to be made--

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<sup>109</sup> North Carolina Education Directory 1991-92. (Raleigh, N.C.: North Carolina Department of Public Instruction, 1991).

**one from the city/county perspective, and one from the small/medium/large system viewpoint. Chapter IV provides the information derived from these comparisons.**



## CHAPTER IV

### ANALYSIS OF THE DATA

The purposes of this study were (1) to review the literature affecting public schools regarding religious practices, (2) to survey randomly selected public school administrators in North Carolina regarding religious practices in their schools, (3) to analyze the data and formulate conclusions from the random sample of public school administrators regarding situations involving religious practices, and (4) to provide data so that school officials and school board members may formulate policy consistent with judicial decisions.

The literature regarding religion in the schools was reviewed with a major emphasis on the court cases litigated in this area. The intent was to examine several of the major religion cases from earlier years and follow up with those of more recent years which have been used to test or interpret the earlier decisions. From these cases, items were deduced for the development of a questionnaire. The instrument (found in Appendix B) was formulated as stated in Chapter III. More revision of the original survey instrument was made (Appendix C) before arriving at the final form (Appendix D).

As indicated in Chapter III, a survey was made of randomly selected principals in North Carolina's public schools which contained any of the grades seven through twelve. Chapter IV provides a summary of the

findings and an analysis of the data received, predicated on principals' responses to the survey questions.

The results of each of the questions one through thirty is shown by the use of a table. Each table is numbered to correspond to the appropriate survey question, and shows the total number of "Yes" and "No" answers from each of the principals who responded to the survey. The total number of responses in each question is one hundred sixty-eight. (These numbers are also shown in the numerical responses in Appendix E and Appendix F, shown by whether the principal's school would be a part of a city or county administrative unit and also whether the school is a part of a small, medium, or large administrative unit, as explained in Chapter III.) A narrative of the results of each question is also included.

The results of the survey can be addressed by certain themes: curricular, noncurricular, and extracurricular. The tables which refer to curricular issues are tables 16-21; the noncurricular issues are in tables 1, 5-15, 23-26, and 28-30; the extracurricular issues are found in tables 2-4, 7, 22, and 27.

**TABLE 1**

**Does your school system have a written policy dealing with religious practices?**

YES	82
NO	57
DON'T KNOW	26
NOT APPL.	0
NO RESPONSE	3

Table 1 shows the results for the first question, "Does your school system have a written policy dealing with religious practices?" It showed 82 of the 168 principals responding positively. This was 48.8% of the respondents. Fifty-seven (57) principals responded negatively, while 26 responded they don't know if there is such a policy in their system. When analyzing these numbers as city and county schools, 61% of the schools in city units and 47% of county schools responded "yes". Another perspective showed schools in large systems responded positively on 69% of the surveys. Schools in small systems responded at a 38% rate, and schools in medium school districts had a 30% positive response.

**TABLE 2****Does team prayer occur before athletic contests?**

YES	81
NO	52
DON'T KNOW	32
NOT APPL.	2
NO RESPONSE	1

Question two asks, "Does team prayer occur before athletic contests?" The question is not whether prayer is allowed but whether it takes place. Eighty-one principals said team prayers occur, while 52 said "no", and 32 principals didn't know whether or not team prayers take place. These results are shown in Table 2.

Schools in city and county systems each responded positively at a 48% rate. Schools in medium-size school districts responded "yes" at a 58% rate. This was the highest percentage when looking at the three size groups for the schools.

**TABLE 3****Is there a "stadium prayer" before athletic contests?**

YES	33
NO	129
DON'T KNOW	3
NOT APPL.	2
NO RESPONSE	1

Table 3 shows 33 principals are aware of (or perhaps participate in) stadium prayer before athletic contests. One hundred twenty-nine said this practice is not allowed at their schools. Three principals didn't know, two said this question did not apply to their schools, and one principal did not respond to this question. Overall, this question was answered negatively at a rate of 77%.

**TABLE 4****Does a formal prayer occur before school programs?**

YES	35
NO	131
DON'T KNOW	0
NOT APPL.	1
NO RESPONSE	1

As shown in Table 4, it is obvious from the results of this question that almost all the schools surveyed are complying with either the wishes of the courts or the communities they serve. One hundred thirty-one of the 168 principals returning surveys said they do not have a formal prayer before school programs. As might be expected after looking at the results of question number one, schools in city units and large systems once again had the higher percentages of responses on this question. The overall percentage of negative answers on this question was 78%.

**TABLE 5**

**Does your school observe a moment of silence  
at the beginning of the school day?**

YES	50
NO	118
DON'T KNOW	0
NOT APPL.	0
NO RESPONSE	0

Even though North Carolina enacted a General Statute in 1985 allowing a moment of silence to be observed at the beginning of the school day, it is clear that many schools and systems choose not to participate. Table 5 shows that 118 principals, or 70%, do not observe the moment of silence in their schools. Schools in city units (as determined in this survey), who generally have written policies dealing with religion (see question #1), have also overwhelmingly chosen to skirt the issue of religion by not observing the moment of silence. Only one (1) school of the 23 responding engages in the moment of silence. Schools which are part of large systems were more evenly split on this question. Thirty-four principals responded "yes", while 41 responded "no".

**TABLE 6**

**Have you ever been asked to discontinue a religious practice in your school?**

YES	11
NO	157
DON'T KNOW	0
NOT APPL.	0
NO RESPONSE	0

Table 6 shows another strong response in the negative with 157 principals saying they have not been asked to discontinue a religious practice in their schools. The way the question is stated would allow the continuance of a practice. Since the participants were not asked if they were conducting a religious practice which should be stopped, they could be allowing something to take place simply because they have not been requested to cease.

Only 11 principals indicated they had been asked to discontinue some religious practice. Of these responses, the most common practices which were asked to be stopped were (1) allowing the distribution of Gideon Bibles and New Testaments, and (2) having devotions as a part of the school's PTA or PTO meetings. The overall "no" response on this question was 93%.



**TABLE 7**

**Do you have a Fellowship of Christian Athletes Organization in your school?**

YES	51
NO	117
DON'T KNOW	0
NOT APPL.	0
NO RESPONSE	0

Once again, although a religious group could be allowed to meet on the school campus as mentioned in the Equal Access Act, the majority of the respondents have chosen to not offer the opportunity for a Fellowship of Christian Athletes (FCA) organization to meet. Seventy-one high school principals responded to the survey (100 were sent a questionnaire). Of this number, eleven (11) said they do have such a student organization in their schools. The remainder were included in the 157 who do not offer FCA as a part of the students' opportunities.

Perhaps there has not been sufficient interest in pursuing the formation of this organization in these schools simply because of the residual effect of the formal prayer ban as enacted in 1962. The eleven who

do have the FCA make up 15% of the high school principals who responded to the survey, and 6.5% of the entire survey.

**TABLE 8**

**Has the "Equal Access Act", P.L. 98-377 of 1984, ever been the reason for anyone requesting to use your school facility for a religious activity?**

YES	15
NO	133
DON'T KNOW	20
NOT APPL.	0
NO RESPONSE	0

Table 8 indicates 15 principals responded "yes" to this question, while 133, or 79% answered "no". Twenty (20) principals answered they don't know if this has been done in any of their particular situations. It is most likely in North Carolina that religious groups do not ask to use school facilities for religious purposes. Their most common request would be to use some part of the school for some type of fund-raising activity. This may be in the form of a special supper or for a gospel singing program.

Of the 15 positive responses, one (1) was from a school in a small system, 7 were from medium-sized school systems, and 7 were from large

school systems. Another perspective shows that 4 of the 15 responses were from schools in city systems and 11 were from schools in county systems.

**TABLE 9**

**Do ministers meet with students during the school day for the purpose of counseling?**

YES	9
NO	159
DON'T KNOW	0
NOT APPL.	0
NO RESPONSE	0

Table 9 shows the large number of negative responses on this question, as 159, or 94.6%, of the principals do not allow this particular practice to occur in their schools. There appears to be a very conscious effort to restrict ministers from school campuses for the purpose of counseling. Since all public schools are provided with counseling services through the school system, either on a part-time or full-time basis, the need to allow ministers to come in to counsel students is unnecessary. There are tragic situations such as the death of several students in a bus accident or

automobile accident which may initiate the use of ministers to help console grieving students. This is due to the large numbers of students whom the regular counselors may not be able to serve in a reasonable and timely manner during this period of crisis. However, these are rare occurrences.

**TABLE 10**

**Do community religious groups use your school facilities?**

YES	87
NO	80
DON'T KNOW	0
NOT APPL.	0
NO RESPONSE	1

This question was the most evenly divided of the facilities questions, and was the second most evenly divided question of the survey. Table 10 shows 87 positive responses and 80 negatives. This is a 52% positive response rate. This should be compared with question #8 which referred to the Equal Access Act (EAA). In that question, 78% of the total respondents said the EAA had not been a reason for requesting the use of school facilities for a religious activity. It may be that the wording of question #10

was not specific enough in that it did not emphasize that the question was asking for use of facilities for religious activities. Many of the "yes" responses indicated use by church groups for fundraising activities such as spaghetti suppers or gospel singings, or for recreational activities for their members.

