

August 30, 2025

Via Electronic Mail to [RLC@usdoj.gov](mailto:RLC@usdoj.gov)

Religious Liberty Commission  
U.S. Department of Justice  
Office of the Associate Attorney General  
950 Pennsylvania Avenue, NW  
Room 5706  
Washington, DC 20530

Dear Chair Patrick, Vice Chair Carson, and members of the Religious Liberty Commission:

On behalf of Americans United for Separation of Church and State, we write to the Commission to outline the historic landscape of religious liberty in public education; explain the threats to religious liberty that come from policymakers; provide examples of how students' and families' religious liberty is violated in public schools and the grave harms they face for taking action to protect their rights; and recommend that the Commission work to secure everyone's religious liberty in public education.

Founded in 1947, Americans United is a nonpartisan educational and advocacy organization dedicated to preserving the constitutional principle of church-state separation, which is the foundation of true religious freedom for all Americans. We fight to protect the right of individuals and religious communities to practice religion—or not—as they see fit without government interference, compulsion, support, or disparagement. We represent people of all faiths and none and have a network of more than 380,000 members and supporters across the country.

Americans United is the only organization in the country dedicated solely to defending and promoting the separation of church and state. Our 78-year legacy of protecting religious freedom and expertise as an organization staffed with constitutional lawyers means that we are uniquely positioned to offer guidance and information for your discussion of religious liberty issues in public education.

Religious freedom is a fundamental American value and a cornerstone of our democracy that is meant to be a shield that protects and should not be used as a sword to discriminate. But our national history of religious freedom has been misrepresented and misused by those who wish to use the government to promote only their religion and to



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force others to live by their religious beliefs. The true threats to religious freedom in this country come from Christian Nationalists and their extremist allies that are working to erode the separation of church and state and impose their specific set of values on all Americans.<sup>1</sup> Efforts to undermine religious freedom are especially egregious in our public schools, where families and students suffer the most harm.

In our diverse society, America's public schools are a unifying factor among people of different religions and beliefs. One of the hallmarks of public education is that it is secular and accepts all students, regardless of what religion—if any—they follow. When public schools promote religion or coerce students to participate in it, departing from the neutrality required by the Constitution, it weakens public schools, and undermines students' and families' religious liberties.

### **Historic Landscape of Religious Liberty in the Public Education Setting**

Students' religious freedom rights are guaranteed by the Establishment Clause and Free Exercise Clause of the First Amendment to the United States Constitution. Religious freedom ensures that students and their families—not politicians or public school officials—get to decide whether and how to engage with religion. No student should ever be made to feel excluded, whether it's in a classroom or a locker room, because they don't share the religious beliefs of their teachers, coaches, or fellow students. And no parent should have to worry that their child is receiving religious instruction in a public school.

In recent decisions, the Supreme Court has held that the Establishment Clause “must be interpreted ‘by reference to historical practices and understandings,’” and that the “‘line’ . . . ‘between the permissible and the impermissible’ has to ‘accor[d] with history and faithfully reflec[t] the understanding of the Founding Fathers.’”<sup>2</sup> Helpfully, the Court itself has explained the historical understanding of the meaning of the First Amendment at the founding and the relevant historical practices.

The Supreme Court explained more than 60 years ago that the Establishment Clause was in part based “upon an awareness of the historical fact that governmentally established religions and religious persecutions go hand in hand.”<sup>3</sup> Our Founders knew “from bitter personal experience, that one of the greatest dangers to the freedom of the individual to worship in his own way lay in the Government's placing its official stamp of approval upon one particular kind of prayer or one particular form of religious services.”<sup>4</sup> Accordingly, the Establishment Clause's “first and most immediate purpose rested on the belief that a union of government and religion tends to destroy government and to degrade religion.”<sup>5</sup> “The Establishment Clause thus stands as an expression of principle on the part of the Founders

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<sup>1</sup> See Americans United's June 14, 2025 [Comments on the Religious Liberty Commission's first meeting](#) for further details on the history and meaning of religious liberty and church-state separation.

<sup>2</sup> *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 535-36 (2022) (quoting *Town of Greece v. Galloway*, 572 U.S. 565, 577 (2014) (alterations in original)).

<sup>3</sup> *Engel v. Vitale*, 370 U.S. 421, 432 (1962).

<sup>4</sup> *Id.* at 429.

<sup>5</sup> *Id.* at 431.

of our Constitution that religion is too personal, too sacred, too holy to permit its ‘unhallowed perversion’ by a civil magistrate.”<sup>6</sup>

The Establishment Clause requires a “wholesome ‘neutrality’” with respect to religion, which “stems from a recognition of the teachings of history that powerful sects or groups might bring about a fusion of governmental and religious functions,” which “the Establishment Clause prohibits.”<sup>7</sup> Specifically, the government may not “promote one religion or religious theory against another or even against the militant opposite” because the First Amendment “mandates governmental neutrality between religion and religion, and between religion and nonreligion.”<sup>8</sup> This includes a prohibition on the government coercing anyone to participate in religion. Indeed, just three years ago, Justice Gorsuch explained that the government coercion of religion “was among the foremost hallmarks of religious establishments the framers sought to prohibit when they adopted the First Amendment.”<sup>9</sup>

These principles are particularly important for public school students. The Supreme Court has long recognized “there are heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools.”<sup>10</sup> Because students are “impressionable, and their attendance is involuntary,” courts must be “particularly vigilant in monitoring compliance with the Establishment Clause in elementary and secondary schools.”<sup>11</sup>

Students are especially vulnerable to the coercion (subtle or otherwise) and influence of their teachers and coaches. Teachers and coaches have tremendous authority over students, and vast power over students’ experiences. They assign students’ grades, decide whether they get playing time, write college recommendations, and can make or break their shot at an athletic scholarship. Students know that disappointing a teacher or coach, such as by refusing to join them in prayer, could jeopardize their school experience—or their future.

This tremendous potential for coercion has led the Supreme Court to repeatedly hold that public schools, school officials, and school employees are forbidden to sponsor, support, lead, initiate, participate in, arrange for, or encourage prayer involving students or otherwise

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<sup>6</sup> *Id.* at 431-32 (quoting *Memorial and Remonstrance against Religious Assessments*, II Writings of Madison, at 187).

