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The Civic and _Constitutional Frameworks

"Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof. . . ."

—Religious Liberty clauses of _the First Amendment to the U.S. Constitution

TAKING RELIGION SERIOUSLY IN THE CURRICULUM REQUIRES taking *religious liberty* seriously throughout the school culture. Without a shared commitment to principles of religious liberty, conflicts over religion and values can tear apart a community and create a climate of distrust in the schools. In many school districts, the mere mention of religion, much less substantive discussion, may trigger conflict. In other places, individual teachers may do a good job of including religion, but they often do so without clear district policies or administrative and community understanding of the proper role for religion in the public schools. In neither setting can religion or religious liberty be taken seriously.

The solution is for schools and communities to openly and honestly address religious liberty in public education. They might begin by asking: What are the civic ground rules for understanding the proper constitutional and educational role for religion in the public school? The starting point for this discussion should be the guiding principles behind the first 16 words of the First Amendment—the words that open this chapter. Properly understood and applied, these principles constitute a civic framework within which public schools can protect the rights of every parent and student while treating religion with fairness in the curriculum.

There is, of course, some risk in taking a proactive approach to religion-in-schools issues that have divided Americans since the founding of public schools. The greater risk, however, is to ignore the distrust and discontent that have led many parents to conclude, fairly or unfairly, that public schools are hostile to their faith and values. Ironically, as we shall see, religious issues in schools have actually become a good place to start building common ground. The growing consensus across the political and religious spectrum about the role of religion in the schools provides an unprecedented opportunity for educators to bring their communities together in support of a new approach to old conflicts.

Clearing away the confusion about how to apply First Amendment religious liberty principles in the schools isn't easy. Extremes tend to dominate the debate. On one end of the spectrum are those who advocate what might be called the "sacred public school" where one religion (theirs) is preferred in school practices and policies. Characteristic of the early history of public schools, this approach still survives in some parts of the United States. In more recent decades, some on the other end of the spectrum have pushed for a "naked public school" where religion is kept out in the name of a strict separation of church and state. The influence that this view has had on educators accounts for much of the silence about religion in the curriculum and the confusion about the religious liberty rights of students. Both of these models of public schools are unjust and, we would argue, unconstitutional.

We propose a third model that is consistent with First Amendment principles and broadly supported by many education and religious groups: the "civil public school," where people of all faiths and no faith are treated with fairness and respect. The starting point for our proposal is the shared vision of religious liberty that undergirds such a school. We will then consider how schools and classrooms may fully realize that vision.

The Civil Public School

A few years ago, the Association for Supervision and Curriculum Development, the National Association of Evangelicals, and the First Amendment Center decided that the time had come for a new dialogue between

public school educators and some of their severest critics, especially among conservative Christians. Much was at stake on all sides. Everyone at the table was painfully aware that culture-war battles in public schools tear apart the fabric of our society and greatly threaten efforts to reform schools.

The first meeting, in April 1994, opened with a list of disputes ranging from religious holidays and prayer to school reform and sex education. Hearing the litany of conflicts, a participant remarked that if we don't find ways to address our differences concerning religion and values in schools, then public education doesn't have much of a future. Ernest Boyer, representing the Carnegie Foundation for the Advancement of Teaching, suddenly hit the table, saying, "I wouldn't put it that way." The group looked surprised, well aware of Boyer's strong advocacy of public education. "No," he said emphatically, "if we don't do better in addressing these conflicts, it's not just public schools, but *our nation* that doesn't have much of a future."