Schools in city and county school systems had identical 52% positive response rates. The small school systems were the most positive group with a 69% positive response. In small communities, the school is often the only place with meeting rooms or other areas large enough to accommodate activities planned by the local churches. Therefore, the school facilities are requested because they are the most appropriate for the planned activities. In these times of trying to emphasize the "community school" movement, care must be taken to balance the "accommodation" interest against those who may perceive this as endorsement of a religious theme or group.

**TABLE 11**

**Are posters displayed in school announcing community church activities?**

YES	49
NO	117
DON'T KNOW	0
NOT APPL.	0
NO RESPONSE	1

Displaying posters of upcoming church activities is allowed in 49 of the responding schools. Almost 70%, or 117, of the principals said this practice is not allowed. Displaying posters of religious activities could bring about the perception that the school is endorsing religion, even when the actual intent is merely to provide a public service. Administrators have become more cognizant of what is displayed or advertised in their schools.

**TABLE 12**

**Do religious groups distribute their literature to students in your school?**

YES	14
NO	153
DON'T KNOW	0
NOT APPL.	0
NO RESPONSE	1

Fourteen principals indicated they still allow the distribution of religious materials to their students, while 153 do not allow the practice. Administrators are becoming more aware of the many "religious" groups who want to distribute literature. The most popular group would be the Gideons who ask to distribute copies of the New Testament or the Holy Bible. However, if one group is allowed to distribute their religious literature, the same opportunity should be afforded any other group who requests it. Denial of this practice to the Gideons, and therefore other groups, has increasingly become the method administrators use in facing this issue.

**TABLE 13**

**Do you have a school-sponsored Bible club in your school?**

YES	6
NO	161
DON'T KNOW	0
NOT APPL.	0
NO RESPONSE	1

School-sponsored Bible clubs, according to the responses to this question, are a thing of the past. One hundred sixty-one principals said they do not have this activity in their schools. Six (6) principals do have Bible clubs. This indicates schools have never had or have eliminated Bible club sponsorship, which could have been interpreted as endorsement or promotion of religion.

Another reason for elimination of these clubs could be the lack of a faculty member to serve as the sponsor or advisor for the club. Given the great demands on teachers in preparing for their classes, attending many staff development activities, and assisting with various programs, teachers have very little time to participate in other activities. When they do sponsor or advise a club, they will more likely be sponsoring a co-curricular activity.



**TABLE 14**

**Do you excuse the absences of students who miss school as a result of religious holidays?**

YES	139
NO	24
DON'T KNOW	0
NOT APPL.	2
NO RESPONSE	3

On this question, 139 principals said they do excuse students' absences for religious reasons, while 24 administrators said they do not. When looking at these responses by city/county breakdown, schools in city systems responded 100% for excusing the absences. County schools allowed the absences to be excused in 80% of the responses.

Schools in large systems, where more diverse religious groups are likely to be found, excused these absences in 89% of the responses, while medium districts reported 81% and small districts were only 69% in compliance with the practice.

The high number of "yes" answers on this question indicates that schools and their respective units accept the idea of allowing students to

take part in the expression of religious freedom, even when they must miss school to participate.

**TABLE 15**

**Do you excuse employees' absences incurred as a result of religious holidays?**

YES	112
NO	45
DON'T KNOW	2
NOT APPL.	6
NO RESPONSE	3

As reported in Table 15, there were 112 positive responses on this question and 45 negatives. Employees' absences can be excused as opposed to unexcused, but most of these situations are probably covered by the employee's requesting personal leave days for the period of time to be away from the job. Should the number of days requested exceed the number normally granted the employee, may request unpaid leave for the balance.

This procedure generally has been approved by the courts. Both Title

VII of the Civil Rights Act of 1964<sup>110</sup> and the free exercise clause require school boards to make reasonable accommodations for employees' religious needs, including religious leave. Even though accommodations must be made, they must not experience undue hardship in doing so.<sup>111</sup>

**TABLE 16**

**Have you ever had a library book challenged due to religious reasons?**

YES	18
NO	150
DON'T KNOW	0
NOT APPL.	0
NO RESPONSE	0

Eighteen (18) principals indicated they had been through a library book challenge before. This makes up 10.7% of the respondents. Although the large majority of principals had not experienced this procedure at the time of the survey, they may find themselves in that situation in the near

<sup>110</sup> 42 U.S.C., Sec. 2000e-2(a)(1) (1976).

<sup>111</sup> Trans World Airlines, Inc. vs. Hardison, 432 U.S. 63 (1977).

future. Given the increased amount of literary freedom in our society, and the extremely open ways in which people interpret reading materials, administrators would be well advised to prepare for the eventual challenge of some type of reading material in their schools.

A formal procedure for handling library book challenges should be in place. This is discussed further in Chapter V.

**TABLE 17**

**Have you ever had a textbook challenged due to religious reasons?**

YES	4
NO	163
DON'T KNOW	0
NOT APPL.	0
NO RESPONSE	1

On this question, only four (4) principals indicated they have had a textbook challenged. As on the previous question, administrators would be advised to prepare for such a challenge. A good system-level textbook selection process can be very valuable in eliminating possible challenges by

not only looking at the academic or instructional level of a textbook, but also by examining it for any questionable methods, characters, or procedures.

**TABLE 18**

**Does your school district have a written policy regarding the challenge of library books?**

YES	127
NO	20
DON'T KNOW	19
NOT APPL.	0
NO RESPONSE	2

Although only 18 principals have been through a library book challenge, examination of city/county units and small/medium/large school systems reveals that over two-thirds of each group reported that their districts have written policies to address this issue. Having a plan in place allows administrators to handle challenges in a systematic way, thus eliminating the embarrassment of having to develop a procedure after a challenge has been presented.

**TABLE 19**

**Does your school district have a written policy regarding the challenge of textbooks?**

YES	118
NO	27
DON'T KNOW	18
NOT APPL.	0
NO RESPONSE	5

The responses to this question were comparable to the previous question. As Table 19 indicates, 118 principals stated their school system has a written policy in place for the challenge of textbooks. It is very likely that their written policy encompasses both library books and textbooks. Other instructional materials should also be included in such a policy. Approximately 11% (18) of the principals surveyed said they didn't know if they had such a policy available.

**TABLE 20**

**Is the study of religion from a historical perspective included in your school's curriculum?**

YES	111
NO	55
DON'T KNOW	0
NOT APPL.	0
NO RESPONSE	2

Principals from 111 schools indicated they include religion in their curriculum from a historical perspective. The 55 "no" responses were from schools with the lower grade levels in the survey. High schools (71 high school principals responded) would be more likely to include religion in their studies of ancient civilizations and cultures. Historical studies allow students to achieve a chronological placement of the religions being studied and the degree of impact on the peoples of the world who were associated with the particular religion being studied.

The study of religion does not violate the Constitution in either the free exercise or establishment clause. When it is studied as any secular subject, there is no advancement or endorsement intended.

Eighty-three percent (83%) of the schools in city systems and 62% of schools in county systems responded "yes" on this question. Approximately 74% of schools in large systems had the same response.

**TABLE 21**

**Is the study of religion from a literary perspective included in your school's curriculum?**

YES	84
NO	83
DON'T KNOW	0
NOT APPL.	1
NO RESPONSE	0

These were the most evenly divided responses of the entire survey, as can be seen in Table 21. Principals from schools in city units marked "yes" on 65% of the surveys, while principals from county schools marked "no" on 52% of their surveys. With an overall 50% response in the "yes" category, it is obvious that many schools use parts of the Bible in their literature classes for examples of various writing styles. This does not



violate the First Amendment since it does not endorse or advance religion; rather, it uses excerpts for comparisons of styles.

**TABLE 22**

**Does Bible reading occur before an athletic contest?**

YES	3
NO	162
DON'T KNOW	1
NOT APPL.	1
NO RESPONSE	1

This question brought about the third highest "no" response of the entire survey with 162 principals responding that way. There were three (3) principals who have Bible reading before an athletic contest. The overall "no" response for the survey averaged 96.4%.

**TABLE 23****Does Bible reading occur before a school program?**

YES	20
NO	146
DON'T KNOW	0
NOT APPL.	1
NO RESPONSE	1

Twenty principals responded they allow Bible reading before school programs while 146 have eliminated the practice. Those who still use Bible reading do so as a part of their PTA or PTO programs. It is not clear, depending on which interpretation is used, whether parents' organizations fall under the exact guidelines that schools are compelled to use. It may be difficult to draw a dividing line between the school and its various appendages, such as a parents' organization.

**TABLE 24**

**Is your school's public address system used to assist religious practices?**

YES	2
NO	165
DON'T KNOW	0
NOT APPL.	1
NO RESPONSE	0

Only two (2) principals responded "yes" on this question, and 165 said "no". One principal replied "not applicable" although this type of answer on this question is not fully understood. Referring back to question #3 which asked if a stadium prayer occurs before athletic contests, thirty-three (33) principals said they had stadium prayer. If the public address system is used to amplify the prayer for the spectators, this could be described as using the public address system for religious purposes.

**TABLE 25**

**(A) Does your school have a graduation ceremony?  
 (B) If "yes", is prayer a part of the ceremony?  
 (C) If "yes", is the prayer led by a student?**

NO/A	51
YES/A NO/B	15
YES/AB NO/C	40
YES/ABC	59
NR	3

This multiple-part question was used to determine if prayer is used at those schools who have graduation ceremonies, and if students lead prayers at these activities. A look at Table 25 shows the results of this particular question.