<sup>7</sup> *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 222 (1963).

<sup>8</sup> *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); accord *McCreary County v. ACLU of Kentucky*, 545 U.S. 844, 875-76 (2005) (reaffirming, based on history of religious conflict in England and the American colonies, that “the government may not favor one religion over another, or religion over irreligion”). See also *Cath. Charities Bureau, Inc. v. Wis. Lab. & Indus. Rev. Comm’n*, 605 U.S. 238, 247 (2025) (“The clearest command of the Establishment Clause is that government may not officially prefer one religious denomination over another.”) (internal quotation marks omitted).

<sup>9</sup> *Kennedy*, 597 U.S. at 537.

<sup>10</sup> *Lee v. Weisman*, 505 U.S. 577, 592 (1992).

<sup>11</sup> *Edwards v. Aguillard*, 482 U.S. 578, 583-84 (1987).

to promote religion to students.<sup>12</sup> In *Lee v. Weisman*, for example, the Court held that a school violated the Establishment Clause's prohibition against religious coercion when a public school invited a member of the clergy to deliver prayers at a middle school graduation ceremony.<sup>13</sup> And in *Santa Fe Independent School District v. Doe*, the Court prohibited a public high school from offering student-led, student-initiated invocations at football games because "[t]hese invocations are authorized by a government policy and take place on government property at government-sponsored school-related events."<sup>14</sup>

The Constitution's prohibition against public school-sponsored religion is not limited to school-sponsored prayer. For example, nearly 80 years ago, in *McCullum v. Board of Education*, the Court invalidated a public school program that invited religious instructors to provide religious instruction in classrooms during the school day.<sup>15</sup> The Court explained that the Establishment Clause prohibits using a "tax-supported school system in aid of religious instruction."<sup>16</sup> The Court also struck down a law requiring public schools to post the Ten Commandments in every classroom, explaining its only effect would be to "induce schoolchildren to read, meditate upon, perhaps to venerate and obey, the Commandments," which is barred by the Establishment Clause.<sup>17</sup> In order to protect against school sponsored religion, federal courts have also struck down displays of religious items<sup>18</sup> and distribution of religious texts<sup>19</sup> in schools.

The historic landscape of religious liberty in public education is one that protects the religious freedom of all students and their families, regardless of their specific religious

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<sup>12</sup> See, e.g., *Lee*, 505 U.S. at 587, 592 (principal prohibited from allowing clergy to give prayer at graduation); *Schempp*, 374 U.S. at 222-26 (school officials violated Establishment Clause by leading students in recitation of Bible verses and the Lord's Prayer at beginning of school day); *Engel*, 370 U.S. at 430-33 (school officials forbidden to lead students in classroom prayer at beginning of school day).

<sup>13</sup> 505 U.S. at 587.

<sup>14</sup> 530 U.S. 290, 302 (2000). Federal courts have repeatedly prohibited student-delivered prayers at school events. See, e.g., *Borden v. Sch. Dist.*, 523 F.3d 153, 176-78 (3d Cir. 2008) (team meals); *Lassonde v. Pleasanton Unified Sch. Dist.*, 320 F.3d 979, 983-84 (9th Cir. 2003) (graduation); *Cole v. Oroville Union High Sch. Dist.*, 228 F.3d 1092, 1102-04 (9th Cir. 2000) (graduation); *ACLU of N.J. v. Black Horse Pike Reg'l Bd. of Educ.*, 84 F.3d 1471, 1479-80, 1487 (3d Cir. 1996) (en banc) (graduation); *Ingebretsen ex rel. Ingebretsen v. Jackson Pub. Sch. Dist.*, 88 F.3d 274, 279-80 (5th Cir. 1996) (assemblies, sporting events, and other school events); *Collins v. Chandler Unified Sch. Dist.*, 644 F.2d 759, 761-62 (9th Cir. 1981) (assemblies); *Skarin v. Woodbine Cmty. Sch. Dist.*, 204 F. Supp. 2d 1195, 1198 (S.D. Iowa 2002) (graduation).

<sup>15</sup> 333 U.S. 203 (1948).

<sup>16</sup> *Id.* at 204-05.

<sup>17</sup> *Stone v. Graham*, 449 U.S. 39, 42 (1980) (per curiam).

<sup>18</sup> See, e.g., *Johnson v. Poway Unified Sch. Dist.*, 658 F.3d 954, 965 (9th Cir. 2011), cert. denied, 566 U.S. 906 (2012) (public school teacher could not display religious posters on classroom bulletin board); *Lee v. York Cnty. Sch. Div.*, 484 F.3d 687, 690 (4th Cir. 2007) (public school teacher could not display various religiously themed materials in classroom); *Roberts v. Madigan*, 921 F.2d 1047, 1057-58 (10th Cir. 1990) (public school teacher could not display Bible on desk during class).

<sup>19</sup> See e.g., *Walz v. Egg Harbor Twp. Bd. of Educ.*, 342 F.3d 271, 279-81 (3d Cir. 2003) (upholding school officials' refusal to allow elementary school student to hand out pencils labeled "Jesus [Loves] The Little Children" and candy with religious messages attached during class hours); *Berger v. Rensselaer Cent. Sch. Corp.*, 982 F.2d 1160, 1167 (7th Cir. 1993) (enjoining Bible distributions in public school classrooms because "children are a captive audience" and "they are most assuredly not free to get up and leave").

beliefs. It is one that guarantees a student the right to pray, or otherwise engage with religion, in school so long as it is voluntary, non-disruptive, student-led, and student-initiated while also ensuring the school does not sponsor prayer or allow employees to initiate or participate in these practices with students. The United States is home to more than 2,000 religious groups, traditions, denominations, and sects.<sup>20</sup> This diversity of thought and religion is one of our nation's greatest assets, and public schools should foster an environment where everyone feels welcome and included. That's why the government is constitutionally required to remain neutral between religions, and between religion and nonreligion.

## **Present Threats to Religious Liberty in the Public Education Setting from Policymakers**

In the past few years, there has been an increase in threats to religious liberty in public schools through harmful state legislation and policies.