We kept Boyer's warning before us as we struggled to craft an agreement that would help local schools and communities move from battleground to common ground. One year later, in the spring of 1995, 21 educational and religious groups issued a document entitled *Religious Liberty, Public Education, and the Future of American Democracy: A Statement of Principles.* For the first time in American history, organizations representing a broad spectrum of religious and political views—from right to left—articulated a shared vision of religious liberty in the public schools. The core of the agreement is captured in Principle IV, which states:

> Public schools may not inculcate nor inhibit religion. They must be places where religion and religious conviction are treated with fairness and respect. Public schools uphold the First Amendment when they protect the religious liberty rights of students of all faiths or none. Schools demonstrate fairness when they ensure that the curriculum includes study *about* religion, where appropriate, as an important part of a complete education.[1]

This articulation of First Amendment principles is as remarkable for who says it as for what it says. The National Education Association, the National School Boards Association, and the American Association of School Administrators joined with the Christian Legal Society, the American Center for Law and Justice, and Citizens for Excellence in Education. The Anti-Defamation League and the Union of American Hebrew Congregations are on the list, and so is the Council on Islamic Education and the Christian Educators Association International. Perhaps most remarkably, the Christian Coalition *and* People for the American Way are sponsors.

The *Statement of Principles* signals that there is a great deal of consensus regarding the relationship of religion to government and to public schools under the Establishment Clause of the First Amendment ("Congress shall make no law respecting an establishment of religion . . ."). We suggest that at the heart of this consensus is the idea that the public schools should be *neutral* in matters of religion.

For 50 years now, ever since its landmark ruling in *Everson v. Board of Education* (1947), the Supreme Court has taken *neutrality* as its touchstone in adjudicating Establishment Clause cases.[2] As government institutions, public schools must be religiously neutral in two senses: they must be neutral *among religions* (they can't privilege one religion over another); *and* they must be neutral *between religion and nonreligion* (they can't privilege religion generally over nonreligion).

What is not often appreciated is the fact that neutrality is a two-edged sword. Just as public schools can't promote religion, neither can they inhibit or denigrate religion. The courts have also been clear about *this*—but, of course, here is where the conceptual waters become muddy. What counts as inhibiting or denigrating religion?

We will argue that it is anything but neutral to ignore religion. Neutrality cannot mean hostility or even silence. It is, of course, true that public schools cannot be in the business of religious indoctrination; faith formation is properly the province of the family and religious institutions. But at the same time, schools have an obligation to make sure that religion is taken seriously. Neutrality, as we shall argue, requires *fairness* to religion.

Quite apart from the Court's interpretation of the Establishment Clause, we believe that justice requires that the curriculum of public schools be neutral in a pluralistic democracy. When the public disagrees deeply, public schools should not promote, much less institutionalize, one view and remain silent about others. Unlike private schools, *public schools* must take *the public* seriously. For example, because we disagree deeply about which political party has the better policies, it would violate our sense of justice for public schools to take sides, teaching only the policies and values of one party, leaving the other out of the discussion. We also disagree deeply, often on religious grounds, about how to make sense of our lives and the world; hence, public schools should not promote, much less institutionalize, any particular way of making sense of the world *be it religious or secular*. If public schools are to be built on common civic ground, they must be neutral when we disagree; they must take everyone seriously.

Before discussing more fully the implications of neutrality and the Establishment Clause for public schools, we should note that strong agreement also coalesces around the meaning of the Free Exercise Clause ("Congress shall make no law . . . prohibiting the free exercise [of religion] . . . ") in a public school setting. *Religion in the Public Schools: A Joint Statement of Current Law,* also published in 1995, expresses the consensus of 35 religious and civil liberties groups on the religious liberty rights of public school students. That same year, President Bill Clinton drew on the *Joint Statement* when he issued a directive through the U.S. Department of Education to all public school superintendents, outlining the constitutional and educational role of religion in the public schools. The National PTA and the First Amendment Center built on both documents to produce *A Parent's Guide to Religion in the Public Schools,* more than 250,000 copies of which have been distributed by schools and communities thus far.[3] Let's take a closer look at how these agreements provide a civic framework for a truly civil public school.

Religious Liberty Rights of Students

Many Americans continue to hold the mistaken view that the Supreme Court decisions in the 1960s concerning prayer and Bible reading prohibited students from expressing their faith in a public school. Thanks in large measure to the president's directive, the message is finally getting through that the Court never struck down "prayer in schools"; it barred *state-sponsored* religious practices. In fact, students have extensive religious liberty rights while in school. School boards and school administrators should now have a clear picture of what it means to "protect the religious liberty rights of students of all faiths or none."

