



Praying for Common Sense: The Truth About Religion in Public Schools

An Americans United Report

Jan. 18, 2020

Trump Administration Guidance

On Jan. 16, 2020, President Donald Trump, Attorney General William Barr and Education Secretary Betsy DeVos issued new federal guidance that opens the floodgates for coercive prayer and religious activity in public schools. This will lead to bullying, harassment and ostracism that will predominantly impact LGBTQ students and religious minorities – students already impacted by the rise in hate crimes and discrimination in our country. Already, about 75 percent of the religious freedom violations reported to Americans United occur in our public schools.

Guidelines at a Glance:

- *Allow students to engage in unwanted proselytization and religious harassment*
Although students have the right to engage in religious activity during noninstructional time when at school, no student has the right to engage in unwanted religious proselytizing or harassment. This is bullying and it is not protected simply because it is based on religious belief.
- *Allow students to deliver prayers at the beginning of all official school-sponsored activities, including morning announcements, football games, graduations, and school assemblies*
The Supreme Court has already held that public prayers at school-sponsored events—even if led by students—bear the imprint of school endorsement and unconstitutionally coerce the audience to participate in religious exercise. But the guidance requires schools to adopt free speech policies that improperly allow prayer in all these circumstances.
- *Allow school employees to participate in student-led religious activities*
The federal courts have consistently held that public school employees acting in their official capacities are forbidden to lead, initiate, or participate in religious activities involving students, even when those activities occur before or after school. When students lead religious activities on campus—such as “See You at the Pole” events—school employees may only attend to supervise and monitor students. They must not participate in the students’ prayer in any way, including so-called passive participation like coaches taking a knee for player-led prayer before or after games.
- *Reframe constitutional prohibitions on school-sponsored prayer in public schools as “discrimination” against certain “religious viewpoints or religious expression”*
The Constitution’s guarantee that schools do not endorse or force students to participate in religious activities is not discrimination. Rather, it protects the religious freedom of all students by ensuring they feel welcomed and included in their schools, regardless of their religious beliefs.

- *Allow students to express their religious beliefs in all class assignments*
To be sure, students can include religious expression in their schoolwork when it is responsive to the assignment. But there are limitations; schools may maintain control of student expression in curricular activities and are required to prevent coercive or denigrating religious expression that would infringe on the rights of other students. For example, a teacher cannot allow a student to use an oral presentation as an opportunity to proselytize to the class. When prayer, evangelism, or anti-religious speech takes place within classrooms, students are a captive audience and thus are coerced to participate in religious exercise, in violation of the Establishment Clause.
- *Allow teachers to use the Bible to teach about religion*
The Constitution does not prohibit teachers from teaching about religion from an objective, secular perspective, but they cannot present religious teachings as true or in a proselytizing fashion. The guidance ignores this distinction and even explicitly singles out the Bible as an acceptable resource for the public school curriculum, sending the message that Christianity is the state's preferred religion.
- *Allow the federal government to meddle in state and local affairs*
The guidance creates a new complaint process for allegations of religious discrimination. Such complaints must be investigated by the state. Even if the state deems the complaint to be meritless, the complaint must also be submitted to the U.S. Department of Education, which could lead to the federal government defunding schools or school districts it thinks are insufficiently solicitous of religion.

Key Points

In clear violation of church-state separation, the president's guidance is designed to encourage public school-sponsored prayer and to encourage students to preach to their fellow students.

- It's unconscionable that on National Religious Freedom Day – a day we commemorate the foundation of church-state separation in America – the president would announce a plan to fuse religion and government in our public schools.
- Religion—and prayer—are vital to many people. But religion must be freely chosen and must not be forced on students in our public schools. Prayer is too personal to play politics. This is nothing more than a political ploy by President Trump to score points with his far-right, evangelical base at the expense of public school students.
- This guidance puts children at risk. It will result in the majority religion imposing their beliefs on those of minority faiths and the nonreligious as it is the prayers of the majority that will be repeated at school events and other settings.
- This guidance isn't about protecting religious freedom; it's about securing religious privilege for a narrow set of beliefs and advancing the agenda of Christian nationalists who want to indoctrinate public schoolchildren.

Public school students already have the right to pray and engage in other voluntary, student-led religious activities.

- The First Amendment protects religious freedom for all public schoolchildren guaranteeing them the right to pray or read religious texts during non-instructional time, and form religious clubs—as long as these activities are voluntary and initiated by students.
- Religious freedom means that students and parents—not public school officials, classmates, or the government—get to make their own decisions about religion.
- Public schools have a duty to remain inclusive spaces that welcome all children and protect the rights of students who have diverse religious beliefs.
- Parents should be able to trust that their children are not forced to pray, worship or participate in religious activities; are not proselytized; and are not denigrated because of their religious beliefs when they send them to a public school.

Public schools are a unifying force in our communities and are open to all students regardless of race, ability, or religion.

