

*Congress shall make
no law respecting an
establishment of religion
or prohibiting the free
exercise thereof; or
abridging the freedom
of speech, or of the press,
or the right of the people
peaceably to assemble,
and to petition the
Government for a redress
of grievances.*

CHAPTER 5

5

Strategies for Finding Common Ground

No free government or the blessings of liberty
can be preserved by any people but by a firm
adherence to justice, moderation, temperance,
frugality and virtue and by frequent recurrence
to fundamental principles.

—Virginia Declaration of Rights
George Mason
1776

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Court decisions provide important legal guidance for school districts, but case law alone will not enable us to live with our deepest differences. Too often (and too quickly) in disputes about religion and public education, lawyers are called and lawsuits filed. Communities are further divided, and support for public education continues to erode.

We need to remind ourselves that First Amendment Religious Liberty clauses do not belong only to lawyers and judges; they belong to all of us. The principles of rights, responsibility and respect that flow from the First Amendment are obligations of citizenship for *every* American. When properly understood and applied, these principles allow communities to go beyond conflict and achieve consensus on the role of religion in the public schools. The strategies outlined below indicate some ways in which the civic framework provided by the First Amendment has worked in school districts to build common ground.

STRATEGIES FOR FINDING COMMON GROUND

1. Agree on the ground rules.

No religious consensus is possible in the United States, and to impose one would be both unconstitutional and unjust. A civic consensus, however, is not only possible, but necessary if we are to continue as one nation of many peoples and faiths. In any public-policy debate, all sides need to recall that, as citizens, each of us has already agreed to the democratic first principles that govern our common life. These principles are the “ground rules” within which we negotiate our differences in the public square of America.

What are the ground rules that flow from the First Amendment? Part of the answer is found in Supreme Court decisions as discussed in Chapter 4. Court cases, however, are not the best starting point for establishing guidelines and ground rules in a school district.

We suggest that communities begin with the *Statement of Principles* from Chapter 2. In so doing, all sides are asked to go behind the court cases and to give fresh consideration to the guiding principles of our nation's charter. At the heart of these principles are the “three Rs” of religious liberty:

Rights: Religious liberty, or freedom of conscience, is a precious, fundamental and inalienable right for all. Every effort should be made in public schools to protect the conscience of all students and parents.

Responsibilities: Central to the notion of the common good, and of greater importance each day because of the increase of pluralism, is the recognition that religious liberty is a universal right joined to a universal duty to respect that right for others. Rights are best guarded and responsibilities best exercised when each person and group guards for all others those rights they wish guarded for themselves. The Williamsburg Charter calls this “the Golden Rule for civic life.”

Respect: Conflict and debate are vital to democracy. Yet if controversies about religion and schools are to reflect the highest wisdom of the First Amendment and advance the best interest of the disputants and the nation, then *how* we debate, and not only *what* we debate, is critical.¹

If these or similar civic ground rules are in place, then all sides come to the table prepared to take responsibility to protect the rights of others and to debate differences with civility and respect. Within this framework, concern for fairness and for protection of conscience shapes the discussion and all agreements that may follow.

2. Include all of the stakeholders.

If agreements and policies are to inspire broad support in the community, all stakeholders must be fully represented in the discussion. On the school level or district-wide, the committee members appointed to make recommendations should represent a broad range of perspectives, making sure that those who are concerned about violations of conscience in the schools are given significant representation.

Religion-and-school policies — no matter how wise or clear — that are developed without strong community participation risk doing more damage than good. Policies shaped by a broad cross-section of the community are widely supported and successful. (See Chapter 15 for examples of policies created by a few school districts.)



¹These definitions of the principles of rights, responsibilities, and respect that flow from the First Amendment are drawn from the Williamsburg Charter, a document that has greatly influenced our conception of a civil public school. The full text of the Charter may be found in Appendix B. *Articles of Faith, Articles of Peace: The Religious Liberty Clauses and the American Public Philosophy*, edited by James Davison Hunter and Os Guinness (1990), contains essays that provide a context for understanding the significance of the Williamsburg Charter.