First of all, 51 principals stated they do not have a graduation ceremony. Since there were 97 schools in the survey with grade organizations below high school level, this number is understandable. Fifteen principals indicated they have graduation, but prayer is not included.

Forty (40) principals have graduation ceremonies which include prayer, but students do not lead the prayer. There were a total of 59

principals whose schools have graduation ceremonies, and have a student-led prayer. Three (3) principals did not respond to this question.

Allowing prayer at graduation ceremonies has once again become a timely topic as recent litigation has addressed this issue. The United States Supreme Court determined on June 24, 1992, that the prayer used by a rabbi at a middle school graduation was unconstitutional.<sup>112</sup> The text of his prayer and benediction may be seen in Appendix VII.

**TABLE 26**

**(A) Does your school have a baccalaureate service?  
(B) If "yes", is attendance voluntary?**

YES/A & B	20
NO/ A	140
NO/ B	2
NR	6

This two-part question was inserted to determined the response to the traditionally religious nature of the baccalaureate service. This ceremony

<sup>112</sup> Weisman v. Lee, 908 F. 2d 1090 (1st Circuit 1990).

is usually on the Sunday preceding graduation and contains a sermon or message which is spiritual in nature. It may also contain songs which are directly associated with religion (hymns).

The second part of the question was to determine attendance requirements at those schools which continue this ceremony. Since the ceremony is considered religious in nature, it is expected that those who continue the service do not require students to attend.

Table 26 shows there were 18 principals whose schools have baccalaureate services at which attendance is voluntary. Four (4) principals conduct this ceremony and require students' attendance. There were 140 schools which do not continue the tradition of baccalaureate, and six (6) principals did not respond to this question.

TABLE 27

**Is prayer before athletic contests and/or school activities allowed, or disallowed, because of:  
(A) legal duty, (B) school board policy, (C) local custom, or  
(D) your own beliefs?**

A	25
B	14
C	100
D	12
NA	2
NR	15

According to this writer's hypothesis, decisions will be made mainly by local custom, which could include school board policy. In this question, "local custom" was the most popular with 100 principals making this choice. School board policy had 14 responses. A combination of these two answers accounts for 67% of the responses. These two are combined here because school board policy greatly influences local customs, and vice versa. Twenty-five administrators indicated their decisions would be made according to legal duty.

**TABLE 28**

**The moment of silence is observed/not observed because of:  
 (A) legal duty, (B) school board policy, (C) local custom,  
 (D) your own beliefs?**

A	17
B	54
C	63
D	15
NA	4
NR	15

The moment of silence is observed, or not observed, in the surveyed schools because of local custom (63 responses) followed closely by school board policy with 54 responses. Comparing this with a composite of the responses for question #5 dealing with the moment of silence, 70% of the respondents indicated they do not observe the moment of silence. Therefore, slightly more than one-third (37.5%) of the principals do not observe the moment of silence because of local custom, while less than one-third of the principals (32%) indicated that school board policy has determined this for them.



**TABLE 29**

**Can religious groups distribute/not distribute their literature to students because of (A) legal duty, (B) school board policy, (C) local custom, or (D) your own beliefs?**

A	32
B	76
C	36
D	12
NA	2
NR	10

As shown in Table 29, school board policy had the most responses with 76. Local custom had the next highest total with 36. Combining these two answers gives a total of 66% of the responses. A reference to question #12 indicated that ninety-one percent (91%) of the respondents indicated they do not allow the distribution of literature to their students. Obviously, this has been determined for a large part by school board policies across the state.

**TABLE 30**

**Would approval for use of your facilities/denial of use of your facilities, in regard to the Equal Access Act, be decided by: (A) legal duty, (B) school board policy, (C) local custom, or (D) your own beliefs?**

A	31
B	114
C	12
D	3
NA	0
NR	8

One hundred fourteen principals indicated that school board policy would be the determining factor in approving or denying use of facilities in regard to the Equal Access Act (EAA). Thirty-one principals responded that legal duty would determine the decision made, while 12 principals would decide according to local custom. In question #8, 133 principals said that the EAA has not been a reason for requesting the use of facilities by religious groups. Perhaps these groups in North Carolina have not met

resistance at a level which would cause them to invoke the EAA in order to obtain facilities for their use. From the results in Table 30, it appears principals would depend on school board policy to resolve this issue.

### **Summary**

This was a descriptive study utilizing a mailed survey. The sample included 237 principals from schools across the state, representing each educational region. One hundred high schools and 137 other schools which included grades seven and above were sent a questionnaire. Seventy-one (71) high schools and 97 other schools responded.

The results of each of the thirty questions has been indicated in a table showing the number of responses for each answer choice. A brief narrative of the results of each question has also been provided. Conclusions and recommendations as a result of the survey are presented in Chapter V.

## CHAPTER V CONCLUSIONS AND RECOMMENDATIONS

### Introduction

Religious activities in the public schools are a topic of ongoing, often emotional controversy. In dealing with religious matters, school officials frequently find themselves in a situation of conflict. They are forced to make a choice between public sentiment and their legal obligations. If they follow public sentiment, they will eventually be reprimanded for not performing their lawful obligations. It is inevitable, however, that when they take the legal standpoint, they will be confronted by public demands to make exceptions to the rules.

The purposes of this study were (1) to review the literature affecting public schools regarding religious practices, (2) to survey randomly selected public school administrators in North Carolina regarding religious practices in their schools, (3) to analyze the data and draw conclusions from the random sample of public school administrators regarding school religious practices, and (4) to provide data so that school officials and school board members may formulate policy consistent with judicial decisions.

A questionnaire for the study was developed, pilot-tested, and revised. After revision, the instrument was sent to a randomly selected group of 237 public school principals from eleven city units and thirty-two county units in North Carolina. These schools represented each of the six regional

### **Technical Assistance Centers.**

Due to the nature of the items on the questionnaire, the selection of principals was limited to those whose schools included any of the grades seven through twelve. This was because some of the questions dealt with activities such as athletic contests which are sanctioned by the State Board of Education beginning at the seventh grade level.

### **Research Questions**

This study sought the answers to four research questions.

1. What is revealed in the literature regarding religious practices in the public schools?

The Massachusetts Bay settlers came from England to establish a new land in 1620 where they could worship as they wanted, free from the Church of England. Early schools in the colony were centered on religion. Children were expected to learn to read the Bible so they could resist "the old deluder, Satan".

Throughout the colonial period and the first century of our country's history, religion has been a central feature of education. Most children were taught at home or in church-related schools whose purpose was to teach reading and the other skills necessary to live according to the religious ideals of the community. These schools, like the communities, were basically homogeneous; however universal attendance was not compulsory.

After 1840, states began to establish state-wide school systems. At that time European immigrants - many of whom were Roman Catholics -

arrived and established parochial schools. In an effort to avoid state support of church-related schools, many states amended their constitutions to prevent parochial schools from receiving public funds. Some state constitutions still contain these provisions.

Church-state issues were raised to the Supreme Court level beginning in 1908 with the Quick Bear v. Leupp<sup>113</sup> decision. From the many cases litigated by the Court, key phrases and defenses have emerged, such as the "wall of separation of church and state", "child-benefit theory", and the "Lemon test", also called the "tripartite test".

According to current literature, litigation continues to uphold past decisions on school prayer, prayer at school functions, and distribution of religious literature. These can be summed up as follows: Student-initiated prayer is guaranteed as a freedom under the First Amendment. However, prayer which is conducted, or influenced, by the school is unconstitutional. This means the tradition of having "stadium prayer" before an athletic event or a PTA meeting is unlawful if it is the result of school-directed procedures.

Another avenue of allowing student prayer without school influence is the "moment of silence", which may be spent in prayer or meditation, as long as the school does not structure the moment to be for that purpose.

Distribution of literature on school campuses is still somewhat of an issue, which is resolved by the principle of equality. If one group is allowed to distribute its literature, any other group must be allowed the same

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<sup>113</sup>210 U.S. 50 at 8 (1908).

**opportunity.**

**Additional legislation such as the Equal Access Act has clarified the problem of religious groups requesting the use of school facilities.**

**2. What procedures are followed in the selected public schools regarding religious practices?**

**Data gathered from the survey questionnaire used in this study show various procedures used in the selected schools. These vary according to the location and size of the school and the school district.**

**The survey revealed that some principals still allow certain religious practices. These include prayer led by school officials before athletic contests by both team members and spectators, displaying posters of community church activities, distribution of literature, reading the Bible before school programs, and conducting prayer at graduation and baccalaureate ceremonies. Other principals have kept up with legal procedures, either directly or indirectly, and have eliminated or altered the practices mentioned above.**

**3. What determines the administrators' decisions about a religious practice in their schools?**

**It was hypothesized that most decisions would be made according to local custom which could include school board policy. The questions about decision making were evenly split between local custom and school board policy.**

**The majority of principals in favor of local custom (questions 27 and 28) described situations which are more favorable for a local decision. Questions 29 and 30 described issues which more realistically are decided**

by a school board policy. It is common knowledge that some minor decisions regarding religious practices are based on the principal's own beliefs. These personal beliefs color the way an administrator sees the use, misuse, or absence of the above-mentioned practices. Whereas some administrators will allow certain religious practices, others will not.