### *Religious Public Charter Schools*

A hallmark of our public schools, including public charter schools, is that they are open to all students and do not teach religion nor instill religious beliefs in students.

Yet in 2023, the Oklahoma Statewide Virtual Charter School Board approved the nation's first religious public charter school, St. Isidore of Seville Catholic Virtual School. The school, which would have been controlled by the Catholic Archdiocese of Oklahoma City and the Diocese of Tulsa, demanded the right to receive taxpayer funding to operate as a public school while simultaneously operating "as a Catholic School," integrating religious teaching into every aspect of the school. St. Isidore's policies and practices would have discriminated against students, families, and employees on the basis of the school's religious beliefs.

The Constitution ensures that public schools do not teach religious curriculum. This protects the religious freedom of public school students, their families, and taxpayers by ensuring that public-school students are not forced into religious instruction and public funds are not used to pay for religious education. Public charter schools, just like any other public schools, must abide by the Constitution.

There were two separate lawsuits challenging the Charter School Board's action—one brought by faith leaders, public-school parents, and public-education advocates<sup>21</sup> and one brought by Republican Oklahoma Attorney General Gentner Drummond. The Oklahoma Supreme Court decisively ruled that St. Isidore violated the Oklahoma Constitution, state law, and the federal Establishment Clause, explaining that "St. Isidore's educational philosophy is to establish and operate the school as a Catholic school. Under both state and

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<sup>20</sup> J. Gordon Melton, *Melton's Encyclopedia of American Religions* 1 (8th ed. 2009).

<sup>21</sup> [\*OKPLAC, Inc. v. Statewide Virtual Charter Sch. Bd.\*](#), No. CV-2023-1857 (D. Okla. Cty., filed Jul. 31, 2023). Americans United served as counsel in this case, along with the ACLU, Education Law Center, Freedom From Religion Foundation, and local counsel Benjamin H. Odom, John H. Sparks, Michael W. Ridgeway, and Lisa M. Mason of Odom & Sparks, and J. Douglas Mann.

federal law, the State is not authorized to establish or fund St. Isidore.”<sup>22</sup> In May 2025, the U.S. Supreme Court issued a *per curiam* opinion affirming the decision of the Oklahoma Supreme Court by an equally divided vote.<sup>23</sup>

### *Ten Commandments Displays*

In recent years, state legislators across the country have introduced bills to post a version of the Ten Commandments—a religious text—in public schools. Just this year, Americans United has tracked nearly 40 bills across 20 states. Many of these bills mandate a state-endorsed version of the text be displayed in every K-12 classroom in the state.

Displaying the Ten Commandments in public schools violates the religious freedom of public school students and their families, and violates the U.S. Constitution.<sup>24</sup> Doing so coerces students to read, reflect on, and obey a religious text.<sup>25</sup> Families should be able to trust that their public school will not impose religion on their children nor pressure them to adhere to a religious code—that’s the safeguard provided by the Constitution.

Despite the avalanche of bills introduced, only Louisiana, Arkansas, and Texas have enacted legislation. These acts were immediately challenged in court by families who are Jewish, Baptist, Presbyterian, Unitarian Universalist, non-denominational Christian, interfaith, Hindu, humanist, agnostic, atheist, and nonreligious.<sup>26</sup> Whether they adhere to the Ten Commandments as part of their faith traditions or not, the families have acted to vindicate their religious freedom rights.

A unanimous Fifth Circuit panel and federal district courts in Arkansas and Texas declared all three laws “plainly unconstitutional.”<sup>27</sup> Judge Timothy L. Brooks went even further in his opinion asking, “Why would Arkansas pass an obviously unconstitutional law? Most likely because the State is part of a coordinated strategy among several states to inject Christian religious doctrine into public-school classrooms.”<sup>28</sup>

Judge Brooks’ rhetorical question makes clear that the real threat to religious liberty in public schools comes from efforts to use public schools to force religion on students.

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<sup>22</sup> *Drummond ex rel. State v. Oklahoma Statewide Virtual Charter Sch. Bd.*, 558 P.3d 1 (2024).

<sup>23</sup> *Oklahoma Statewide Charter Sch. Bd. v. Drummond ex rel. Oklahoma*, 605 U.S. 165 (2025).

<sup>24</sup> *Stone*, 449 U.S. at 41-42.

<sup>25</sup> *Id.* at 42.

<sup>26</sup> See *Roake v. Brumley*, 756 F.Supp.3d 93 (M.D. La. 2024), *aff’d* 141 F.4th 614 (5th Cir. 2025); *Nathan v. Alamo Heights Indep.*, No. SA-25-CV-00756-FB, 2025 WL 2417589 (W.D. Tex. Aug. 20, 2025); *Stinson v. Fayetteville Sch. Dist. No. 1*, No. 5:25-CV-5127, 2025 WL 2231053 (W.D. Ark. Aug. 4, 2025). Americans United represents these families along with the ACLU, state ACLU affiliates, the Freedom from Religion Foundation, and Simpson Thacher Bartlett LLP.

<sup>27</sup> *Roake*, 141 F.4th at 645; see also *Nathan*, 2025 WL 2417589 (order granting preliminary injunction); *Stinson*, 2025 WL 2231053 (same).

<sup>28</sup> *Stinson*, 2025 WL 2231053 at \*1.



## *Chaplains in Public Schools*

Another way legislators have sought to promote religion in schools is by pushing laws to bring chaplains into public schools. Legislators disingenuously point to shortages of school counselors when championing the introduction of chaplains to public schools. But chaplains are clergy members who are trained to provide religious and spiritual care, not serve as replacements for qualified, licensed school counselors. Public schools are constitutionally prohibited from inviting religious leaders into schools to offer spiritual guidance and counseling.<sup>29</sup>

Nonetheless, Texas, Louisiana, and Florida have enacted school chaplain laws and, in 2025, twenty-four states introduced similar bills.