- Students and families should not feel excluded in their own schools because of their religious beliefs or because they are not religious. Nor should anyone have to listen to prayers that vilify them or others.
- For example, a Jewish student should not be forced to listen to a prayer that tells him he is going to hell unless he finds Jesus, or an LGBTQ student that they are a sinner.
- With this guidance, the president and attorney general are sowing division among students and teachers based on religion and teaching disrespect that could last a lifetime.
 - As the Supreme Court ruled in *Santa Fe v. Doe*, “school sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are non-adherents ‘that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.’”

The Supreme Court has held that when teachers and students pray at school it places public and peer pressure on students to join that is akin to overt compulsion.

- When public school teachers signal support for or encourage students to participate in religious activities, the students will feel pressured to do so.
- Students shouldn’t be forced to choose between their own beliefs and appeasing the teacher who grades their tests or the coach who decides whether they play the game.

The separation of church and state is the founding principle that safeguards religious freedom for all and defines who we are as a country. Today, it is yet again under serious threat.

- Our fundamental promise of religious freedom should be a shield to protect, not a sword to cause harm.
- When our government forces students to pray in public schools or feel ostracized, that causes harm. When our government imposes one religion on our students over all others, that causes harm.
- Students should be able to attend public school without feeling bullied to participate in religious activities or feeling unwelcome because they belong to a minority faith or are nonreligious.

Historical Context: School Prayer Precedent and Law

Supreme Court Precedent:

For decades, the U.S. Supreme Court has ruled that the U.S. Constitution protects students' rights to voluntarily pray and express religious viewpoints when they are at school, so long as their religious activity is voluntary, student-led, student-initiated, and does not coerce other students or disrupt the school's educational activities. The court has ruled the Constitution prohibits public schools and their employees from sponsoring, encouraging, or participating in religious activities with students. This prohibition applies to all official school activities, even if they occur outside normal school hours.

Engel v. Vitale, 370 U.S. 421 (1962)

The Supreme Court held that daily classroom prayers mandated by New York law were unconstitutional because the Establishment Clause means that public officials cannot compose official prayer and use the public school system to encourage its recitation. As the court explained, "[w]hen the power, prestige and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the officially approved religion is plain."

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

The Supreme Court held unconstitutional a Pennsylvania law that required public schools to begin the day with reading verses from the Bible and reciting the Lord's Prayer. Even though student participation was voluntary and students who asked were excused, the court struck down the law because its very purpose was to endorse religion.

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

The Supreme Court struck down an Alabama law that mandated that public schools have a daily one-minute period of silence for "meditation or voluntary prayer." The court examined the legislative history of the law and determined that its entire purpose was to promote religion. The bill's sponsor said that it was an effort to "return voluntary prayer" to the public schools.

Lee v. Weisman, 505 U.S. 577 (1992)

The Supreme Court held that a prayer delivered by a rabbi at a public school graduation ceremony violated the Establishment Clause. Although the ceremony was nominally voluntary, the court held that a school cannot require students to give up an important life event in order to avoid an unwanted, school-sponsored, religious practice.

Santa Fe Independent School District v. Doe, 530 U.S. 290 (2000)

The Supreme Court struck down a public school's policy of allowing student-led prayers at football games. Even though the speaker was selected by a student vote, the prayers resulted in the school endorsing religion: they were authorized by school policy and took place on school property at a school-sponsored event. As explained by the court, "school sponsorship of a religious message is impermissible because it sends the ancillary message to members of the audience who are non-adherents 'that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.'"

School Prayer Amendments:

There have been several attempts to pass constitutional amendments about school prayer in Congress. All have failed. Here's a look at the four most prominent efforts:

Becker Amendment, 1964: A number of school prayer amendments were introduced in Congress in the early 1960s in response to the Supreme Court's rulings in the *Engel* and *Schempp* cases. An amendment introduced by U.S. Rep. Frank J. Becker (R-N.Y.) became the leading proposal. After debates over whether the prayers would be non-denominational and other concerns, Becker was unable to secure a floor vote for the amendment, and it failed.

Dirksen Amendment, 1966: U.S. Sen. Everett Dirksen (R-Ill.) introduced a school prayer amendment that called for "voluntary participation by students or others in prayer." During hearings on the amendment, debate focused on what constituted "voluntary" prayer and whether children would feel pressured to pray. When the amendment reached the Senate floor, U.S. Sen. Birch Bayh (D-Ind.) introduced a non-binding resolution endorsing school prayer. This much less drastic measure peeled several votes away from the Dirksen amendment, and it failed.

Reagan Amendment, 1982-84: Ronald Reagan campaigned in 1980 in part in on a promise to restore "voluntary prayer" to public schools. Once in office, Reagan's allies in the Senate introduced an amendment; a briefing paper issued at the time implied it might even allow government officials to choose or write prayers and pressure children to say them. In March 1984, the Senate fell 11 votes short of the two-thirds required to pass.