4. What conclusions can be reached regarding the decision-making process of North Carolina's public school administrators dealing with religious practices?

The decision-making questions in the study showed that local custom was the determining factor in prayer-related issues, while the issues of literature distribution and equal access to school facilities by religious groups were decided by school board policy. The conclusion drawn by these answers is that principals are willing to make decisions on prayer issues according to their own sympathies or beliefs. They prefer that school board policy address the other issues included in the questions. Additional questions on the decision-making process are needed to make a more accurate assessment.

### **Conclusions**

Based upon the review of the literature and an analysis of the data collected from the responses of selected public school principals in North Carolina, the following conclusions are presented:

1. Religion is a major issue when discussing public education. Indeed, it has been a central theme throughout the history of American education. In legal terms, the Supreme Court has wrestled with religion



from the time of Quick Bear in 1908 up to the 1990 Weisman case. This indicates that religion will continue to be an important topic of discussion.

2. The Supreme Court has established norms by which educators can evaluate their policies and procedures. Landmark cases by the Court have given rise to terms such as the "child-benefit theory" and the "tripartite test", which are essential ideas in the day-to-day operations of the schools.

3. The First Amendment of the Constitution of the United States has taken the place of the Fourteenth Amendment in determining the basis for certain rights in regard to religion in the schools. Formerly religious issues in the public schools were argued on the basis of section one of the Fourteenth Amendment which relates to the State's interests in providing due process and equal protection. It is now the public school standard to refer to religious issues by associating them with either the establishment clause or the free exercise clause of the First Amendment.

4. Findings from the survey revealed that a school board policy regarding religion is in place in 48.8% of the responding schools. This is not sufficient. All school boards should have a policy addressing this issue. Ignoring it will not make the problem disappear, and failure to have such a policy in place may cause substantial embarrassment when a confrontation takes place.

5. Student-initiated prayer is, and always has been, constitutional. The general public overreacted to the decision handed down by the Supreme Court in 1962, thinking the Court had banned prayer in schools. This common misconception has survived years of controversy. As long as

students do not disrupt school activities or try to force their beliefs or actions on others, they are free to pray on the school campus.

6. The moment of silence is used in only 30% of the schools in the survey. Most of these principals have made a local decision not to participate in this procedure as established by the North Carolina Legislature. This practice is legal when it is not presented in such a manner as to indicate any religious connotation. As long as the moment of silence is unstructured as to format of what should be done during the time allotted, it is constitutional.

7. Prayers at school events are deemed constitutionally sound if they are not conducted or influenced by school officials. Stadium prayer, according to the principals in the survey, is not nearly as prevalent as it has been. However, team prayers are still very much in evidence in the surveyed schools.

8. Students have the right to meet with other students for religious purposes. The Equal Access Act allows students the freedom to meet on campus and discuss religious issues. Freedom of speech is a fundamental right mandated in the Constitution and does not exclude the school yard.

9. Although school facilities are used by religious groups on a routine basis, no clear statement can be made from this survey regarding the religious nature of the use. In most schools whose principal indicated usage, non-religious activities were conducted by the religious groups on the school premises.

10. Distribution of religious literature continues to be controversial. Students do have a right to distribute literature of a religious nature on

campus, as long as they do it on a one-to-one basis. If they want to hand out large quantities of material, they should get prior approval from the school officials. However, literature should not be handed out in classrooms, or stuffed into lockers. This right to distribute literature does not extend to any individual or organization from off campus. Any literature distribution must be initiated and led by students.

11. Distribution of religious literature is practiced by very few schools in the survey. Ninety-one percent (91%) of the principals responded that religious groups do not distribute literature in their schools.

12. School boards governing the majority of schools in this survey have already addressed the issue of library book and textbook challenges by making an appeals procedure part of board policy.

### **Recommendations**

Based on the results of judicial decisions and the responses from the principals who took part in this study, the following recommendations are made:

1. All school districts should have a comprehensive written policy regarding religion which is structured to account for the many religious sects in today's society.

2. Constitutional requirements and judicial decisions mandate that organized prayer which could be perceived as being promoted or endorsed by the school shall not occur. Individuals are not restricted from the use of prayer.

3. A moment of silence, without encouragement of religious

connotation, is constitutional. This is allowed by North Carolina General Statutes.

4. A written policy for the use of school facilities should be formulated in order to clarify what types of activities may or may not take place.

5. Fee structures for the use of school facilities should be established and administered equally. The same fee for the use of the facilities should apply whether the group using it is a civic club or a religious group. This would eliminate any discrimination charges.

6. Distribution of printed religious material should not be permitted in the public schools. Allowing one "acceptable" group to distribute their literature gives other "unacceptable" groups the same constitutional right to distribute their literature.

7. Due to the nature of First Amendment constitutional freedoms, an Educational Media Committee should be established at both the school and system levels to prepare, with board of education approval, a procedure to address a challenge of any instructional materials. On the school level, this committee should consist of the principal, media coordinator, teachers, and parents. The system level committee should consist of the director of media services, the director(s) of instruction, a principal and teacher from each of the grade organization levels, and several parents.

### **Recommendations for Further Study**

This study was conducted to examine pertinent court cases and

establish a knowledge base of religious practices present in selected public schools in North Carolina having any of the grades seven through twelve. With some modifications by way of additional questions and deletions of particular questions, this survey could be conducted in schools with elementary grades from kindergarten through sixth grade. Some religious practices take place in the elementary grades which were not addressed on this study.

Further study of current litigation and legislation in the area of religion should be undertaken periodically to keep abreast of any changes which could cause potential problems in the schools. With the help of the State Board of Education and agencies such as the Institute of Government in Chapel Hill, trends in education law can be presented to local boards of education and principals in a timely manner.

## BIBLIOGRAPHY

- Alexander, Kern. School Law. St. Paul, Minn.: West Publishing Company, 1980.
- Berdie, Doug R., John F. Anderson, and Marsha A. Niebuhr. Questionnaires: Design and Use. 2d ed. Metuchen, N. J.: The Scarecrow Press, Inc., 1986.
- Bereday, George Z. F., and Luigi Volpicelli, eds. Public Education in America. New York: Harper and Brothers, 1958.
- Black's Law Dictionary. 5th ed. St. Paul, Minn.: West Publishing Company, 1979.
- Black's Law Dictionary. 6th ed. St. Paul, Minn.: West Publishing Company, 1991.
- Brinkley, J.W. Student's Legal Rights on a Public School Campus. Fort Worth, Tex.: Roever Communications, 1990.
- Bryson, Joseph E., and Samuel H. Houston, Jr. The Supreme Court and Public Funds for Religious Schools: The Burger Years, 1969-1986. Jefferson, N.C.: McFarland and Company, Inc., 1990.
- Church, Robert L. Education in the United States: An Interpretive History. New York: The Free Press, 1976.
- Cremin, Lawrence A. American Education: The Colonial Experience, 1607-1783. New York: Harper and Row, 1970.
- \_\_\_\_\_. The Transformation of the School: Progressivism in American Education, 1876-1957. New York: Alfred A. Knopf, 1969.
- Gibbs, Nancy. "America's Holy War." Time, 9 December 1991, 60-68.
- Good, H. G. A History of American Education. New York: The Macmillan Company, 1956.
- Grill, Henry Stephen. "A Study of the Evaluation Process of School Superintendents in North Carolina." Ed.D. diss., University of North Carolina at Greensboro, 1978.

- Hudgins, H. C., Jr., and Richard S. Vacca. Law and Education: Contemporary Issues and Court Decisions. Charlottesville: The Michie Company, 1985.
- Lockhart, Daniel C., ed. Making Effective Use of Mailed Questionnaires. San Francisco: Jossey-Bass Publishers, 1984.
- Menacker, Julius. School Law: Theoretical and Case Perspectives. Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1987.
- Mobley, Phillip Anthony. "The Legal Impact of Conservative New Right Influences on Public School Curriculum". Ed.D. diss., University of North Carolina at Greensboro, 1987.
- Monroe, Paul. Founding of the American Public School System. New York: The Macmillan Company, 1940.
- Nasaw, David. Schooled to Order. New York: Oxford University Press, 1979.
- North Carolina Education Directory 1991-92. Raleigh: North Carolina Department of Public Instruction, 1991.
- O'Hair, Madalyn. An Atheist Epic. Austin, Texas: American Atheist Press, 1989.
- Panoch, James V., and David L. Barr. Religion Goes to School. New York: Harper and Row, 1968.
- Pfeffer, Leo. Church, State, and Freedom. Boston: Beacon Press, 1967.
- Provenzo, Eugene F., Jr. Religious Fundamentalism and American Education. Albany, N. Y.: State University of New York Press, 1990.
- Ravitch, Diane. The Great School Wars: New York City, 1805-1973. A History of the Public Schools as Battlefield of Social Change. New York: Basic Books, Inc., 1974.
- Sender, Benjamin B. "Religion and the Public Schools". In Education Law in North Carolina, edited by Robert E. Phay, Chapel Hill, N. C.: The Institute of Government, 1988.