Chaplains themselves understand that they should not provide services in public schools. More than 300 chaplains signed an open letter explaining that these proposals “are harmful to our public schools and the students and families they serve.”<sup>30</sup> They also write that as “trained chaplains, we strongly caution against the government assertion of authority for the spiritual development and formation of our public school children.”<sup>31</sup>

Faith communities also oppose the idea of chaplains in public schools. Thirty-eight organizations that represent or serve religious denominations or are formally affiliated with religious communities explained that “proposals to place chaplains in our public schools are greatly flawed and threaten the well-being, education, and religious freedom of our students.”<sup>32</sup> They recognize that having “a school chaplain of any faith would amount to government-sponsored religion and create an environment ripe for religious coercion and the indoctrination of students.”<sup>33</sup>

Families can rely on clergy in their communities if and when they want religious counsel. Allowing chaplains—who aren’t required to have any training—to provide critical services like mental health counseling will endanger students, waste educational resources, and create liability for public schools. Students need counselors, not chaplains.

## *Teacher- and School-Sponsored Prayer*

Religious freedom promises that all of our children can attend public schools without being coerced by teachers or coaches to join in someone else’s prayers. This ensures that public schools are a welcoming place to all families, regardless of religious belief.

That’s why the Supreme Court has, for more than 60 years, repeatedly ruled that school-sponsored prayer is unconstitutional. No public school student should feel like they

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<sup>29</sup> See *McCullum*, 333 U.S. at 210-11.

<sup>30</sup> [Letter from 300+ Chaplains](#), Baptist Joint Comm. for Religious Liberty (June 17, 2024).

<sup>31</sup> *Id.*

<sup>32</sup> [Faith Organizations’ Open Letter Regarding Public School Chaplains](#), Americans United (Mar. 6, 2024).

<sup>33</sup> *Id.*

have to pray to play sports or get a part in the school play. And no student should ever be made to feel excluded—whether it’s in the classroom or on the football field—because they don’t share the religious beliefs of their teachers or coaches.

The Court’s 2022 decision in *Kennedy v. Bremerton School District* reaffirmed this vital constitutional safeguard, explaining that protecting against government coercion of religion was a key purpose of the First Amendment.<sup>34</sup> In *Kennedy*, the Supreme Court simply held that a public school had to allow a football coach to say a brief, quiet, private, and personal prayer. As the Court explained, the prayer was permissible because the coach “offered his prayers quietly while his students were otherwise occupied”<sup>35</sup> and during a time when “coaches were free to attend briefly to personal matters.”<sup>36</sup> But prayer that is coercive—including where teachers pray with or in front of students—is still unconstitutional.

Yet, after *Kennedy* several state legislatures went well beyond the limits of that opinion. They introduced bills explicitly designed to permit teachers to pray in front of, with, or over students. Although the sponsors alleged these bills merely codified the *Kennedy* decision, they are blatant attempts to encourage teachers and other public school employees to pray in ways that violate the Constitution. Just this year, Texas enacted a law allowing schools to adopt a “period of prayer and reading of the Bible or other religious text” that would let teachers to pray with students.<sup>37</sup> In 2023, Idaho enacted a law that might have similar effects.<sup>38</sup>

These measures grossly misinterpret the *Kennedy* decision and therefore invite religious freedom violations and put schools at risk of litigation.

### *Misinterpreting Student Religious Freedom Rights*

The First Amendment not only protects students’ rights to be free from religious coercion in public schools but also protects their rights to voluntarily pray and express religious viewpoints. Students may engage in prayer, so long as it is voluntary, student-initiated, student-led and does not coerce other students. They also have the right to read a religious text, including the Bible, whenever they have free time to read other texts.

At the same time, schools may maintain control of student expression in curricular activities<sup>39</sup> and are constitutionally required to prohibit certain types of religious expression

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<sup>34</sup> *Kennedy*, 597 U.S. at 537.

<sup>35</sup> *Id.* at 513-14.

<sup>36</sup> *Id.* at 530.

<sup>37</sup> TX Educ. Code § 25.0823; see also Evie Blad, [What’s Behind a Legislative Push for Prayer and Bible Study in Public Schools](#), Ed Week (May 28, 2025).

<sup>38</sup> Idaho Code Ann. § 33-6601-03; see also Nik Nartowicz, [Dangerous School Prayer Bills Are Surfacing In State Legislatures](#), Americans United (Apr. 4, 2023).

<sup>39</sup> *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 271-73 (1988).



that could result in coercion or disrupt the schools' education mission.<sup>40</sup> Schools also must prevent students from using the classroom and assignments to proselytize fellow students, even if the work meets the requirements of the assignment. There is a constitutionally significant difference between a student making a speech about Christianity's influence on world history versus speech asserting that all students must accept Jesus Christ in order to achieve salvation.

Under the guise of protecting public school students' religious expression, legislators have introduced bills, often called "Religious Viewpoint Antidiscrimination Acts" or "Student Religious Liberty Acts," that are designed to encourage students to pray and proselytize in public schools. Although they may correctly outline students' existing religious and free speech rights, these bills fail to include the necessary limits imposed by the Establishment Clause. Rather than creating stronger protections for students, they instead cause confusion and harm. School districts and teachers would face pressure to follow such a state law, but doing so could easily lead to unconstitutional student religious activities in public schools.

### *Teaching Religion, including the Bible, in Public Schools*

Public schools may teach *about* religion, but they may not *teach* religion. To be sure, the Bible has considerable significance in Western literature, art, and history. But the Constitution requires that any lessons about religion or the Bible, including courses designed to focus specifically on the Bible, must be taught from a secular, non-devotional, noncoercive, and objective perspective that does not favor any religion.<sup>41</sup> Public schools cannot teach that the Bible is a true and literal historical record. Despite these clear constitutional requirements, public schools often fail, violating families' religious freedom.<sup>42</sup>

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<sup>40</sup> *Walz v. Egg Harbor Twp. Bd. of Educ.*, 342 F.3d 271, 279-81 (3d Cir. 2003); see also *Busch v. Marple Newtown Sch. Dist.*, 567 F.3d 89, 99 (3d Cir. 2009); *Lassonde v. Pleasanton Unified Sch. Dist.*, 320 F.3d 979, 983-85 (9th Cir. 2003); *Cole v. Oroville Union High Sch. Dist.*, 228 F.3d 1092, 1101-04 (9th Cir. 2000); *Ingebretsen v. Jackson Pub. Sch. Dist.*, 864 F. Supp. 1473, 1488 (S.D. Miss. 1994) ("If students are subjected to prayer in a 'captive audience' situation, the state, although not officially delivering the prayer, may be effectively coercing students who do not wish to hear or participate in a prayer to do so."), *aff'd* 88 F.3d 274 (5th Cir. 1996).

