



## School Prayer, Moment of Silence, Other Policies Concerning Religion

Update by Michael Colasanti

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Religion in public schools is an issue that is analyzed through the lens of the First Amendment to the U.S. Constitution, which provides, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The government, including public school officials, must act neutrally with respect to religious expression in schools, and can neither favor religion(s) nor discriminate against them.<sup>1</sup>

When religious expression in public schools is voluntarily initiated by students, the First Amendment protects their right to express themselves. The government cannot enact policies that restrict or prohibit voluntary religious expression on the part of students. For example, students desiring to form a school-sanctioned Bible study group must be afforded the same rights and access that a non-religious group has. On the other hand, the government is prohibited from establishing a religion or favoring specific religious expression, and controversies are typically analyzed by the courts using what is known as the "Lemon test", established in the Supreme Court case of *Lemon vs. Kurtzman*, 403 U.S. 602. The Lemon test poses three questions when analyzing a specific policy: does the statute have a secular purpose, is its principal or primary effect to either advance or inhibit religion and does the provision foster an excessive government entanglement with religion? If any of these questions are answered affirmatively, the statute must be overturned.

The first three tables that follow are 50-state reviews of state-level policies concerning certain aspects of religion in public schools. The last table includes examples of state statutes overturned due to violations of the 1st Amendment. Highlights in this *StateNote* include:

- Thirty-four states either require or permit **prayer, moments of silence, meditation, reflection** at the start of or during class. Thirteen states require all schools to participate, 10 states allow the students/teachers the option to participate, seven states give discretion to the local district board to make the decision and four states allow voluntary participation by students/teachers but also authorize local districts to require participation.
- Four states allow the posting of the **Ten Commandments** in public schools (Table II).
- Seven states allow the teaching of religion and/or the **Bible in classrooms** (Table III).
- Highlights of state statutes (related to the topics above) ruled unconstitutional due to violations of the 1st (and 14th) Amendments to the Constitution (Table IV).

To see information on policies concerning the teaching of evolution, please see the ECS *StateNote* titled, [Policies Dealing with Evolution in Select States](#).

**Table I – Policies on Prayer, Moments of Silence, Meditation, Reflection, etc. During Class**

State	Citation	Summary	Last Known Revision
<b>Alabama</b>	ALA. CODE § 16-1-20.4	At the start of each day and at the beginning of every athletic event and graduation ceremony, teachers/administrators must conduct a brief period of quiet reflection for one minute. "The moment of quiet reflection... is not intended to be and shall not be conducted as a religious service or exercise, but shall be considered an opportunity for a moment of silent reflection on the anticipated activities of the day or event."	2001
<b>Arizona</b>	ARIZ. REV. STAT. § 15-342	School district governing boards may "require a period of silence to be observed at the commencement of the first class of the day in the schools. If a governing board chooses to require a period of silence to be observed, the teacher in charge of the room in which the first class is held shall announce that a period of silence not to exceed one minute in duration will be observed for meditation, and during that time no activities shall take place and silence shall be maintained."	1995
<b>Arkansas</b>	ARK. CODE ANN. § 6-10-115	"The teacher in charge of each public school classroom may, or if so directed by the board of directors of the school district in which the teacher is employed, shall, at the opening of school on each school day, conduct a brief period of silence with the participation of all students in the classroom who desire to participate."	1995
<b>Connecticut</b>	CONN. GEN. STAT. § 10-16a	"Each local or regional board of education shall provide opportunity at the start of each school day to allow those students and teachers who wish to do so, the opportunity to observe such time in silent meditation."	Unknown
<b>Delaware</b>	DEL. CODE ANN. TIT. 14, § 4101A	At the start of each day, all students may be granted a period of silence, not more than two minutes long, to be used "according to the dictates of the individual conscience of each student."	1995
<b>Florida</b>	FLA. STAT. CH. 1003.45	"The district school board may provide that a brief period, not to exceed two minutes, for the purpose of silent prayer or meditation be set aside at the start of each school day or each school week in the public schools in the district."	Unknown