Under the First Amendment as interpreted by the courts, students do have the right to pray in a public school alone or in groups, as long as the activity does not disrupt the school or infringe on the rights of others. These activities must be truly voluntary and student initiated. For example, students may gather around the flagpole for prayer before school begins, as long as the event is not sponsored by the school and other students are not pressured to attend. Students also have the right to share their faith with others and to read their Scriptures. They do not have to leave their religion at the schoolhouse door. Only if behavior coerces or harasses others, or is disruptive of the educational process, should it be prohibited.

When it is relevant to the discussion and meets the academic requirements, students have the right to express personal religious views in class or as part of a written assignment or art activity. They may not, of course, force their classmates to participate in a religious exercise.

Most legal experts agree that students have the right to distribute religious literature in public schools subject to reasonable restrictions imposed by school officials regarding time, place, and manner. This means that the school may specify when and where the distribution may occur. But the restrictions should be reasonable, and the school must apply them evenly to *all* nonschool student literature.

In secondary schools, the 1984 Equal Access Act ensures that students may form religious clubs if the school allows other extracurricular clubs. The act is intended to protect *student-initiated* and *student-led* meetings. Outsiders may not "direct, conduct, control, or regularly attend" student clubs, and faculty sponsors may be present at religious meetings in a nonparticipatory capacity only. Schools must give student religious clubs the same access to school facilities and media as they give other extracurricular clubs.

Despite the broad agreement on all of these rights, some areas of disagreement remain—especially concerning student prayers at graduation or other school events. At present, there is no clear legal answer to this conflict because lower courts are divided about the constitutionality of student-initiated, student-led prayers at graduation exercises. Until the Supreme Court resolves the matter, school districts in various parts of the country will follow different rules.

The good news, however, is how much consensus exists on students' religious liberty rights in a public school. As President Clinton said in his speech announcing the guidelines, public schools need not be "religion-free zones."

Parental Rights and Responsibilities

A civil public school is also one that recognizes, in the words of the *Statement of Principles,* that parents have "the primary responsibility for the upbringing of their children, including education." At the very least, this should mean that parents are involved in shaping policies about religion and religious liberty in the schools.

Of special interest to parents, especially religious parents, are school policies concerning accommodation of student religious needs and requirements. Most school officials will try to accommodate _parental requests to excuse a child from classroom discussions or _activities for religious reasons if the request focuses on a specific discussion, assignment, or activity. At times, however, schools are unsure about when and how much to accommodate, particularly with the expanding religious diversity in their districts.

For several years, the Religious Freedom Restoration Act (RFRA), passed by Congress in 1993, made it more difficult for schools to ignore religious requests for excusal. Under the act, if parents could show that particular lessons or school policies substantially burdened a student's free exercise of religion, then the school would have to prove a "compelling state interest" in requiring attendance or enforcing the policy. When the Supreme Court struck down RFRA as unconstitutional in 1997, some of the pressure on school officials to accommodate religious requests may have been lessened.

Take, for example, a 1994 case involving a Sikh family in California. The family wanted to send their son to a public high school wearing a small ceremonial dagger in spite of the school's "no weapons" policy. During the court battle that followed, all sides agreed that school officials had compelling reasons for keeping all weapons out of the school. (Public schools have a number of "compelling interests," including health and safety of all students.) But using RFRA, the court agreed with the parents that the school's interest in safety could be preserved if the dagger—which all adult male Sikhs are required to wear—were riveted into its sheath (making it impossible to use as a weapon) and worn underneath the student's clothes.[4] Without RFRA, the Sikh family might well have lost that case.

It may be that without RFRA parents will find it more difficult to get exemptions for their children from general school policies. But we would argue that school officials should still take religious requests for accommodation seriously for at least two reasons. First, upholding the religious liberty of parents and students is the right thing to do. Many teachers and administrators understand this when they routinely grant requests for a student to be excused from participation based on religious convictions. A common example is the _parental request for a child to opt out of a particular lesson or classroom activity. To be sure, the school has an important interest in teaching Sally to read. But giving Sally an alternate assignment for one book or a few stories is a good way to accomplish the school's educational goal while still protecting Sally's religious liberty.