- Thayer, V. T. Religion in Public Education. New York: The Viking Press, 1947.
- \_\_\_\_\_. The Attack Upon the American Secular School. Boston: Beacon Press, 1951.
- Vitz, Paul C. Censorship: Evidence of Bias in Our Children's Textbooks. Ann Arbor, Mich.: Servant Books, 1986.
- Webster's New World Dictionary of the American Language. Cleveland: The World Publishing Company, 1968.
- Whitehead, John W. The Rights of Religious Persons in Public Education. Wheaton, Ill.: Crossway Books, 1991.
- Woody, Thomas. Quaker Education in the Colony and State of New Jersey. Philadelphia: The University of Pennsylvania, 1923.
- Zirkel, Perry A., and Ivan B. Gluckman. "The Constitution and the Curriculum", NASSP Bulletin 72 (September 1988): 116-118.

#### TABLE OF CASES

- Abington School District v. Schempp, 374 U.S. 203, 83 S. Ct. 1560 (1963).
- Bell v. Little Axe Independent School District No. 70, 766 F. 2d 1391 [226 Ed. Law Rep. 152] (10th Cir. 1985).
- Bender v. Williamsport Area School District, 741 F. 2d 538 (3d Cir. 1984), *vacated*, 475 U.S. 534, 106 S. Ct. 1326, 89 L. Ed. 2d 501 [30 Ed. Law Rep. 1024] (1986).
- Bennett v. Livermore Unified School District, 193 Cal. App. 3d 1012, 238 Cal. Reporter 819 (Cal. Ct. App. 1987).
- Board of Education of the Westside Community Schools, District 66, et. al. v. Bridget C. Mergens, By and Through Her Next Friend, Daniel N. Mergens, et. al., 495 U.S. --, 110 L. Ed. 2d 191, 110 S. Ct. 2356 (1990).
- Board of Education v. Allen, 392 U.S. 236 (1968).



- Brandon v. Board of Education of Guilderland Central School District, 635 F. 2d 971 (2d Cir. 1980), *cert. denied*, 454 U.S. 1123, 102 S. Ct. 970, 71 L. Ed. 2d 109 (1981).
- Burch v. Barker, 651 F. Supp 1157 (1987).
- Cantwell v. Connecticut, 3210 U.S. 296 (1940).
- Cochran v. Louisiana State Board of Education, 281 U.S. 370 (1930).
- Collins v. Chandler Unified School District, 644 F. 2d 759 (1981).
- Doe v. Aldine Independent School District, 563 F. Supp. 883 (1982).
- Engel v. Vitale, 370 U.S. 421 (1962).
- Epperson v. Arkansas, 393 U.S. 97 (1968).
- Everson v. Board of Education, 330 U.S. 1 (1947).
- Frasca v. Andrews, 463 F. Supp 1043 1050 (1979).
- Garnett v. Renton School District No. 403, 865 F. 2d 1121 [51 Ed. Law Reporter 399] (9th Circuit 1989).
- Graham v. Central Community School District of Decatur County, 608 F. Supp. 531 (1985).
- Grossberg v. Deusebio, 380 F. Supp. 285 (1974).
- Hazelwood v. Kuhlmeier, 484 U.S. (1989).
- Jager v. Douglas County School District, 862 F. 2d 824 (1989).
- Lemon v. Kurtzman, 403 U.S. 602, 91 S. Ct. 2111 (1971).
- Lubbock Civil Liberties Union v. Lubbock Independent School District, 669 F. 2d 1038 [2 Ed. Law Rep. 961] (5th Cir. 1982), *cert. denied*, 459 U.S. 1155, 103 S. Ct. 800, 74 L. Ed. 2d 1003 (1983).
- Martin v. Struthers, 319 U.S. 141 (1943).
- Meltzer v. Board of Public Instruction of Orange County, 577 F. 2d 311 (5th Cir. 1978) (*en banc*) (*per curiam*), *cert. denied*, 439 U.S. 1089 (1979).
- Meyer v. Nebraska, 262 U.S. 390 (1923).
- Murray v. Curlett, 374 U.S. 203, 83 S. Ct. 1560 (1963).

Nartowicz v. Clayton County School District, 736 F. 2d 646 [18 Ed. Law Rep. 273] (11th Cir. 1984).

People of the State of Illinois ex rel McCollum v. Board of Education of School District No. 71, 333 U.S. 203, 68 S.Ct. 461 (1948).

Pierce v. Society of Sisters, 268 U.S. 510 (1925).

Quick Bear v. Leupp, 210 U.S. 50 at 8 (1908).

School District of Abington Township v. Schempp, 374 U.S. 203 (1963).

Sloan v. Lemon, 413 U.S. 472 (1973).

Stein v. Plainwell Community Schools, 822 F. 2d 1406 (1987).

Thompson v. Waynesboro Area School District, 673 F. Supp 1379 (1987).

Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969).

Wallace v. Jaffree, 472 U.S. 38 (1985), 105 S. Ct. 2479 (1985).

Weisman v. Lee, 908 F. 2d 1090 (1st Cir.1990).

Weist v. Mt. Lebanon School District, 457 Pa. 166, 320 A. 2d 362, *cert. denied*, 419 U.S. 967 (1974).

Widmar v. Vincent, 454 U.S. 263, 102 S. Ct. 269, 70 L. Ed. 2d 440 (1981).

Wisconsin v. Yoder, 406 U.S. 205 (1972).

Wood v. Mt. Lebanon Township School District, 342 F. Supp. 1293 (1972).

Zorach v. Clauson, 343 U.S. 306, 72 S.Ct. 679 (1952).

**APPENDIX A  
SURVEY LETTER**

April 10, 1992

Dear School Administrator:

You have been randomly chosen to participate in a state-wide study of the practices of religious activities in selected public schools in the state of North Carolina. This study will be conducted under the supervision of Dr. Joseph E. Bryson, Professor, Graduate School of Education, at the University of North Carolina at Greensboro. The purpose of this study is to collect information from public school principals across the state regarding religious practices which may, or may not, take place in their respective schools.

A questionnaire is enclosed for your perusal and completion. Being a school principal myself, I know how precious your time is. Therefore, the questionnaire **should only take a few minutes to complete**, due to the responses being short answers. **Your responses will not be individually identified.** Your right to personal privacy will be respected. I have also enclosed a pre-addressed, stamped envelope for your convenience. The completed questionnaire should be returned by **April 27, 1992**. If you miss the deadline, please complete and return the survey anyway. It is very important that I hear from you.

A summary of the data collected will be available for those who fill in the information at the end of the survey. Thank you for your participation and assistance in the completion of this study.

Sincerely,

Tommy Hall  
Principal

Enclosures Questionnaire  
Envelope

## APPENDIX B

### SURVEY INSTRUMENT #1

#### The Legal Aspects of the Practices of Religious Activities in Selected Public Schools of North Carolina

*An instrument designed to determine the use of religious practices in select public  
schools in North Carolina*

\*\*\*\*\*

Your answers to the survey questions will become a part of a composite look at religious practices at the schools involved in this study. Your answers will be held in strictest confidence. Thanks, in advance, for your speedy completion of this instrument. Survey results will be available for those persons interested.

**Place a check in the appropriate blank for the following information:**

How many years as a principal? 0-5 \_\_\_ 6-10 \_\_\_ 11-20 \_\_\_ Over 20 \_\_\_

Have you ever had a graduate level school law course? YES \_\_\_ NO \_\_\_

What grade levels are in your school? Elem. \_\_\_ Secondary \_\_\_

Using the North Carolina Education Directory 1991-92, what was the final membership of your school system at the end of the 1991 school year? \_\_\_\_\_

\*\*\*\*\*

**Place a check in the blank beside "YES" or "NO" to indicate your answer.**

1. Does your school system have a written policy on dealing with religious practices?  
YES \_\_\_ NO \_\_\_
2. Do you allow prayer before athletic contests or school programs?  
YES \_\_\_ NO \_\_\_
3. Does your school observe a moment of silence at the beginning of the school day?  
YES \_\_\_ NO \_\_\_
4. Have you ever been asked to discontinue a religious practice in your school?  
YES \_\_\_ NO \_\_\_
5. Do you have a Fellowship of Christian Athletes organization in your school?  
YES \_\_\_ NO \_\_\_
6. Has the "Equal Access Act", P.L. 98-377 of 1984, ever been the reason for anyone requesting to use your school facility for a religious activity?  
YES \_\_\_ NO \_\_\_