<sup>41</sup> See, e.g., *Schempp*, 374 U.S. at 225; *Hall v. Bd. of Sch. Comm'rs*, 656 F.2d 999, 1002 (5th Cir. 1981); *Gibson v. Lee County Sch. Bd.*, 1 F. Supp. 2d 1426, 1432 (M.D. Fla. 1998); *Herdahl v. Pontotoc County Sch. Dist.*, 933 F. Supp. 582, 592 (N.D. Miss. 1996); *Doe v. Human*, 725 F. Supp. 1503, 1508 (W.D. Ark. 1989), *aff'd mem.* 923 F.2d 857 (8th Cir. 1990); *Wiley v. Franklin*, 468 F. Supp. 133, 149-50 (E.D. Tenn. 1979).

<sup>42</sup> See, e.g., *Doe v. Porter*, 370 F.3d 558, 562 (6th Cir. 2004) (prohibiting school district from offering a class "teach[ing] the Bible as religious truth"); *Hall*, 656 F.2d at 1002-03 (review of textbook "reveals a fundamentalist Christian approach to the study of the Bible devoid of any discussion of its literary qualities"); *Gibson*, 1 F. Supp. 2d at 1434; *Herdahl*, 933 F. Supp. at 596-97 (prohibiting school district from offering classes teaching "the Bible not as a work of fiction, but as a historic record, i.e., as a record of what actually occurred in the past"); *Human*, 725 F. Supp. at 1506 (prohibiting school district from offering Bible classes that are "predominantly religious and devotional in nature"—even if other parts of the course are "predominantly secular"); *Crockett v. Sorenson*, 568 F. Supp. 1422 (W.D. Va. 1983).

Yet state legislators and politicians continue to try to require public schools teach the Bible. For example, in 2024, Oklahoma Superintendent of Public Instruction Ryan Walters issued a mandate that all the state's public schools incorporate the Bible into the curriculum in grades 5 through 12.<sup>43</sup> Earlier this year, Walters released a new set of academic standards for social studies that unconstitutionally present Bible stories as literal, historical facts; inaccurately proclaim the Bible and Christianity's influence on the founding of America and the country's laws; and favor Christianity over other faiths and beliefs.<sup>44</sup> Dozens of students, parents, public school teachers, and faith leaders have filed two lawsuits challenging Walters.<sup>45</sup>

The intent behind these efforts is not to teach about the Bible in an objective manner, but instead is to promote one specific type of Christianity. Supporters of these efforts often claim they need to put God "back" in public schools. Indeed, Walters said during an interview that the Supreme Court had "lo[st] their mind" by "driving God and prayer out of school," and his efforts will counter that, claiming that "[w]e're going to have prayer in school" and "[w]e're going to have the Bible in school in Oklahoma."<sup>46</sup>

Attempts to teach religion in public schools are not limited to the Bible. Despite long-standing Supreme Court precedent that teaching creationism is unconstitutional,<sup>47</sup> we continue to see efforts to replace the teaching of sound science with religious beliefs. Last year, West Virginia enacted a law designed to pave the way for presentation in the classroom of a kind of creationism called "intelligent design." Like in West Virginia, these policies may not explicitly reference creationism, but often use euphemisms like "theory of how the universe came to exist," "scientific weaknesses," "full range of scientific views," and "evidence for and against," intended to misrepresent scientific knowledge and undermine students' education about evolution. That's why a federal court prohibited a school not only from referring to "intelligent design" creationism in science class, but also from "denigrating or disparaging the scientific theory of evolution."<sup>48</sup>

### *Release Time Programs*

Some schools offer release time programs that allow public school students to leave school to receive religious instruction. The Supreme Court has ruled that these programs are

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<sup>43</sup> See [Memorandum from Ryan Walters State Superintendent of Pub. Instruction to Oklahoma Superintendents](#) (Jun. 27, 2024); see also Josh Wallace, [Ryan Walters: Bible required to be taught in Oklahoma classrooms](#), KOCO News (Jun. 27, 2024).

<sup>44</sup> Murray Evans, [Controversial new social studies academic standards are in place in Oklahoma. Now what?](#), The Oklahoman (Jul. 6, 2025).

<sup>45</sup> [Randall v. Walters](#), No. MA-123237 (Okla., petition for declaratory & injunctive relief filed Jul. 1, 2025); [Walke v. Walters](#), No. MA-122592 (Okla., petition for declaratory & injunctive relief filed Mar. 10, 2025). Americans United is counsel in both cases, partnering in one or both with the Oklahoma Appleseed Center for Law & Justice, the American Civil Liberties Union, the American Civil Liberties Union of Oklahoma, and the Freedom From Religion Foundation.

<sup>46</sup> *Randall*, No. MA-123237 at 26.

<sup>47</sup> *Edwards v. Aguillard*, 482 U.S. 578 (1987).

<sup>48</sup> *Kitzmiller v. Dover Area Sch. Dist.*, 400 F.Supp.2d 707, 721, 766 (M.D. Pa. 2005). Americans United served as co-counsel in this case.

constitutional—but only if there are important safeguards to ensure public schools do not get involved in religious instruction in any way.<sup>49</sup>

In recent years, legislators have introduced bills to *require* every school in their state to adopt a release time policy, regardless of the desire and capacity of the school, local board of education, and community. There have even been bills that would allow students to receive academic credit for attending religious classes.

Release time programs, particularly when offered for credit, create pressure for students to participate to fit in with their peers who attend. Students who belong to minority faiths that do not have institutions to offer religious courses and nonreligious students could feel ostracized by their classmates and teachers for not enrolling in a release time course.