Second, in most cases, parents may also appeal to another constitutional right, such as the right of parents to control the upbringing of their children or, on behalf of their children, the right of free speech. Though some recent lower court decisions seem to ignore or minimize parental rights, the Supreme Court has long recognized such rights.[5]

Free exercise of religion joined with either free speech or parental rights makes a powerful combination. The Supreme Court itself has indicated that the "compelling state interest" test may be used when free exercise claims are linked to at least one other constitutional right.[6] On legal grounds, therefore, public school officials are still well advised to make every effort to accommodate the needs and requirements of religious parents and students.

This does not mean that school officials can or should accommodate all opt-out requests, especially when such requests are extensive. For example, schools could not accommodate parents who want their child to be excused from the world history class every time religion is mentioned, because religion frequently comes up (or ought to) in the study of world civilizations. Courts have recognized that public schools do not have to accommodate every request to opt out of portions of the curriculum.[7] Of course, it isn't always clear just where educators should draw the line. But when parents limit their request to particular lessons or activities, schools should try to provide an alternative for the student.

A number of schools have added another dimension to their excusal policies—one that is popular with many parents: opt in. This involves requiring parental notification and permission for students to be involved in potentially controversial lessons or activities. If, for example, a high school teacher decides to show an R-rated movie such as *Schindler's List* as part of the study of the Holocaust, parents would have to sign a permission slip for their child to see the film. Some school districts also use opt-in policies for participation in extracurricular student clubs. In this way parents know what is happening in the school and have the opportunity to keep their children out of activities they may find objectionable.

The effort to accommodate religious claims in public schools _can be time-consuming and sometimes frustrating for educators, especially as religious diversity in the United States continues to expand. But it is well worth the trouble. By making every effort to accommodate, school officials not only fulfill their obligations under the First Amendment, but they also build trust between the school and parents.

Study of Religion

A civil public school that upholds religious liberty rights of parents and students would also ensure that the curriculum treats religion fairly and fully. We argue that if public schools "may not inculcate nor inhibit" religion, if they are to remain neutral concerning religion, then the curriculum *must* include religious as well as secular ways of understanding the world. Excluding religion, or barely mentioning it, is hardly neutral or fair. For many parents, the failure to take religion seriously in the curriculum is strong evidence that public education takes sides against religion.

Under Supreme Court rulings, public schools clearly have permission to require that students learn about religion (leaving it to educators to decide where and how this should be done). The Court has not said when or if ignoring religion might violate government neutrality concerning religion. But the principles of neutrality articulated by the Court lend support to our contention that a neutral and fair curriculum must include study of religion.

In a series of decisions in the 1960s striking down state-sponsored religious exercises in public schools, the Court reaffirmed that "no establishment" prohibits the government not only from preferring one religion over another but also from preferring religion over nonreligion.[8] Writing for the majority in *Abington v. Schempp,* Justice Tom Clark argued that required religious exercises in public schools are a "breach of neutrality" barred by the First Amendment. He was careful, however, to make clear that government neutrality cannot result in hostility to religion. That is, government cannot prefer nonreligion over religion either. As Justice Clark wrote, the government may not establish a "religion of secularism" by opposing or showing hostility to religion. Neither should neutrality be taken to mean that the curriculum must exclude religion. On the contrary, the study of religion is important. In the frequently quoted words of the Court's *Schempp* decision,

> [I]t might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civiliza-tion. It certainly may be said

> that the Bible is worthy _of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular education, may not be effected consistently with the First Amendment.