Using the Three Rs to Find Common Ground

“Rights, Responsibilities, and Respect”

Using the principles of rights, responsibilities and respect that flow from the First Amendment, a number of initiatives around the nation are discovering new ways to resolve conflict.

Once in place, a civic framework of rights, responsibilities and respect can help schools and communities to find common ground on educational philosophy, school reform and the role of religion and values in public schools.

Statewide Programs

The most extensive 3Rs programs are the California and Utah 3Rs Projects. The California 3Rs project is sponsored jointly by the First Amendment Center and the California County Superintendents Educational Services Association, while the Utah Project is sponsored jointly by the First Amendment Center and Utah Office of Education.

Using First Amendment principles, many California and Utah educators, parents and community leaders have been able to agree on policies and practices that protect the religious liberty rights of students of all faiths or none. These projects work to prepare teachers to teach about religions and cultures in ways that are constitutionally permissible and educationally sound.

Begun in 1991, the California project is underway in all 11 educational regions of the state. Regional leaders for the 3Rs project have been appointed by the California County Superintendents Educational Services Association to assist school districts and communities. For more information about the California 3Rs Project, contact:

Dr. Bruce Grelle
 Department of Religious Studies
 California State University - Chico
 Chico, CA 95929-0740
 Phone: (530) 898-4739
 Email: bgrelle@csuchico.edu

The Utah project began in 1996 and already there is a broad network of supporters throughout the state. For more information about the Utah 3Rs project, contact:

Martha Ball
 Utah 3Rs Project Director
 Utah State Office of Education
 250 East 500 South
 Instructional Materials, 26A
 Salt Lake City, UT 84111
 Phone: (801) 538-7503 Fax: (801) 538-7588

Other States

A number of other school districts in Texas, Pennsylvania, Oklahoma and other states have adopted a “3Rs” approach to religious liberty issues. For more information about these efforts contact Charles Haynes at the First Amendment Center. Email address: chaynes@freedomforum.org.

When school boards or administrators reach out to critics of the schools, particularly religious conservatives, they must look beyond media stereotypes and identify those representatives most interested in dialogue and consensus. If school leaders are unsure who might best represent a particular point of view, they might contact national organizations such as those listed in the Appendix for suggestions about strong leadership in the local community.

Because we are a democracy, there will be “winners” and “losers” on policy issues and curriculum decisions. But if the different perspectives have been given full and fair hearing and if every effort has been made to protect the conscience of all parents and students, then even those who may “lose” on a particular policy will most likely remain supporters of the public schools.

3. Listen to all sides.

Given the opportunity, the vast majority of parents, teachers, administrators and school board members will commit to a principled dialogue and will work for fair, open public schools. While it is true that a small number of people on all sides of these issues resist efforts to reach common ground, most Americans, when given an opportunity, want to find a way forward that best serves the schools and the community. We have found this to be true in every region of the country and across all religious and political lines.

Establishing a climate where people listen to one another requires that we go beyond labels and rebuild trust. Public-school educators must keep in mind that, as leaders of institutions established by the people through the government, they are required to represent the Constitution and the Bill of Rights. Public schools are first and foremost models of the nation’s charter. All else, including educational philosophy and proposals for change, should be decided by the people of each community working with school boards, administrators and teachers.

If we are to rebuild trust and to truly listen to one another, public-education leaders must acknowledge what is valid about criticisms of the way religion has been treated in many public schools and in the curriculum. At the same time, critics of the schools must recognize that the vast majority of public-school administrators and teachers do not intend to be hostile to religion, and want only to be fair in their treatment of parents and students. Putting aside labels and stereotypes and taking seriously the position of the “other side” are the starting points for genuine dialogue.

4. Work for comprehensive policies.

School districts would be well advised to address a broad range of religion-and-schools issues in a “religion-and-schools” policy. By doing so, schools are able to say “yes” to a role for religion, even as they must say “no” to state-sponsored religious practices. No, public

schools may not promote religion (or hostility to religion), nor may schools sponsor religious practices. But yes, there is a place for teaching about religions, and there are ways to accommodate the needs and requirements of religious students. Policies can be developed on student speech, distribution of literature, equal access, and other areas that signal strong support for protection of conscience and expression.