## **How Public Schools Have Harmed the Religious Freedom of Students and Families**

When schools promote religion or coerce students to engage in religious practices, children and their families—particularly those who are nonreligious or follow nonmajority faiths—face marginalization and harassment.<sup>50</sup>

Here are just a few examples of students' experiences:

- A Louisiana public school teacher proselytized and harassed a 6th grader who is Buddhist so badly that the student became physically sick every morning before school. The student was repeatedly mocked and disparaged because of his religious beliefs by his teacher, who coerced him into completing assignments and listening to lectures that promoted Christianity as truth, and at one point disparaged Buddhism as “stupid.” When his parents attempted to resolve the issue, the Superintendent told them that the solution was to either change the child’s religion or transfer him to another school with “more Asians.”<sup>51</sup>
- Native American students have faced numerous challenges to their religious freedom in public schools. School officials conducting routine lice checks cut the hair of two Lakota students in Nebraska, in violation of their Native American religious tradition and without the permission or consent of their parents.<sup>52</sup> This practice continued even after the parents raised concerns. A Texas public school suspended a 5 year-old boy because he wore his long hair in two braids, in accordance with his father’s Native American religious tradition.<sup>53</sup>

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<sup>49</sup> *Zorach v. Clauson*, 343 U.S. 306, 308-12 (1952) (classes must not take place on public school grounds, no public funds can be expended, and school officials cannot promote the program or coerce students).

<sup>50</sup> Around 75 percent of church-state separation violations reported to Americans United alone involve proselytizing to students, forcing them to pray, and other religious coercion in schools. [Praying for Common Sense: The Truth About Religion in Public Schools](#), Americans United (Jan. 18, 2020).

<sup>51</sup> *Lane v. Sabine Parish Sch. Bd.*, No. 5:14-cv-00100-EEF-KLH (W.D. La., filed Jan. 22, 2014) (order granting permanent injunction on Mar. 14, 2014). See also Scott Lane, [If You Want To Fit In At This Public School Just Become Christian](#), ACLU (Jan. 22, 2014).

<sup>52</sup> *Johnson v. Cody-Kilgore Unified Sch. Dist.*, No. 4:21-cv-03103 (D. Neb., filed May 17, 2021) (consent decree filed on Oct. 4, 2023).

<sup>53</sup> *A.A. v. Needville Ind. Sch. Dist.*, 611 F.3d 248 (5th Cir. 2010).

- When an Ohio second grader did not attend a release time program, she was bullied, ostracized, and told she was going to hell by her classmates. She was called a “leftover” and had to report to study hall in the gym during the release time.<sup>54</sup>
- A South Carolina middle schooler, who is nonreligious, was forced to attend a middle school assembly that included a sermon, a performance by a Christian rapper, and a prayer with local church members where students were pressured to pledge themselves to Christ. He endured repeated bullying and punishment, even at the hands of his teachers and school administrators, for his beliefs. When he forgot to wear a belt as part of the school uniform, he had to copy an essay stating that he thanks God every day and would not forget his belt again. School officials told him and his family that their beliefs were wrong and that they should “get right with God” because they were not Christian.<sup>55</sup>
- In Florida, a school district spent a decade developing policies and practices encouraging school-sponsored prayer, proselytization of students, and school-sponsored religious services.<sup>56</sup> The handbook at one of the District’s schools instructed teachers to “embrace every opportunity to inculcate, by precept and example, the practice of every Christian virtue.”<sup>57</sup> Teachers and coaches regularly assigned students religiously oriented school work, led or invited students to lead pre-game prayers, preached to students using a bullhorn, and pressured students to join religious clubs.
- In another Louisiana case, parents and students challenged rampant violations of their religious freedoms, including faculty harassment of minority-religion and nonreligious students, forced memorization of prayer in class, and proselytization and encouragement of religious practice through school athletic programs. A teacher even told students they had to believe in Jesus to be “good people.”<sup>58</sup>
- A head high school football 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 he retired, the next head football coach engaged in almost the same behavior, taking it a step further by baptizing one of his players at a team meeting he held at a local church.<sup>59</sup>
- School officials too often host religious assemblies in elementary, middle, and high school with missionaries or clergy members to give them an opportunity to

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<sup>54</sup> Megan Henry, [LifeWise Academy draws criticism from some Ohio parents, support from religious organizations](#), Ohio Cap. J. (Jan. 15, 2025).

<sup>55</sup> [Anderson v. Chesterfield Cnty. Sch. Dist.](#), No. 4:11-cv-03300-RBH (D.S.C., filed Dec. 5, 2011) (order granting permanent injunction on Jan. 24, 2012). See also Jonathan Anderson, [Second-Class Citizens in the Classroom: Promoting Religion in Public Schools Is Hurting Our Family](#), ACLU (Dec. 5, 2011).

<sup>56</sup> [Doe v. School Board for Santa Rosa County](#), No. 3:08-cv-00361 (N.D. Fla., filed Aug. 27, 2008).

<sup>57</sup> Heather Weaver, [Fox Wildly Distorts ACLU Religious Liberty Case](#), ACLU News (Aug. 19, 2019).

<sup>58</sup> [Complaint, Does v. Bossier Parish School Board](#), No. 5:18-cv-00152 (W.D. La. Jul. 6, 2018); see also Liz Hayes, [Victory In Bossier: Americans United Secures Agreement To Protect Students’ Religious Freedom In Louisiana School District](#), Church & State Mag. (Feb. 15, 2019).

<sup>59</sup> [Praying for Common Sense: The Truth About Religion in Public Schools](#), Americans United (Jan. 18, 2020).

proselytize and pray with students. These assemblies have featured rappers, rock bands, weight lifters, martial artists, dazzling light shows, and more. Sometimes the assemblies are mandatory for students and sometimes students are threatened with in-school suspension if they don't attend. At the assemblies, students are pressured to pray, take devotional materials, attend local churches, and even join an altar call to the stage and be saved.<sup>60</sup>

## **Retaliation Against Students and Families Protecting their Religious Freedom Rights**

Unfortunately, the fear of intimidation and physical harm is all too real for people who take action to protect their religious freedom. Students and families who challenged unconstitutional religious practices in their public schools have faced community backlash, direct hostility from local officials, and targeted acts of violence against them. This kind of retaliation not only undermines our constitutional rights, but also sends a chilling threat to anyone who might speak up against a violation of religious freedom.