Clearly, including the academic study of religion does not violate the Establishment Clause. But is the school *required* to teach about religion in order to maintain neutrality? Justice Arthur J. Goldberg's concurring opinion in *Schempp* comes close to suggesting that the answer may be yes:

> It is said, and I agree, that the attitude of government toward religion must be one of neutrality. But untutored devotion to the concept of neutrality can lead to invocation or approval of results which partake not simply of that noninterference and noninvolvement with the religious which the Constitution commands, but of a brooding and pervasive devotion to the secular and a passive, or even active, hostility to the religious. Such results are not only not compelled by the Constitution, but, it seems to me, are prohibited by it.
>
> Neither government nor this Court can or should ignore the significance of the fact that a vast portion of our people believe in and worship God and that many of our legal, political, and personal values derive historically from religious teachings. Government must inevitably take cognizance of the existence of religion, and, indeed, under certain circumstances the First Amendment may require that it do so. And it seems clear to me from the opinions in the present and past cases that the Court would recognize the propriety of providing military chaplains and of the teaching *about* religion, as distinguished from the teaching *of* religion, in the public schools.

A public school curriculum that teaches secular ways of seeing the world while barely mentioning religious perspectives strikes us as a good example of the "passive hostility" Justice Goldberg says is prohibited by the First Amendment. The curriculum may well be one of those places where the government is required to "take cognizance of the existence of religion."

If the Court has not explicitly required that religion be included in the curriculum, we would argue that it ought to do so. Under the Court's own test for neutrality in *Schempp,* as well as in subsequent decisions, public schools may do nothing that has a primary effect of either advancing or *inhibiting* religion. We are convinced that the current curriculum does inhibit religion by marginalizing religion in our intellectual and cultural life, (implicitly) conveying the sense that religion is irrelevant in the search for truth in the various domains of the curriculum (as we will argue in Chapter 2). On both civic and educational grounds, a fair and neutral curriculum would include considerable study of religion.

The Role of the Teacher

Fairness and neutrality in the curriculum are possible only when teachers have a clear understanding of their role under the First Amendment. Teachers in public schools are employees of the government (or, better, they are there to act on behalf of all citizens). In that capacity, they are subject to the Establishment Clause and thus required to be neutral concerning religion while carrying out their duties as teacher.

The neutrality required of teachers by the First Amendment is intended to prevent the government from imposing religious or antireligious views on students. True, in settings beyond the school, courts have let stand some traditional acknowledgments of religion in government settings (the Supreme Court itself opens with prayer). But when a captive audience of "impressionable young minds" is involved, the courts are stricter about practices that suggest state endorsement of religion.[9]

This constitutional requirement of neutrality limits in some respects the academic freedom of the public school teacher. Teachers have the freedom, indeed the obligation, to expose students to the marketplace of ideas. They may not, however, either inculcate or denigrate religion. When teaching *about* religion, the teacher, like _the curriculum, does not take sides concerning religion. In the next chapters, we explore this matter in detail.

Does this mean a teacher may never mention personal religious views? What should happen when, for example, students ask the teacher to reveal his or her religion? We think that teachers are free to answer the

question but should consider the age of the students before doing so. Middle and high school students may be able to distinguish between a personal view and the official position of the school; very young children may not. In any case, the teacher may answer with a brief statement of personal belief and not turn the question into an opportunity to proselytize for or against religion.

Teachers, like students, bring their faith through the schoolhouse door each morning. In our view, the Establishment Clause doesn't prohibit teachers from reading a religious book during noninstructional time, saying a quiet grace before meals, or wearing religious jewelry. If a group of teachers wishes to meet for prayer or Scriptural study during the school day, we see no constitutional reason why they should not be allowed to do so as long as the activity is outside the presence of students and doesn't interfere with the rights of other teachers.

Constitutional problems arise when the teacher decides to use the classroom to either promote or denigrate religion. Parents in a North Carolina school district recently complained that their daughter's social studies teacher took every opportunity to make negative and sarcastic remarks about evangelical Christianity. On the other end of the spectrum, a Virginia teacher had to appear before the school board to answer complaints that she was using the curriculum, especially in December, to encourage students to accept Christ. In both instances, the behavior of the teacher was unconstitutional and unprofessional.

Although teachers may sometimes be confused about where to draw the line, most understand their obligation to model the First Amendment in the public school. A civil public school is a place where teachers are clear about how to apply religious liberty principles and are prepared to address religious issues in the classroom.

Finding Common Ground

We are convinced that creating a civil public school is the most ef-_fective way to move schools beyond the culture wars—to move from battleground to common ground. We have seen it happen in communities throughout the country.