Once the commitment is made to establish a comprehensive policy, begin the search for common ground with the areas where agreement is most likely to be achieved. Many communities have found it useful to begin with the role of religion in the curriculum (especially in light of the national agreement reprinted in Chapter 7). It is not difficult to reach consensus about the importance of study about religion as a part of a complete education in the social studies, literature, art, music, and other subjects. (More difficult is the question of *how* it will be done.) Once the first agreement is reached, a foundation is created for consideration of more divisive questions.

An important key throughout the process is to go beyond asking “What is legal?” and to begin asking “What is the right thing to do for my community?” and “What best protects the conscience of every student and parent?”

5. Be pro-active.

Some school leaders avoid addressing religion and school issues, convinced that to raise these questions may cause controversy where there is currently none. While it may be true that a pro-active approach to religious liberty questions is a risky and delicate undertaking, it could be argued that the greater risk is to do nothing. Districts unprepared for controversy fare poorly when a conflict arises (and it will). Where there are no policies (or policies not known or supported by parents), there is a much greater likelihood of lawsuits, shouting matches at school board meetings and polarization in the community.

Students, parents, teachers and administrators all need to know how the school or school district advises where and how religion be discussed in the classroom, how requests by students to form a religious club or to distribute religious literature will be handled, how holidays will be treated and how any number of other questions concerning religion and values will be addressed. A pro-active approach takes seriously the importance of articulating the proper role for religion and religious perspectives in the public schools. The resulting policies and practices create a climate of trust in the community, and demonstrate the public schools’ active commitment to the guiding principles of our democracy.

6. Civil Debate.

Remember throughout the process to commit to civil debate. Conflict and debate are a vital part of a democratic system. Yet, if Americans are going to negotiate deep differences, then how we debate — not only what we debate — is critical. Personal attacks, name-calling, and similar tactics destroy the fabric of our society and undermine the educational mission of schools. All parties should agree to treat one another with civility and respect and should strive to be accurate and fair.



7. Follow-Through

Be sure that the entire community is informed of all policies concerning religion, values and religious liberty. If an effort has been made to keep the broader community involved through participation in the committee and through periodic public meetings, there will be people available to help explain the policy to the various constituents of the school.

Once disseminated and explained, policies raise expectations about school performance. That is why it is vitally important for schools to follow up policy statements with staff development for administrators and teachers. A commitment to teach about religion, for example, means nothing unless teachers are given support for such teaching. A policy that permits student-initiated religious clubs may do more harm than good unless accompanied by a clear understanding by administrators of how the Equal Access Act is to be applied (see Chapter 9). Adoption of these or other policies concerning religion and public education should be immediately followed by forums for parents, workshops for teachers and administrators, and distribution of resources for classroom use.

Remember

First Amendment religious-liberty principles do work — when tried. Without asking anyone to compromise their deepest convictions, schools and communities can find areas of agreement on questions that have long divided Americans. “A common vision for the common good” is still possible in public education.



Schoolbook Protests: Advice for Both Sides

Stephen Bates*

Conflicts over the public-school curriculum are commonplace, clamorous and unproductive. The two sides talk (more frequently, shout) past each other. Protesters often suggest that anyone who disagrees must be un-Christian, immoral, racist or sexist. And as journalist Joseph Nocera has observed, school people often treat anyone who questions their judgment as “a potential enemy who must be bludgeoned into submission with a First Amendment tire-iron.”