Many of the following examples include graphic details of violence and threatened violence, references to the Holocaust, and abhorrent language. We include these details because we believe it is important to document the reality of what families and students who are not part of the majority faith experience when they seek to uphold their rights and be fully included in their public schools.

Here are a few examples of what students and their families have faced:

- The Lane family, in Louisiana, faced severe harassment after challenging the prolific promotion of religion in their children's school. The family had to transfer one of their children to a different school 25 miles away, in an attempt to avoid the daily bullying and harassment the student faced because he was Buddhist. The children's mother received threatening calls and was accosted outside her home by three people wearing KKK-type hoods who called her a "f—ing n—r Asian-loving b—ch."<sup>61</sup>
- Students in New Jersey who complained about the high school football coach leading the team and other students in prayer during pre-game meals and before games were subjected to racist, antisemitic, misogynistic, and violent slurs. Jewish cheerleaders were harassed and threatened. Fellow students sent anonymous antisemitic emails, wrote virulent chat room posts accusing these cheerleaders of lodging complaints, and made threats against the cheerleaders and any students who defended them. Comments included:
  - "First they crucify Jesus, then they got [the coach] fired . . . Jews gotta learn to stop ruining everything cool."
  - "The jew is wrong. [The coach] is right. Let us pray."
  - "d\*\*n jews . . . then you wonder why hitler did what he did back in the day."

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<sup>60</sup> See, e.g., *Praying for Common Sense*; *Anderson*, No. 4:11-cv-03300-RBH; complaints on file with Americans United.

<sup>61</sup> Heather Weaver, [Buddhist Student, Religious Liberty Prevail in Louisiana](#), ACLU (Mar. 14, 2014) (obscenities and racial slur modified).



- “MAYBE if [the coach] held a gun to the jjjwwws head and was like b\*tch get on ur knees and pray to jesus!! then that might be breaking the law . . . ehhe maybe not! . . . just suck it up if u don’t fu\*ing like whats going on in america then GO THE FU\*K BACK TO YOUR COUNTRY AND STAY THERE AND PRAY . . .”
- “Heil Hitla!!! sieg heill.”<sup>62</sup>

The cheerleaders also faced harassment and bullying—taunts, spitting, and items being thrown at them—from their fellow students at pep rallies and football games. They suffered severe stress and feared escalating attacks.<sup>63</sup>

- The Anderson family, from South Carolina, received hate comments online and were harassed at home after they challenged school-sponsored prayer, preaching, and religious activities in their school district.<sup>64</sup>
- Jessica Ahlquist required a police escort to and from school in Rhode Island after she challenged a prayer banner in her school.<sup>65</sup> Many in her community, including her state representative, publicly labeled her “an evil little thing.”<sup>66</sup> She was sent a tweet that noted her home address was posted online, called her a “\*\*\*\*ing worthless c\*\*\*,” and hoped she would get “curb stomped.”<sup>67</sup> Months after she won her case, Ahlquist received a letter that said the police would not watch her forever, people knew where her father worked and what cars they owned, and “WE WILL GET YOU—LOOK OUT!”<sup>68</sup>
- Tammy Kitzmiller received a death threat that told her to “watch out for a bullet” after she challenged the unconstitutional teaching of creationism in her children’s public school in Pennsylvania.<sup>69</sup> When Judge John E. Jones III ruled that the school had violated the Constitution, he received threats against him and his family, serious enough to warrant 24/7 U.S. Marshal protection.<sup>70</sup>
- After Louisiana families challenged the religion-infused practices of their public school, the school responded with a series of events and campaigns designed to further ostracize these students, including urging students to draw a blue line on their hands on a specific school day to show solidarity with the board—and, thereby, putting a clear target on any students not supporting school-sponsored religion.<sup>71</sup> Similarly, after Catholic and Latter Day Saints families challenged school-sponsored prayers at their Texas high school, “Administrat[ors], officials, counsellors, teachers,

<sup>62</sup> *Borden v. Sch. Dist.*, 523 F.3d 153, 184 (McKee, J., concurring) (obscenities as altered in source).

<sup>63</sup> [Brief of Jo Ann Magistro & Alan Brodman](#) at 10-12, *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507 (2022).

<sup>64</sup> Heather Weaver, [Don’t B-SHOcked: Settlement Shows Public Schools Can’t Proselytize](#), ACLU (Jan. 24, 2012).

<sup>65</sup> Elisabeth Harrison, [R.I. Student Draws Ire Over School Prayer Challenge](#), NPR (Feb. 14, 2012).

<sup>66</sup> [Jessica Ahlquist – Thomas Jefferson Youth Activist Award](#), *Freedom From Religion Foundation*, Freedom From Religion Foundation (2012).

<sup>67</sup> Mark Schieldrop, [Ahlquist: Fight Over Mural, Despite Harassment, Threats, “Worth It.”](#) Patch (Jan. 12, 2012) (obscenities and epithets as altered in source).

<sup>68</sup> Mark Schieldrop, [Ahlquist Family Told to ‘Get out of RI’ in Threatening Letter](#), Patch (Apr. 12, 2012).

<sup>69</sup> Ed Brayton, [Plaintiff Intimidation in Church/State Cases](#), Talk To Action (Jan. 17, 2007).

<sup>70</sup> Michelle Simmons, [Independent From the Ground Up](#), Dickinson (Nov. 5, 2014).

<sup>71</sup> Liz Hayes, [Victory In Bossier: Americans United Secures Agreement To Protect Students’ Religious Freedom In Louisiana School District](#), Church & State Mag. (Feb. 15, 2019).