Unfortunately, this model is still a tough sell in many school districts. Either they are currently violating the First Amendment by promoting religion and don't want to take the political risk of calling for change, or they try to ignore religion and see no reason to deal with it. Both attitudes fall into the "let sleeping dogs lie" theory of school administration. Too often it takes a crisis (usually a lawsuit) to move a district to act.

The failure of schools to be proactive concerning religious liberty and religion is not surprising. Administrators and school board members need only look at colleagues in other places who have been caught in the cross fire of charge and countercharge about such issues as prayer, equal access, the "December dilemma," or textbook selection. They see lawsuits, recall elections, dismissed superintendents, and divided communities. Why risk stirring up controversy? Because the greater risk is not to. This is true for two important reasons.

First, applying religious liberty principles fully and fairly in public schools is not only the right thing to do, it is, as Ernest Boyer warned, urgently necessary if we are going to live with our deepest differences in the 21st century. As the religious diversity of the United States continues to expand, it will be increasingly important that public schools be places where religious liberty works and where we learn as much as possible about one another.

Second, the survival of public education may be at stake. The exodus from public schools is fueled in large measure by dissatisfaction with how schools address issues concerning religion and values. If schools act now, they can reverse the distrust and alienation that many citizens feel toward their schools. The New Consensus on religious liberty in schools and religion in the curriculum is an unprecedented opportunity to find common ground and to rebuild trust where it has been lost.

Yes, but how?

Civic Ground Rules

A good first step would be for the school board to appoint a community task force charged with finding common ground on the role of religion and values in the schools. When this was done not long ago in Ramona, California, a conservative Christian minister, a Jewish community leader, parents with diverse perspectives, teachers, and administrators worked together to produce a comprehensive policy on religion in the schools. Now adopted by the school board, the policy enjoys broad support in the community. Students and parents understand their religious liberty rights, teachers have a clear defi-nition of teaching about religion (and support for doing so), and administrators have guidelines for dealing with issues concerning school calendars, religious symbols, and parental requests for excusal.[10]

The first task of any "common ground" effort should be to identify shared civic principles that can serve as ground rules for negotiating differences and working for consensus. One helpful place to start can be the national agreements discussed earlier, especially *Religious Liberty, Public Education, and the Future of American Democracy: A Statement of Principles.* When an agreement is supported by a broad spectrum of religious and educational organizations, it provides a local school district with a new foundation (and a safe harbor) for confronting potentially controversial issues.

The civic ground rules that underlie the *Statement of Principles* and that are being used in Ramona, as well as in many other communities where agreements have been reached, are derived from three guiding principles of religious liberty:

- *Rights.* Religious liberty, or freedom of conscience, is an inalienable right for all. Public education must make every effort to protect the conscience of every parent and student.
- *Responsibilities.* As American citizens, we have a civic responsibility to guard that right for every person, including those with whom we deeply disagree.
- *Respect.* Not only *what* we debate, but *how* we debate is critical in a democracy. All parties involved in public schools should agree to debate one another with civility and respect, and should strive to be accurate and fair.[11]

In a growing number of communities from Snowline, California, to Wicomico County, Maryland, these civic ground rules provide a framework for constructive dialogue and a basis for agreement across deep differences.

Including the Stakeholders

Reaching agreement on civic principles means little unless the key stakeholders in public education are fully represented in the process and the wider community is informed of the results. The task force or committee should include parents and community leaders with a broad range of viewpoints, including those who have been most critical of the schools. It is crucial to identify among the critics those individuals who are interested in dialogue and open to working for agreement on policy and practice. National organizations that represent the various constituent groups, especially those that have sponsored the *Statement of Principles,* are good resources for finding the right people to serve on a local task force.

In school districts scarred by culture-war battles, inviting in the critics may seem foolhardy. True, a small number of people on all sides of these issues oppose efforts to build bridges. But in our experience most people, when given the opportunity, will come to the table open to working for common ground. The benefits of this process far outweigh the risks. After all, building trust, modeling constitutional principles, and involving the community in their schools should be at the heart of our vision for public education.