Tips for Parents

1. **Examine and comment on textbooks before they're adopted.** If your state or district doesn't make books available for pre-adoption inspection, lobby for such a policy.
2. **Choose your battles.** Administrators will be more receptive on your first visit than on your tenth.
3. **Read the book before you complain about it.** Don't rely on others' critiques.
4. **Think before banning.** Think long and hard before trying to have a book removed from the curriculum or the library. You're in a stronger position if you seek an alternative assignment for your child.
5. **In seeking an alternative, consider the magnitude of what you're asking.** You're in a stronger position if you try to excuse your child from a brief assignment — a story or two in a reader, a supplemental novel, a film — rather than an entire textbook. Don't ask for more special treatment (and more work on the part of the teacher) than you absolutely need.
6. **Start with the teacher.** If necessary, work your way up the chain of command.
7. **Recognize, and show that you recognize, that teachers and administrators may not view the assignment as you do.** When seeking an alternative, say that there's no need for one of you to convince the other, but you hope your family's views will be respected. When seeking to remove a book, say that you believe it conflicts with community values, even though it may reflect the values of school officials. In both cases, the issue isn't who's right, it's who decides.
8. **Recognize, and show that you recognize, that teachers and administrators want what they believe to be best for the children.**
9. **Resist the temptation to engage in name-calling.** Don't suggest, even indirectly, that school officials are less devout, less moral or less sensitive to minorities or women than you are.

Tips for Teachers and Administrators

1. **To preempt some protests, solicit community input before books are chosen.** Make books publicly available before they are adopted. When dealing with a particularly controversial topic, consider forming an advisory committee reflecting a wide range of community views. CONTINUED

* Stephen Bates, a former senior fellow at the Annenberg Washington Program, is author of *Battleground: One Mother's Crusade, the Religious Right, and the Struggle for Control of Our Classrooms*.



2. Put in place a written procedure for dealing with complaints.

Make clear what is required to initiate reconsideration of materials, who will act on the complaint, how quickly a decision will be made and how a dissatisfied party can appeal the decision to a higher authority.

3. When a protest does arise, focus on how the public participated in the book selection. Look at what's in the book and how it's used in the classroom. Don't imply that the adoption process was the only opportunity for public participation and that subsequent complaints are somehow illegitimate. Don't expect protesters to be swayed by the book's pedigree — its awards, reviews, or status as a classic — or by your expertise.

4. Keep in mind both sides of the public-schooling paradox: The curriculum must reflect the will of the community. Truth is never a matter of majority rule, but, to a considerable extent, the public school curriculum is (within the bounds of the Constitution and federal and state law). Consequently, it's important to acknowledge the protesters' right to complain about what's going on in their tax-funded schools. Don't simply call them "censors"; respond to their arguments on the merits.

5. Recognize that context doesn't erase all offenses. For instance, some parents simply won't allow their children to read racial epithets or profanity, even as a minuscule part of an assignment and even in a classic book.

6. Remember the civic obligation to respect freedoms of belief, speech and religion, even for people with whom you disagree. Try to put yourself in the protesters' shoes. How would you feel, and how would you want to be treated, if your child were being taught something contrary to your deepest beliefs? Remember, too, that students learn important lessons about American liberties by seeing how school officials deal with dissent.

7. Church-state separation is an issue with sectarian material too, if the protesters want sectarian material in the classroom, if they want teachers to make religious judgments on their behalf or if they want to remove material solely because it conflicts with their religious beliefs. It's not an issue if they want to remove material because it conflicts with their moral beliefs. To be sure, the distinction isn't always clear. Both faith and morality condemn stealing, for example. And it's not an issue if they want an alternative assignment, no matter what their motivation.

8. When parents are seeking an alternative assignment, don't accuse them of misconstruing the assignment or its impact on students. Don't enlist psychologists or pastors to rebut their views. Rather, focus on whether an alternative is administratively and pedagogically feasible.

9. When parents request an alternative assignment, the school system should respond privately. When protesters seek to remove a book from the curriculum or the school library, however, administrators should ordinarily respond publicly, especially before removing a book. Decisions that affect an entire classroom or an entire school affect the community; in most circumstances, the community should be fully informed.

10. Recognize, and show that you recognize, that the protesters want what they believe to be best for the children.

11. Resist the temptation to engage in name-calling. Don't suggest, even indirectly, that protesters are extremists, zealots or kooks.

12. Remember: Obnoxious people have rights too.