7. Do you allow ministers to meet with students during the school day for the purpose of counseling? YES\_\_\_ NO\_\_\_
8. Do you allow community religious groups to use your school facilities? YES\_\_\_ NO\_\_\_
9. Do you allow posters and/or literature to be distributed in school announcing community church activities? YES\_\_\_ NO\_\_\_
10. Do you allow religious groups to distribute their literature to students in your school? YES\_\_\_ NO\_\_\_
11. Do you have a Bible club in your school? YES\_\_\_ NO\_\_\_
12. Do you excuse the absences of students who miss school as a result of religious holidays? YES\_\_\_ NO\_\_\_
13. Do you excuse employees' absences incurred as a result of religious holidays? YES\_\_\_ NO\_\_\_
14. Have you ever had a library book challenged due to religious reasons? YES\_\_\_ NO\_\_\_
15. Have you ever had a textbook challenged due to religious reasons? YES\_\_\_ NO\_\_\_
16. Does your school district have a written policy regarding the challenge of library books and/or textbooks? YES\_\_\_ NO\_\_\_
17. Is the study of religion from a historical perspective included in your school's curriculum? YES\_\_\_ NO\_\_\_
18. Is the study of religion from a literary perspective included in your school's curriculum? YES\_\_\_ NO\_\_\_
19. Do you allow Bible reading before an athletic contest or a school program? YES\_\_\_ NO\_\_\_
20. Is your school's public address system used to assist religious practices? YES\_\_\_ NO\_\_\_
21. Does your school have a prayer at graduation? YES\_\_\_ NO\_\_\_
22. Is the prayer led by a student? YES\_\_\_ NO\_\_\_
23. Does your school have a baccalaureate service? YES\_\_\_ NO\_\_\_
24. Is attendance at baccalaureate voluntary? YES\_\_\_ NO\_\_\_

**Circle the choice which best answers the question. (NOTE: "Local custom" may also be interpreted to mean local school board policy.)**

25. Is prayer before athletic contests and/or school activities allowed, or disallowed, because of: (A) legal duty, (B) local custom, or (C) your own beliefs?
26. The moment of silence is observed/not observed because of:  
(A) legal duty, (B) local custom, or (C) your own beliefs?
27. Can religious groups distribute/not distribute their literature to students because of: (A) legal duty, (B) local custom, or (C) your own beliefs?
28. Would approval for use of your facilities/denial of use of your facilities, in regard to the Equal Access Act, be decided by:(A) legal duty, (B) local custom, or (C) your own beliefs?

**APPENDIX C**

**SURVEY INSTRUMENT #2**

**The Legal Aspects of the Practices of Religious Activities  
in Selected Public Schools of North Carolina**  
*An instrument designed to determine the use of religious practices  
in select public schools in North Carolina*

\*\*\*\*\*

Your answers to the survey questions will become a part of a composite look at religious practices at the schools involved in this study. Your answers will be held in strictest confidence. Thanks, in advance, for your speedy completion of this instrument. Survey results will be available to you if you check this box.

**Place a check in the appropriate blank for the following information:**

How many years have you been a principal? \_\_\_\_\_

What is the current grade organization in your school? \_\_\_\_\_

Have you ever had a graduate level course in school law? YES\_\_\_ NO\_\_\_

To which school system does your school belong? \_\_\_\_\_

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**DIRECTIONS:** For questions numbered 1-18, place a check in the blank beside "YES" or "NO" to indicate your answer.

1. Does your school system have a written policy on dealing with religious practices?  
YES\_\_\_ NO\_\_\_ DON'T KNOW\_\_\_
2. Do you allow prayer before athletic contests? YES\_\_\_ NO\_\_\_
3. Do you allow prayer before school programs? YES\_\_\_ NO\_\_\_
4. Does your school observe a moment of silence at the beginning of the school day?  
YES\_\_\_ NO\_\_\_
5. Have you ever been asked to discontinue a religious practice in your school?  
YES\_\_\_ NO\_\_\_  
If "Yes", please explain:\_\_\_\_\_
6. Do you have a Fellowship of Christian Athletes organization in your school?  
YES\_\_\_ NO\_\_\_
7. Has the "Equal Access Act", P.L. 98-377 of 1984, ever been the reason for anyone requesting to use your school facility for a religious activity?  
YES\_\_\_ NO\_\_\_ DON'T KNOW\_\_\_

8. Do you allow ministers to meet with students during the school day for the purpose of counseling? YES\_\_\_ NO\_\_\_
9. Do you allow community religious groups to use your school facilities? YES\_\_\_ NO\_\_\_
10. Do you allow posters and/or literature to be distributed in school announcing community church activities? YES\_\_\_ NO\_\_\_
11. Do you allow religious groups to distribute their literature to students in your school? YES\_\_\_ NO\_\_\_
12. Do you have a Bible club in your school? YES\_\_\_ NO\_\_\_
13. Do you excuse the absences of students who miss school as a result of religious holidays? YES\_\_\_ NO\_\_\_
14. Do you excuse employees' absences incurred as a result of religious holidays? YES\_\_\_ NO\_\_\_
15. Have you ever had a library book challenged due to religious reasons? YES\_\_\_ NO\_\_\_
16. Have you ever had a textbook challenged due to religious reasons? YES\_\_\_ NO\_\_\_
17. Does your school district have a written policy regarding the challenge of library books and/or textbooks? YES\_\_\_ NO\_\_\_
18. Is the study of religion from a historical perspective included in your school's curriculum? YES\_\_\_ NO\_\_\_
19. Is the study of religion from a literary perspective included in your school's curriculum? YES\_\_\_ NO\_\_\_
20. Do you allow Bible reading before an athletic contest or a school program? YES\_\_\_ NO\_\_\_
21. Is your school's public address system used to assist religious practices? YES\_\_\_ NO\_\_\_
22. Does your school have a prayer at graduation? YES\_\_\_ NO\_\_\_
23. Is the prayer led by a student? YES\_\_\_ NO\_\_\_
24. Does your school have a baccalaureate service? YES\_\_\_ NO\_\_\_
25. Is attendance at baccalaureate voluntary? YES\_\_\_ NO\_\_\_



**For questions numbered 26-29, circle the choice which best answers the question. (NOTE: "Local custom" may also be interpreted to mean local school board policy.)**

- 26. Is prayer before athletic contests and/or school activities allowed, or disallowed, because of: (A) legal duty, (B) local custom, or (C) your own beliefs?**
- 27. The moment of silence is observed/not observed because of: (A) legal duty, (B) local custom, or (C) your own beliefs?**
- 28. Can religious groups distribute/not distribute their literature to students because of: (A) legal duty, (B) local custom, or (C) your own beliefs?**
- 29. Would approval for use of your facilities/denial of use of your facilities, in regard to the Equal Access Act, be decided by: (A) legal duty, (B) local custom, or (C) your own beliefs?**

**APPENDIX D**  
**SURVEY INSTRUMENT FINAL REVISION**

**The Legal Aspects of the Practices of Religious Activities  
in Selected Public Schools of North Carolina**  
*An instrument designed to determine the use of religious practices  
in randomly selected public schools in North Carolina  
containing any of the grades 7-12*

\*\*\*\*\*

Your answers to the survey questions will become a part of a composite look at religious practices at the schools involved in this study. **Your answers will be held in strictest confidence.** Thanks, in advance, for your speedy completion of this instrument.

\*\*\*\*\*

**Place a check in the appropriate blank for the following information:**

How many years have you been a principal? \_\_\_\_\_

What is the current grade organization in your school? \_\_\_\_\_

Have you ever had a graduate level course in school law? YES\_\_\_ NO\_\_\_

To which school system does your school belong? \_\_\_\_\_

\*\*\*\*\*

**Place a check in the blank beside "YES" or "NO" to indicate your answer.**

1. Does your school system have a written policy on dealing with religious practices?  
YES\_\_\_ NO\_\_\_ DON'T KNOW \_\_\_
2. Does team prayer occur before athletic contests? YES\_\_\_ NO\_\_\_ DON'T KNOW\_\_\_
3. Is there a "stadium prayer" before athletic contests? YES\_\_\_ NO\_\_\_
4. Does a formal prayer occur before school programs? YES\_\_\_ NO\_\_\_
5. Does your school observe a moment of silence at the beginning of the school day?  
YES\_\_\_ NO\_\_\_
6. Have you ever been asked to discontinue a religious practice in your school?  
YES\_\_\_ NO\_\_\_  
If "Yes", please explain: \_\_\_\_\_
7. Do you have a Fellowship of Christian Athletes organization in your school?  
YES\_\_\_ NO\_\_\_

8. Has the "Equal Access Act", P.L. 98-377 of 1984, ever been the reason for anyone requesting to use your school facility for a religious activity?  
YES\_\_\_ NO\_\_\_ DON'T KNOW\_\_\_
9. Do ministers meet with students during the school day for the purpose of counseling?  
YES\_\_\_ NO\_\_\_
10. Do community religious groups use your school facilities?  
YES\_\_\_ NO\_\_\_  
If "Yes", what types?\_\_\_\_\_
11. Are posters displayed in school announcing community church activities?  
YES\_\_\_ NO\_\_\_
12. Do religious groups distribute their literature to students in your school?  
YES\_\_\_ NO\_\_\_  
If "Yes", what groups?\_\_\_\_\_
13. Do you have a school-sponsored Bible club in your school? YES\_\_\_ NO\_\_\_
14. Do you excuse the absences of students who miss school as a result of religious holidays?  
YES\_\_\_ NO\_\_\_
15. Do you excuse employees' absences incurred as a result of religious holidays?  
YES\_\_\_ NO\_\_\_
16. Have you ever had a library book challenged due to religious reasons?  
YES\_\_\_ NO\_\_\_  
If "Yes", please explain\_\_\_\_\_
17. Have you ever had a textbook challenged due to religious reasons? YES\_\_\_ NO\_\_\_  
If "Yes", please explain\_\_\_\_\_
18. Does your school district have a written policy regarding the challenge of library books?  
YES\_\_\_ NO\_\_\_ DON'T KNOW\_\_\_
19. Does your school district have a written policy regarding the challenge of textbooks?  
YES\_\_\_ NO\_\_\_ DON'T KNOW\_\_\_
20. Is the study of religion from a historical perspective included in your school's curriculum?  
YES\_\_\_ NO\_\_\_
21. Is the study of religion from a literary perspective included in your school's curriculum?  
YES\_\_\_ NO\_\_\_
22. Does Bible reading occur before an athletic contest?  
YES\_\_\_ NO\_\_\_
23. Does Bible reading occur before a school program? YES\_\_\_ NO\_\_\_  
If "Yes", what type of programs? \_\_\_\_\_