Implementing the Vision

Finding common ground on religious liberty issues can raise high expectations in the community about school climate and performance. Without follow-through and careful implementation, all of the goodwill and trust gained during the process may be lost.

Schools in Wicomico County, Maryland, for example, made sure that they kept the community fully informed and involved as they developed their new policy. Through town meetings and use of the media, citizens knew what was going on and were able to participate in the discussion. When the school board adopted the policy, the superintendent made sure that it was disseminated to school personnel and parents. The district required all administrators to take part in an intensive seminar that prepared them to apply the policy's religious liberty principles in their decision making. It sent a number of teachers to a national institute for special training and provided workshops for many others on how to handle religion in the curriculum. The district developed new curricular resources and purchased others to help teachers teach about religions more accurately and fully.

Of course, all of these efforts to establish a civil public school aim at supporting and enhancing what happens in the classroom. Let's look briefly at one example, of many we could cite, of a classroom where the teacher takes religious liberty and religion seriously.

Martha Ball's Classroom

On any given day, a visitor to Martha Ball's 8th grade social studies class is likely to hear a lively discussion about religion. A teacher in Salt Lake City, Martha is convinced that Utah history, indeed any history, cannot be properly taught without considerable study of religion. Like growing numbers of teachers across the nation, she is unafraid to take religion seriously.

What you will *not* hear in Martha's classroom are angry arguments about religion with name-calling and personal attacks. And you will *not* hear Martha Ball using her position as teacher to indoctrinate students—for or against any religion. As it happens, Martha is of the majority faith in Utah. Her students, however, view her as a fair-minded educator able to teach about various faiths and worldviews with balance and respect. There are at least two reasons why Martha is successful at integrating significant discussion of religion: first, she understands and applies the civic framework in her classroom; second, she has taken advantage of a number of educational opportunities that have prepared her to teach about a variety of religions with fairness and objectivity.

Religious Liberty for All

Martha begins each school year by asking her students to consider how the civic principles of religious liberty enable Americans to live with their deepest differences. She ties the discussion to the three key concepts of rights, responsibilities, and respect discussed earlier.

Students learn that the First Amendment is built on the conviction that religious liberty, or freedom of conscience, is an inalienable right of every person. At the same time they learn that this extraordinary commitment to religious liberty must be tied to a civic responsibility to guard that right for every citizen. They discuss how the rapidly expanding religious and ethnic diversity in the United States, including Salt Lake City, makes it more important each day that they recognize their civic duty to protect the rights of others—even those with whom they strongly disagree.

Civil and Respectful Debate

By taking responsibility for the rights of others, students understand that they are not being asked to compromise their own deep convictions—nor are they being asked to accept or condone the beliefs and practices of their classmates. They are committing themselves, as citizens, to discuss their differences with civility and respect.

Martha does not impose these ideas in her classroom. She presents them as civic principles that, when upheld, enable Americans to work together for the common good. She then asks her students to translate these principles into ground rules for their life together in the classroom. After writing and talking about what

kind of class they want—how they want to be treated and how they should treat others—the students arrive at a shared understanding of “rights, responsibilities, and respect.”

Through this process Martha sets the stage for civil debate and constructive dialogue. Students can address serious and controversial topics more readily because they are prepared to exchange views without personal attacks or ridicule. During a discussion of Utah history, for example, a student (who happened to be a Mormon) said, “Well, I know my church is the one true church.” A Roman Catholic classmate spoke up: “But I know that *my* church is the true church.” When the Mormon student started to get angry, Mrs. Ball asked him to recall the agreement reached by the class on the meaning of religious liberty. She reminded the students of how Roger Williams, a man of deep religious convictions, created a society where each citizen was free to choose in matters of faith. “What would Roger Williams say?” she asked the angry student. “What are the civic ground rules for this class?” He replied, “I guess I have to say that if I have the right to say that my church is true, then he has the right to say his is true.” Martha’s students learn that they have the right to express their religious beliefs, but they also understand the right of others to hold very different views. They can then go on to disagree with one another without going for the jugular.