State	Citation	Summary	Last Known Revision
<b>Georgia</b>	GA. CODE ANN. § 20-2-1050	"In each public school classroom, the teacher in charge shall, at the opening of school upon every school day, conduct a brief period of quiet reflection for not more than 60 seconds with the participation of all the pupils therein assembled. The moment of quiet reflection... is not intended to be and shall not be conducted as a religious service or exercise but shall be considered as an opportunity for a moment of silent reflection on the anticipated activities of the day."	1994
<b>Illinois</b>	105 ILL. COMP. STAT. 20/1	"In each public school classroom the teacher in charge shall observe a brief period of silence with the participation of all the pupils therein assembled at the opening of every school day. This period shall not be conducted as a religious exercise but shall be an opportunity for silent prayer or for silent reflection on the anticipated activities of the day."	2007
<b>Indiana</b>	IND. CODE § 20-30-5-4.5	Each local board must "establish the daily observance of a moment of silence in each classroom or on school grounds." During the moment of silence... the teacher responsible for a classroom shall ensure... that each student may, in the exercise of the student's individual choice, meditate, pray, or engage in any other silent activity."	2005
<b>Kansas</b>	KAN. STAT. ANN. § 72-5308a	"In each public school classroom the teacher in charge may observe a brief period of silence with the participation of all the pupils... at the opening of every school day. This period shall not be conducted as a religious exercise but [as] an opportunity for silent prayer or for silent reflection on the anticipated activities of the day."	1969
<b>Kentucky</b>	KY. REV. STAT. ANN. § 158.175	Teachers may conduct a period of silence or reflection not to exceed one minute.  "The board of education of a local school district may authorize the recitation of the traditional Lord's prayer and the pledge of allegiance to the flag in public elementary schools. Pupil participation in the recitation of the prayer and pledge of allegiance shall be voluntary... The exercises shall be conducted so that pupils shall learn of our great freedoms, including the freedom of religion symbolized by the recitation of the Lord's prayer."	2000

State	Citation	Summary	Last Known Revision
<b>Louisiana</b>	LA. REV. STAT. § 17:2115	"Each parish, city, and other local public school board in the state shall permit the proper school authorities of each school within its jurisdiction to allow an opportunity, at the start of each school day, for those students and teachers desiring to do so to observe a brief time in silent prayer or meditation."	2002
<b>Maine</b>	ME. REV. STAT. ANN. TIT. 20-A § 4805	"The school board of a school administrative unit may require, at the commencement of the first class of each day in all grades in all public schools in their unit, that the teacher in charge of the room in which each class is held shall announce that a period of silence shall be observed for reflection or meditation and during that period silence shall be maintained and no activities engaged in."	Unknown
<b>Maryland</b>	MD. CODE ANN., EDUC. § 7-104	Principals and teachers may require all students to meditate silently for approximately one minute each day. During this time, a student or teacher may "read the holy scripture or pray."	1978
<b>Massachusetts</b>	MASS. GEN. LAWS ch. 71, § 1A	"At the commencement of the first class... teacher in charge of the room in which each such class is held shall announce that a period of silence not to exceed one minute in duration shall be observed for personal thoughts, and during any such period, silence shall be maintained and no activities engaged in."	1985
<b>Michigan</b>	MICH. COMP. LAWS § 380.1565	The board of education of a district may "provide the opportunity during each school day to allow students who wish to do so, the opportunity to observe time in silent meditation."	1977
<b>Minnesota</b>	MINN. STAT. § 121A.10	"A moment of silence may be observed."	1996
<b>Mississippi</b>	MISS. REV. STAT. § 37-13-8	"In each public school classroom, the local school governing board may authorize a brief period of quiet reflection for not more than 60 seconds at the opening of school upon every school day. The moment of quiet reflection... is not intended to be and shall not be conducted as a religious service or exercise but is considered an opportunity for a moment of silent reflection."	2001
<b>Montana</b>	MONT. CODE ANN. § 20-7-112	"Instruction may not be given advocating sectarian or denominational doctrines. However, any teacher or principal may open the school day with a prayer."	1989