[and other] employees ‘overtly or covertly [attempted] to ferret out the[ir] identities . . . by means of bogus petitions, questionnaires, individual interrogation, or downright ‘snooping,’”<sup>72</sup>

- Lisa Herdahl, from Mississippi, received bomb threats and harassing phone calls after she challenged school prayer, eventually being driven to quit her job to stay home and protect her family.<sup>73</sup> She faced extreme ostracization, as nearly every house and business posted signs opposing her suit.<sup>74</sup> Herdahl’s children were also bullied by their classmates, who called them “devil worshippers.”<sup>75</sup>
- Joann Bell’s home, in Oklahoma, was burned to the ground after she challenged school-sponsored prayers. She was also assaulted by a school employee who smashed her head against a car door multiple times, and school authorities celebrated the attack.<sup>76</sup> Her son’s prize goats were “slashed and mutilated with a knife,”<sup>77</sup> and callers threatened to physically assault her children and rape her.<sup>78</sup>
- After Madalyn Murray O’Hair, from Maryland, challenged official prayer and Bible readings in public schools, her children were physically attacked. Her home was firebombed, and the fire department took a “particularly circuitous route” that took them forty minutes to respond.<sup>79</sup>
- Vashti McCollum, from Illinois received more than a thousand threats in the mail after she challenged a school program that offered religious instruction.<sup>80</sup> She was fired from her job and pelted with rotten produce, and the family cat was lynched.<sup>81</sup>

## Opportunities to Secure Religious Liberty in Education for the Future

Everything outlined above poses a real, ongoing threat to students’ and families’ religious freedom and full inclusion in their schools and communities. The Constitution protects the rights of students to attend public school without being pressured to participate in religious activities. Many of these efforts, including religious charter schools, Ten Commandments displays, and school-sponsored prayer, violate the Constitution. Even those that could be constitutional in specific circumstances, such as teaching about the Bible and release time programs, are blatantly being pushed beyond their constitutional limits in order to unlawfully coerce students.

Using our public schools to promote a specific type of Christianity is also part of a broader attack on their role as a unifying, inclusive, and democratic force in our communities—and

<sup>72</sup> *Santa Fe*, 168 F.3d 806, 809, n. 1 (5th Cir. 1999), *aff’d* 530 U.S. 290.

<sup>73</sup> Gary Borg, [Judge Strikes Down School’s Prayers](#), Chi. Trib. (June 4, 1996).

<sup>74</sup> Nadine Strossen, [How Much God in the Public Schools](#), 4 W. & Mary Bill Rts. J. 607, 614 (1995).

<sup>75</sup> Stephanie Saul, *A Lonely Battle in the Bible Belt: A Mother Fights to Halt Prayers at Miss. School*, *Newsday* (Mar. 13, 1995).

<sup>76</sup> Sandhya Bathija, [Hell in Little Axe: An Oklahoma Mom’s Chilling Battle With Religious Bigotry](#), *Americans United* (Nov. 25, 2008).

<sup>77</sup> *Id.*

<sup>78</sup> See Robert S. Alley, *Without a Prayer: Religious Expression in Public Schools* 107-8 (1996).

<sup>79</sup> Katie Koch, [Bypassing the Bible](#), *Harvard Gazette* (Nov. 2, 2012).

<sup>80</sup> Vashti McCollum, *One Woman’s Fight* 98 (rev. ed. 1961).

<sup>81</sup> Douglas Martin, [Vashti McCollum, 93, Who Brought Landmark Church-State Suit, Is Dead](#), *N.Y. Times* (Aug. 26, 2006).

on public education more broadly. The same groups pushing the laws and policies outlined in these comments are also engaging in a dangerous campaign to undermine, defund, and replace public schools. They have created false controversies over books, curricula, and policies to sow distrust in our public schools, in order to push for radical changes to our education system, including the creation of universal private school vouchers and religious public charter schools. These efforts are all part of a plan to use the government to impose one narrow view of religion on all of our children and undermine the foundational principle of church-state separation.

Sadly, the harm of these efforts is not limited to threats to our Constitution, the law itself, or our public schools. These attacks on religious freedom ultimately harm children and families. They harm students who do not belong to the majority faith, whether they belong to a different Christian denomination, belong to a minority faith, or are nonreligious. They send the message to some that they “are outsiders, not full members of the . . . community, and an accompanying message to [only certain] adherents that they are insiders, favored members of the . . . community.”<sup>82</sup>

As shared above, these efforts also result in chilling threats of physical harm to the real people who must go to court to enforce their religious freedom rights. Students and their parents who filed lawsuits to challenge the promotion of religion in public schools have been physically assaulted, received death threats, been fired from their jobs, and more. These horrific incidents will only increase if states continue to push problematic and unconstitutional policies like the ones described here.

The Religious Liberty Commission has unique power. It can use its platform to highlight the issues discussed in these comments and to ensure they do not continue. It can work to guarantee that all our students and families, no matter their faith or beliefs, are protected, feel welcomed, and are not threatened by merely showing up at school.

The Commission can also help people understand what religious freedom means and how state legislatures and school officials can best protect everyone. At a future hearing, we urge the Commission to call on parents and students who had to speak out to vindicate their rights and experienced retaliation to better understand their stories—and ask how the Commission and the law can better work to protect them.

## **Conclusion**

America is a greater nation when we protect religious freedom for all, not just for some; when we are all free to believe or not, as we see fit, and to practice our faith—without hurting others; and when the government does not use our public schools to promote religion or coerce students to participate in religious exercise. Americans United remains steadfast in our work, as we have for nearly eighty years, to fight back against any threats

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<sup>82</sup> *Santa Fe*, 530 U.S. at 309-10 (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)).

to religious freedom, particularly in the public education setting, and ensure everyone enjoys their right to religious freedom.

We urge the Commission to address the real threats to religious freedom in public education. In doing so, the Commission must consider the ostracization, bullying, religious coercion, and even physical violence that students and families face when public schools are used as a platform to proselytize and promote a single set of religious beliefs—the very threats the First Amendment was designed to prevent.<sup>83</sup>

Sincerely,



Alessandro Terenzoni  
Vice President of Public Policy



Nik Nartowitz  
Lead Policy Counsel

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<sup>83</sup> The Founders, aware of the “anguish, hardship[,] bitter strife[,]” (*Engel*, 370 U.S., at 429) “turmoil, civil strife, and persecutions” caused by seeking “absolute political and religious supremacy,” (*Everson*, 330 U.S. at 8-9) intended the First Amendment “to avoid that divisiveness based on religion that promotes social conflict.” (*Van Orden v. Perry*, 545 U.S. 677, 698 (2005) (Breyer, J., concurring) (quoting *Schempp*, 374 U.S. at 305 (Goldberg, J., concurring))).