Martha has discovered that when students commit themselves to civic ground rules she is able to teach more about religion, and the students enter into the conversation with greater interest and liveliness. Throughout the year, her students remind one another and Martha herself of the ground rules they have agreed to uphold. Her classroom becomes a microcosm of the American experiment in religious liberty at its best.

Conclusions

Agreeing to a civic framework is not a panacea for culture wars. The school district in Snowline, California, for example, adopted a set of policies and practices that reflect the “rights, responsibilities, and respect” guidelines in the *Statement of Principles.* But civic agreement has not inoculated the district from conflict and controversy. They continue to have disputes about a wide range of issues, from self-esteem programs to prayer. What has changed, however, is how controversies are addressed: the community finds solutions without bitter fights and lawsuits. A commitment to fairness and a concern for rights of conscience shape how the people of Snowline work for common ground.[12]

In a democracy there will always be winners and losers in public policy disputes involving public education. But if all sides have been treated fairly in the process, then those who may lose on a particular issue will remain supportive of the schools—especially if they win other debates. The issue of religion in the schools allows for plenty of opportunities for “winners” on all sides. As we have suggested, there are ways to say “yes” to a role for religion, even as the schools must say “no” to state-sponsored religious practices. The key is to begin with a shared vision of religious liberty that provides the civic framework for the debate.

For school districts interested in carrying out both the letter and the spirit of the First Amendment, it is not enough to acknowledge that there is an appropriate constitutional and educational role for religion in public schools. Even to pass policies that protect religious liberty rights and encourage teaching about religion is insufficient. A truly civil public school is built and sustained only when policies and practices are put in place with the broad involvement and support of the community. Administrators and teachers must be prepared to carry out these policies. Parents and students must be informed about the implications for the curriculum and the culture of the school. Only then is the school taking religious liberty and religion seriously.

The growing consensus on religious liberty and religion in the public schools provides a historic opportunity for finding common ground. Within the civic framework provided by the religious liberty clauses of the First Amendment we are able to debate our differences, to understand one another, and to forge policies and practices that protect the liberty of conscience of every parent and student. If we take this opportunity, a common vision for the common good may be possible in public schools—and in our nation—as we enter the 21st century.

Suggested Readings _and Resources

Background documents and consensus guidelines for understanding the civic framework outlined in this chapter may be found in *Finding Common Ground: A First Amendment Guide to Religion and Public Education* (1994, 1996), edited by Charles C. Haynes and Oliver Thomas. For historical perspective on religious liberty and the First Amendment as they relate to education, see Chapter 3 of Warren A. Nord, *Religion and American Education* (1995). An excellent study of the origins and significance of the Religious Liberty clauses of the First Amendment is William Miller's *The First Liberty: Religion and the American Republic* (1987).

One of the best accounts of culture-war conflicts in public schools is *Battleground: One Mother's Crusade, the Religious Right, and the Struggle for Control of Our Classrooms* (1993) by Stephen Bates. For a full and provocative analysis of the culture wars, see James Davison Hunter's *Culture Wars: The Struggle to Define America* (1991) and *Before the Shooting Begins: Searching for Democracy in America's Culture War* (1994). In *A House Divided: Six Belief Systems Struggling for America's Soul* (1996), Mark Gerzon offers both a thoughtful analysis of the worldviews that divide America and very insightful approaches for finding common ground across our differences.

Extensive excerpts and annotations of the key Supreme Court cases involving religion in the schools may be found in *Religious Liberty in the Supreme Court: The Cases That Define the Debate Over Church and State* (1993), edited by Terry Eastland. A more complete anthology of these cases is *Toward Benevolent Neutrality: Church, State, and the Supreme Court* (1992), edited by Robert Miller and Ronald Flowers.

The Williamsburg Charter has greatly influenced our conception of a civil public school. *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 an excellent series of essays that provide a context for understanding the significance of the Williamsburg Charter.

For the latest developments in First Amendment law and new listings of resources for administrators and teachers, visit the First Amendment Center's web site (www.freedomforum.org).