State	Citation	Summary	Last Known Revision
<b>Nevada</b>	NEV. REV. STAT. § 388.075	"Every school district shall set aside a period at the beginning of each school day, during which all persons must be silent, for voluntary individual meditation, prayer or reflection by pupils."	1977
<b>New Hampshire</b>	N.H. REV. STAT. ANN. § 189:1-b	On each school day, a period of not more than five minutes must be available to those who "wish to exercise their right to freedom of assembly and participate voluntarily in the free exercise of religion."	1977
	N.H. REV. STAT. ANN. § 194:15-a	School districts may authorize the reciting of the traditional Lord's prayer. Student participation is voluntary. "Pupils shall be reminded that this prayer is the prayer our pilgrim fathers recited when they came to this country in their search for freedom."	2002
<b>New Jersey</b>	N.J. STAT. ANN. § 18A:36-4	"Principals and teachers in... this State shall permit students to observe a one minute period of silence to be used solely at the discretion of the individual student, before the opening exercises of each school day for quiet and private contemplation or introspection."	1982
<b>New York</b>	N.Y. EDUC. LAW § 3029-a	Teachers may, or if so directed by the board of education, shall, conduct a brief period of silent meditation at the start of each day, with the participation of all students. Meditation "is not intended to be, and shall not be conducted as, a religious service or exercise, but may be considered as an opportunity for silent meditation."	1971
<b>North Carolina</b>	N.C. GEN. STAT. § 115C-47	Local boards of education may "adopt a policy to authorize the observance of a moment of silence at the commencement of the first class of each day in all grades in the public schools... Such period of silence shall be totally and completely unstructured and free of guidance or influence of any kind from any sources."	1995
<b>North Dakota</b>	N.D. CENT. CODE § 15.1-19-03.1	"A school board may, by resolution, allow a classroom teacher to impose up to one minute of silence for meditation, reflection, or prayer at the beginning of each schoolday."	2001
<b>Ohio</b>	OHIO REV. CODE ANN. § 3313.601	The local boards of education may "provide for a moment of silence each school day for prayer, reflection, or meditation upon a moral, philosophical, or patriotic theme." Pupil participation may be excused "if they are contrary to the religious convictions of the pupil or the pupil's parents or guardians."	2001

State	Citation	Summary	Last Known Revision
Oklahoma	OKLA. STAT. TIT. 70, § 11-101.1	"The board of education of each school district shall ensure that the public schools within the district observe approximately one minute of silence each day for the purpose of allowing each student, in the exercise of his or her individual choice, to reflect, meditate, pray."	Unknown
Pennsylvania	24 PA. CONS. STAT. § 15-1516.1	"Teachers may, or if so directed by the board of education, shall... conduct a brief period of silent prayer or meditation with the participation of all pupils."	Unknown
Rhode Island	R.I. GEN. LAWS § 16-12-3.1	"At the opening of every school day the teacher... shall announce that a period of silence not to exceed one minute in duration shall be observed for meditation, and during this period silence shall be maintained and no activities engaged in."	1977
South Carolina	S.C. CODE ANN. § 59-1-443	"All schools shall provide for a minute of mandatory silence at the beginning of each school day."	1995
Tennessee	TENN. CODE ANN. § 49-6-1004	Each grade in public schools is required to maintain a period of silence approximately one minute long "in order for all students and teachers to prepare themselves for the activities of the day." Teachers may permit students or others to participate in voluntary prayer.	1993
Texas	TEX. EDUC. CODE ANN. § 25.082	"The board of trustees of each school district shall provide for the observance of one minute of silence... During the one-minute period, each student may, as the student chooses, reflect, pray, meditate, or engage in any other silent activity that is not likely to interfere with or distract another student."	2003
Utah	UTAH CODE ANN. § 53A-11-901.5	"A teacher may provide for the observance of a period of silence each school day in a public school."	1996
Virginia	VA. CODE ANN. § 22.1-203	Requires school boards to establish daily moments of silence for meditation, prayer or other silent activity in every classroom. "During such one-minute period of silence, the teacher responsible for each classroom shall take care that all pupils remain seated and silent and make no distracting display to the end that each pupil may, in the exercise of his or her individual choice, meditate, pray, or engage in any other silent activity."	2000

## Table II – Posting the Ten Commandments in Schools

State	Citation	Summary	Last Known Revision
<b>Indiana</b>	Ind. Code §§ 4-20.5-21-2, 36-1-16-2	The Ten Commandments may be displayed on real property owned by the state or a political subdivision as part of an exhibit displaying other documents of historical significance that formed and influenced the United States legal or governmental system. The display must be “in the same manner and appearance generally as other documents and objects displayed.”	2000
<b>North Carolina</b>	N.C. GEN. STAT. § 115C-81	“A local school administrative unit may display on real property... documents and objects of historical significance that have formed and influenced the United States legal or governmental system and that exemplify the development of the rule of law, such as... the Ten Commandments.”	2001
<b>North Dakota</b>	N.D. CENT. CODE § 15.1-06-17.1	“A religious object or document of cultural, legal, or historical significance which has influenced the legal and governmental systems of the United States and this state may be displayed in a public school building together with other objects or documents of cultural, legal, or historical significance... The display of a religious object or document under this section must be in the same manner and appearance generally as other objects and documents displayed.”	2001
<b>South Dakota</b>	S.D. CODIFIED LAWS § 13-24-17.1	“An object or document containing the words of the Ten Commandments may be displayed in any public school classroom, public school building, or at any public school event, along with other objects and documents of cultural, legal, or historical significance.” The display must be “in the same manner and appearance generally as other objects and documents displayed.”	2000