24. Is your school's public address system used to assist religious practices?  
 YES\_\_\_ NO\_\_\_

If "Yes", please explain. \_\_\_\_\_

25. Does your school have a graduation ceremony? YES\_\_\_ NO\_\_\_

If "Yes", is prayer a part of the ceremony? YES\_\_\_ NO\_\_\_

If "Yes", is the prayer led by a student? YES\_\_\_ NO\_\_\_

26. Does your school have a baccalaureate service? YES\_\_\_ NO\_\_\_

If "Yes", is attendance voluntary? YES\_\_\_ NO\_\_\_

\*\*\*\*\*

**Circle the choice which best answers the question.**

27. Is prayer before athletic contests and/or school activities allowed, or disallowed, because of:

(A) legal duty, (B) school board policy, (C) local custom, or (D) your own beliefs?

28. The moment of silence is observed/not observed because of:

(A) legal duty, (B) school board policy, (C) local custom, or (D) your own beliefs?

29. Can religious groups distribute/not distribute their literature to students because of:

(A) legal duty, (B) school board policy, (C) local custom, or (D) your own beliefs?

30. Would approval for use of your facilities/denial of use of your facilities, in regard to the Equal Access Act, be decided by:

(A) legal duty, (B) school board policy, (C) local custom, or (D) your own beliefs?

\*\*\*\*\*

**IF YOU WOULD LIKE TO EXAMINE THE RESULTS OF THIS SURVEY, PLEASE FILL IN THE INFORMATION BELOW. GIVING THIS INFORMATION WILL NOT VIOLATE THE CONFIDENTIALITY OF THE SURVEY.**

NAME -----

ADDRESS -----

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**APPENDIX E****Survey Results by Size of School System**

The following list of questions from the survey will be followed by the number of responses from each of the three divisions of school districts. The total number of responses on each question is one hundred sixty-eight (168). There were twenty-six (26) responses from small districts, sixty-seven (67) from medium districts, and seventy-five (75) from large districts. In this information the following abbreviations will be used:

**S = Small school districts (Under 3,000 students)**

**M = Medium school districts (3,001- 10,500 students)**

**L = Large school districts (More than 10,500 students)**

**DK = Don't Know**

**NA = Not Applicable**

**NR = No Response for this question**

**T = Total**

**Question #1: Does your school system have a written policy on dealing with religious matters?**

**YES: S = 10 M = 20 L = 52 T = 82**

**NO: S = 14 M = 30 L = 13 T = 57**

**DK: S = 2 M = 15 L = 9 T = 26**

**NA: 0**

**NR: 3**

**Question #2: Does team prayer occur before athletic contests?**

**YES: S = 10 M = 39 L = 32 T = 81**

**NO: S = 10 M = 15 L = 27 T = 52**

**DK: S = 6 M = 12 L = 14 T = 32**

**NA: 2**

**NR: 1**

**Question #3: Is there a "stadium prayer" before athletic contests?**

**YES: S = 5 M = 20 L = 8 T = 33**

**NO: S = 20 M = 44 L = 65 T = 129**

**DK: S = 1 M = 1 L = 1 T = 3**

**NA: 2**

**NR: 1**

**Question # 4: Does a formal prayer occur before school programs?**

**YES: S = 7 M = 15 L = 13 T = 35**

**NO: S = 19 M = 51 L = 61 T = 131**

**DK: 0**

**NA: 1**

**NR: 1**

**Question # 5: Does your school observe a moment of silence at the beginning of the school day?**

**YES: S = 5 M = 11 L = 34 T = 50**

**NO: S = 21 M = 56 L = 41 T = 118**

**Question # 6: Have you ever been asked to discontinue a religious practice in your school?**

**YES: S = 2 M = 2 L = 7 T = 11**

**NO: S = 24 M = 65 L = 68 T = 157**

**Question # 7: Do you have a Fellowship of Christian Athletes organization in your school?**

**YES: S = 2 M = 24 L = 25 T = 51 NO: S = 24 M = 43 L = 50**

**T = 117**

**Question # 8: Has the "Equal Access Act", P.L. 98-377 of 1984, ever been the reason for anyone requesting to use your school facility for a religious activity?**

**YES: S = 1 M = 7 L = 7 T = 15**

**NO: S = 22 M = 52 L = 59 T = 133**

**DK: S = 3 M = 8 L = 9 T = 20**

**Question # 9: Do ministers meet with students during the school day for the purpose of counseling?**

**YES: S = 1 M = 5 L = 3 T = 9**

**NO: S = 25 M = 62 L = 72 T = 159**

**Question # 10: Do community religious groups use your school facilities?**

**YES: S = 18 M = 35 L = 34 T = 87**

**NO: S = 8 M = 32 L = 40 T = 80**

**NR: 1**

**Question # 11: Are posters displayed in school announcing community church activities?**

**YES: S = 11 M = 19 L = 19 T = 49**

**NO: S = 15 M = 48 L = 54 T = 117**

**NR: 2**

**Question # 12: Do religious groups distribute their literature to students in your school?**

**YES: S = 6 M = 7 L = 1 T = 14**

**NO: S = 20 M = 60 L = 73 T = 153**

**NR: 1**

**Question # 13: Do you have a school sponsored Bible club in your school?**

**YES: S = 3 M = 2 L = 1 T = 6**

**NO: S = 23 M = 65 L = 73 T = 161**

**NR = 1**

**Question # 14: Do you excuse the absences of students who miss school as a result of religious holidays?**

**YES: S = 18 M = 54 L = 67 T = 139**

**NO: S = 8 M = 10 L = 6 T = 24**

**NA: 2**

**NR: 3**

**Question # 15: Do you excuse employees' absences incurred as a result of religious holidays?**

**YES: S = 17 M = 40 L = 55 T = 112**

**NO: S = 9 M = 20 L = 16 T = 45**

**DK: 2**

**NA: 6**

**NR: 3**

**Question # 16: Have you ever had a library book challenged due to religious reasons?**

**YES: S = 3 M = 7 L = 8 T = 18**

**NO: S = 23 M = 60 L = 67 T = 150**



**Question #17: Have you ever had a textbook challenged due to religious reasons?**

**YES: S = 0 M = 2 L = 2 T = 4**

**NO: S = 26 M = 65 L = 72 T = 163**

**NR: 1**

**Question #18: Does your school district have a written policy regarding the challenge of library books?**

**YES: S = 19 M = 46 L = 62 T = 127**

**NO: S = 5 M = 10 L = 5 T = 20**

**DK: 19**

**NR: 2**

**Question #19: Does your school district have a written policy regarding the challenge of textbooks?**

**YES: S = 18 M = 40 L = 60 T = 118**

**NO: S = 6 M = 14 L = 7 T = 27**

**DK: 18**

**NR: 5**

**Question #20: Is the study of religion from a historical perspective included in your school's curriculum?**

**YES: S = 16 M = 38 L = 57 T = 111**

**NO: S = 9 M = 29 L = 17 T = 55**

**NR: 2**

**Question #21: Is the study of religion from a literary perspective included in your school's curriculum?**

**YES: S = 13 M = 28 L = 43 T = 84**

**NO: S = 13 M = 38 L = 32 T = 83**

**NA: 1**

**Question #22: Does Bible reading occur before an athletic contest?**

**YES: S = 1 M = 1 L = 1 T = 3**

**NO: S = 25 M = 65 L = 72 T = 162**

**DK: 1**

**NA: 1**

**NR: 1**

**Question #23: Does Bible reading occur before a school program?**

**YES: S = 5 M = 9 L = 6 T = 20**

**NO: S = 21 M = 57 L = 68 T = 146**

**NA: 1**

**NR: 1**

**Question #24: Is your school's public address system used to assist religious practices?**

**YES: S = 1 M = 0 L = 1 T = 2**

**NO: S = 25 M = 66 L = 74 T = 165**

**NA: 1**

**Question #25: (A) Does your school have a graduation ceremony?  
(B) If "yes", is prayer a part of the ceremony?  
(C) If "yes", is the prayer led by a student?**

**YES for ABC: S = 11 M = 29 L = 19 T = 59**

**YES for AB: S = 5 M = 19 L = 16 T = 40**

**YES for A: S = 3 M = 4 L = 8 T = 15**

**NO for A means No for all three answers:**

**S = 7 M = 14 L = 30 T = 51**

NO for B eliminates question C:

S = 3 M = 4 L = 8 T = 15

NO for C: S = 5 M = 17 L = 15 T = 37

NA: 2

NR: 2

Question #26: (A) Does your school have a baccalaureate service?  
(B) If yes, is attendance voluntary?