Istook Amendment, 1995-98: After Republicans took control of the House of Representatives in 1995, Speaker Newt Gingrich (R-Ga.) vowed to pass a school prayer amendment. He turned the project over to U.S. Rep. Ernest Istook (R-Okla.), who consulted with Religious Right groups and drafted an amendment that would have allowed school-sponsored prayer and undermined church-state separation in other ways. The amendment reached the House floor in June 1998, coming up short of the two-thirds of the House needed to pass.

Previous Administrations' Religion Guidelines:

The first set of religion-in-public-school guidelines were issued in July 1995 by the Bill Clinton administration. The Clinton guidelines were seen as a response to the push by Gingrich and Istook to pass [a constitutional amendment on school prayer](#). The Clinton administration guidance was based on common-ground recommendations from groups across the ideological, religious, and political spectrum.

In 1998, the Clinton administration reissued the [guidelines](#) with some minor changes in light of a Supreme Court ruling holding that the Religious Freedom Restoration Act (RFRA) does not apply to state and local governments. The 1995 guidance had relied on RFRA for issues not involving prayer.

The No Child Left Behind Act of 2001 (NCLB) stated that federal funds will be denied to any local school district that prevents or otherwise denies students participation in "constitutionally protected school prayer." NCLB also required the Department of Education to issue new guidance on school prayer.

In 2003, the George W. Bush administration issued its [guidance](#) in response to NCLB and departed significantly from the Clinton administration guidance. The guidelines were not an accurate reflection of the law and they pushed the envelope to promote certain religious activities in public schools.

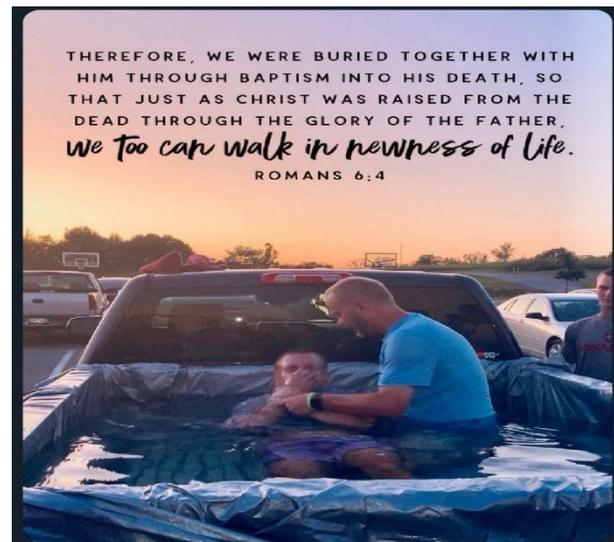
Americans United Stories of Public School Prayer Violations

About 75 percent of church-state separation violations reported to Americans United from across the country involve schools proselytizing to children, forcing them to pray and other religious coercion.

Some examples include:

Baptisms by Athletic Coaches:

In 2018 and 2019, AU addressed multiple violations committed by two head coaches of a school's football team. The first coach prayed with his students, encouraged students to pray, invited local clergy to deliver religious messages to the team, hosted team dinners at local churches, used school social media to endorse religious student clubs, and attended religious club meetings to directly proselytize attending students. After AU convinced the school to end the behavior, the coach retired, and another coach took over. But this coach engaged in almost the same behavior, this time taking it a step further by baptizing one of his players at a team meeting he held at a local church (pictured here).



Prayer During School Assemblies: It is common for AU to receive reports of public schools hosting mandatory assemblies that include prayer and proselytizing. In 2018, AU wrote to a high school that held an assembly where a Baptist missionary gave a presentation to students including prayer, Bible reading, and an altar call asking students to come up and become saved. The same district also allowed the Gideons to come into its elementary schools to distribute Bibles to students.

Christian Songs & Prayer at Athletic Events: AU recently wrote to a middle school that had a staff member recite a prayer and played the song *Statue of Liberty* over the loudspeaker during a football game. The song features lyrics like, "I'm so glad to be called a Christian, to be named with the ransomed and whole; As the statue liberates the citizen, so the cross liberates the soul."

Evangelists Recruiting Students: There are numerous reports of public schools allowing local pastors access to students for the purpose of prayer and proselytizing. One such report was a high school that allowed a youth minister—a church employee whose job it is to recruit young people for the church—to come onto school grounds and have unsupervised contact with students in the lunchroom. The youth minister prayed with students, pressured them to attend his church and discussed religious topics with them.

Punished for Refusing to Pray: Each morning over the loudspeaker at one elementary school, a student recited a prayer written by school officials. Students in class were required to bow their heads and participate in the prayer. Students who refused to join the prayer were punished. There were also prayers given at nearly every school event (assemblies, sporting events, etc.).

Graduation Prayers: Despite the Supreme Court ruling that graduation prayers violate the Constitution, they are still common across the country. AU recently received a complaint about an elementary school's sixth-grade graduation ceremony held in a church sanctuary. There was a Latin cross hanging above the main stage where students received their honors and were Bibles in the pews. The ceremony opened with a prayer delivered by a school employee, and several speeches delivered by school employees featured religious content like recitations of Bible verses.