**Table III – Religion as Curriculum**

State	Citation	Summary	Last Known Revision
<b>California</b>	CAL. EDUC. CODE § 51511	School boards may permit schools to use religious literature as long it does “not constitute instruction in religious principles or aid to any religious sect, church, creed, or sectarian purpose and when such references or uses are incidental to or illustrative of matters properly included in the course of study.”	2001
<b>Florida</b>	Fla. Stat. ch. 1003.45	“The district school board may install in the public schools in the district a secular program of education including, but not limited to, an objective study of the Bible and of religion.”	Unknown
<b>Georgia</b>	Ga. Code Ann. § 20-2-148	Public schools with grade nine or above may offer “an elective course in the History and Literature of the Old Testament Era and an elective course in the History and Literature of the New Testament Era.”	2006
<b>Mississippi</b>	Miss. Code Ann. § 37-13-161	School boards may permit schools to use religious literature as long it does “not constitute instruction in religious principles or aid to any religious sect, church, creed, or sectarian purpose and when such references or uses are incidental to or illustrative of matters properly included in the course of study.”	1997
<b>South Carolina</b>	S.C. CODE ANN. § 59-29-230	School district boards of trustees may authorize elective courses “concerning the history and literature of the Old Testament era and an elective course concerning the history and literature of the New Testament era.”	2007
<b>Texas</b>	TEX. EDUC. CODE ANN. § 28.011	A school district may offer to students in grade nine or above “an elective course on the Hebrew Scriptures (Old Testament) and its impact and an elective course on the New Testament and its impact.”	2007

**Table IV – Policies Concerning Religion Ruled Unconstitutional**

State	Citation	Summary	Last Known Revision
<b>Idaho</b>	IDAHO CODE § 33-1604	<p>Selections from the Bible chosen from a list prepared by the state board of education must be read daily in each classroom, without comment or interpretation. Any questions from pupils are referred to the pupil's parent or guardian.</p> <p>Held unconstitutional in <i>Adams v. Engelking</i>, 232 F.Supp. 666 (D. Idaho 1964). The district court in <i>Adams</i> ruled this provision unconstitutional under the precedent set by the Supreme Court in the 1963 case of <i>Abington School District vs. Schempp</i>, 374 U.S. 203. In <i>Abington</i>, the court ruled that no state law or school board may require that biblical passages be read or prayers recited, even if students may be excused from attending or participating.</p>	1963
<b>Kentucky</b>	KY. REV. STAT. ANN. § 158.178	<p>The superintendent of public instruction must ensure that a durable, permanent copy of the Ten Commandments is displayed in each public elementary and secondary classroom.</p> <p>Held unconstitutional in <i>Stone v. Graham</i>, 449 U.S. 39 (1980). The Supreme Court in <i>Stone</i> ruled that the Kentucky statute had “no secular purpose” and therefore violated the Lemon test. The court did not rule out the possibility that government could integrate the commandments into the curriculum, like the Bible; however, the act of posting them was unconstitutional.</p>	1978
<b>Massachusetts</b>	MASS. GEN. LAWS CH. 71, § 31	<p>A portion of the Bible must be read daily in the public schools, without written note or oral comment. Any pupil whose parent or guardian has informed the teacher in writing that he has conscientious scruples against it “shall not be required to read from any particular version, or to take any personal part in the reading.”</p> <p>Held unconstitutional in <i>Waite v. School Committee of Newton</i>, 202 N.E.2d 109 (1964), citing <i>Atty. Gen. v. School Committee of North Brookfield</i>, 199 N.E.2d 553 (1964).</p>	1826
<b>West Virginia</b>	W. Va. Const. Art. III, § 15a	<p>Public schools must provide a designated time at the start of each school day for any student so desiring to exercise their right to personal and private contemplation, meditation or prayer.</p> <p>Held unconstitutional in <i>Walter v. West Virginia Bd. of</i></p>	1984

		<p><i>Educ.</i>, 610 F. Supp. 1169 (S.D.W. 1985). The district court in <i>Walter</i> found the W.V. constitutional provision unconstitutional under the U.S. Constitution. Citing the Lemon test, the court stated that “the law under scrutiny does not meet any of the three elements [of Lemon]” and is “violative of the Establishment Clause.”</p>	
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<sup>1</sup> United States Department of Education. Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools. February 7, 2003. [www.ed.gov](http://www.ed.gov). ([http://www.ed.gov/policy/gen/guid/religionandschools/prayer\\_guidance.html](http://www.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html), last accessed 3/20/2008)