YES for AB: S = 3 M = 12 L = 5 T = 20

YES for A: S = 1 M = 3 L = 0 T = 4

NO for A eliminates question B

S = 22 M = 53 L = 65 T = 140

NO for B: S = 1 M = 1 L = 0 T = 2

NR: 6

Questions 27-30 have the same four responses from which to choose. They are: (A) legal duty, (B) school board policy, (C) local custom, (D) your own beliefs.

Question #27: Is prayer before athletic contests and/or school activities allowed, or disallowed, because of:

S -- A = 6 B = 1 C = 14 D = 3 NR = 2

M -- A = 6 B = 2 C = 48 D = 3 NR: 6

L -- A = 13 B = 11 C = 38 D = 6 NR: 7

**Question #28: The moment of silence is observed/not observed because of:**

S-- A=5 B=3 C=13 D=3 NR: 2

M-- A=8 B=14 C=28 D=7 NA: 3 NR: 7

L-- A=4 B=37 C=22 D=5 NA: 1 NR: 6

**Question #29: Can religious groups distribute/not distribute their literature to students because of:**

S-- A=9 B=8 C=5 D=4

M-- A=12 B=24 C=18 D=6 NA: 1 NR: 6

L-- A=11 B=44 C=13 D=2 NA: 1 NR: 4

**Question #30: Would approval for use of your facilities/denial of use of your facilities, in regard to the Equal Access Act, be decided by:**

S-- A=6 B=18 C=2 D=0

M-- A=16 B=37 C=7 D=2 NR: 5

L-- A=9 B=59 C=3 D=1 NR: 3

## APPENDIX F

### Survey Results by Type of Administrative Unit

This list of questions from the survey will be followed by the number of responses from the city and county school districts. The total number of responses on each question is one hundred sixty-eight (168), of which twenty-three were from city units and one hundred forty-five were from county units.. In this information the following abbreviations will be used:

DK = Don't Know

NA = Not Applicable

NR = No Response for this question

**Question #1: Does your school system have a written policy on dealing with religious matters?**

	CITY	COUNTY
YES:	14	68
NO:	7	50
DK:	2	24
NR:	0	3

**Question #2: Does team prayer occur before athletic contests?**

	CITY	COUNTY
YES:	11	70
NO:	6	46
DK:	5	27

NA:	1	1
NR:	0	1

**Question #3: Is there a "stadium prayer" before athletic contests?**

	CITY	COUNTY
YES:	3	30
NO:	19	110
DK:	0	3
NA:	1	1
NR:	0	1

**Question # 4: Does a formal prayer occur before school programs?**

	CITY	COUNTY
YES:	4	31
NO:	19	112
DK:	0	0
NA:	0	1
NR:	0	1

**Question # 5: Does your school observe a moment of silence at the beginning of the school day?**

	CITY	COUNTY
YES:	1	49
NO:	22	96

**Question # 6: Have you ever been asked to discontinue a religious practice in your school?**

	CITY	COUNTY
YES:	5	6
NO:	18	139

**Question # 7: Do you have a Fellowship of Christian Athletes organization in your school?**

	CITY	COUNTY
YES:	6	45
NO:	17	100

**Question # 8: Has the "Equal Access Act", P.L. 98-377 of 1984, ever been the reason for anyone requesting to use your school facility for a religious activity?**

	CITY	COUNTY
YES:	4	11
NO:	16	117
DK:	3	17

**Question # 9: Do ministers meet with students during the school day for the purpose of counseling?**

	CITY	COUNTY
YES:	2	7
NO:	21	138

**Question # 10: Do community religious groups use your school facilities?**

	CITY	COUNTY
YES:	12	75
NO:	11	69
NR:	0	1

**Question # 11: Are posters displayed in school announcing community church activities?**

	CITY	COUNTY
YES:	5	44
NO:	18	99
NR:	0	2

**Question # 12: Do religious groups distribute their literature to students in your school?**

	CITY	COUNTY
YES:	1	13
NO:	22	131
NR:	0	1

**Question # 13: Do you have a school sponsored Bible club in your school?**

	CITY	COUNTY
YES:	3	3
NO:	20	141
NR:	0	1

**Question # 14: Do you excuse the absences of students who miss school as a result of religious holidays?**

	CITY	COUNTY
YES:	23	116
NO:	0	24
NA:	0	2
NR:	0	3



**Question # 15: Do you excuse employees' absences incurred as a result of religious holidays?**

	CITY	COUNTY
YES:	16	96
NO:	5	40
DK:	1	1
NA:	1	5
NR:	0	3

**Question # 16: Have you ever had a library book challenged due to religious reasons?**

	CITY	COUNTY
YES:	2	16
NO:	21	129

**Question #17: Have you ever had a textbook challenged due to religious reasons?**

	CITY	COUNTY
YES:	0	4
NO:	23	140
NR:	0	1

**Question #18: Does your school district have a written policy regarding the challenge of library books?**

	CITY	COUNTY
YES:	18	109
NO:	4	16
DK:	1	18
NR:	0	2

**Question #19: Does your school district have a written policy regarding the challenge of textbooks?**

	CITY	COUNTY
YES:	19	99
NO:	3	24
DK:	1	17
NR:	0	5

**Question #20: Is the study of religion from a historical perspective included in your school's curriculum?**

	CITY	COUNTY
YES:	19	92
NO:	4	51
NR:	0	2

**Question #21: Is the study of religion from a literary perspective included in your school's curriculum?**

	CITY	COUNTY
YES:	15	69
NO:	8	75
NA:	0	1

**Question #22: Does Bible reading occur before an athletic contest?**

	CITY	COUNTY
YES:	1	2
NO:	22	140
DK:	0	1
NA:	0	1
NR:	0	1

**Question #23: Does Bible reading occur before a school program?**

	CITY	COUNTY
YES:	3	17
NO:	20	126
NA:	0	1
NR:	0	1

**Question #24: Is your school's public address system used to assist religious practices?**

	CITY	COUNTY
YES:	0	2
NO:	23	142
NA:	0	1

**Question #25: (A) Does your school have a graduation ceremony?  
(B) If "yes", is prayer a part of the ceremony?  
(C) If "yes", is the prayer led by a student?**

	CITY	COUNTY
YES for ABC:	6	53
YES for AB:	4	36
YES for A:	4	11
NO for A means No for all three answers:		
	9	42
NO for B eliminates question C:		
	4	11
NO for C:	4	33

NA:	0	2
NR:	0	3

**Question #26: (A) Does your school have a baccalaureate service?  
(B) If yes, is attendance voluntary?**

	CITY	COUNTY
YES for AB:	5	13
YES for A:	1	3
NO for A eliminates question B		
	17	123
NO for B:	1	3
NR:	0	6

**Questions 27-30 have the same four responses from which to choose. They are: (A) legal duty, (B) school board policy, (C) local custom, (D) your own beliefs.**

**Question #27: Is prayer before athletic contests and/or school activities allowed, or disallowed, because of:**

	<b>CITY</b>	<b>COUNTY</b>
<b>A</b>	<b>7</b>	<b>18</b>
<b>B</b>	<b>4</b>	<b>10</b>
<b>C</b>	<b>7</b>	<b>93</b>
<b>D</b>	<b>2</b>	<b>10</b>
<b>NR</b>	<b>1</b>	<b>14</b>
<b>NA</b>	<b>2</b>	<b>0</b>

**Question #28: The moment of silence is observed/not observed because of:**

	<b>CITY</b>	<b>COUNTY</b>
<b>A</b>	<b>3</b>	<b>14</b>
<b>B</b>	<b>6</b>	<b>48</b>
<b>C</b>	<b>4</b>	<b>59</b>
<b>D</b>	<b>5</b>	<b>10</b>
<b>NR</b>	<b>4</b>	<b>11</b>
<b>NA</b>	<b>1</b>	<b>3</b>

**Question #29: Can religious groups distribute/not distribute their literature to students because of:**

	CITY	COUNTY
A	8	24
B	13	63
C	1	35
D	1	11
NR	0	10
NA	0	2

**Question #30: Would approval for use of your facilities/denial of use of your facilities, in regard to the Equal Access Act, be decided by:**

	CITY	COUNTY
A	4	27
B	18	96
C	1	11
D	0	3
NR	0	8

## APPENDIX G

### PRAYER AND BENEDICTION

The following prayer was used by a rabbi at a middle school graduation in Rhode Island in 1990 which led to litigation in Weisman v. Lee, (908 F. 2d 1090 [1st Circuit 1990]). This was eventually heard by the Supreme Court and decided in June, 1992. The prayer was found to be unconstitutional.

God of the Free, Hope of the Brave:

For the legacy of America where diversity is celebrated and the rights of minorities are protected, we thank You. May these young men and women grow up to enrich it.

For the liberty of America, we thank You. May these new graduates grow up to guard it.

For the political process of America in which all its citizens may participate, for its court system where all can seek justice, we thank You. May those we honor this morning always turn to it in trust.

For the destiny of America, we thank You. May the graduates of Nathan Bishop Middle School so live that they might help to share it.

May our aspirations for our country and for these young people, who are our hope for the future, be richly fulfilled.

Amen.

The benediction presented by the rabbi ended in this way:

We give thanks to You, Lord, for keeping us alive, sustaining us and allowing us to reach this special, happy occasion.

Amen.