



AMERICAN
CONSTITUTION
SOCIETY FOR
LAW AND POLICY

THE CONSTITUTION IN THE CLASSROOM

The First Amendment and Freedom of Religion Lesson Summary

Part One: Background on the First Amendment

The Constitution and the Bill of Rights:

The Constitution is the central organizing document of our nation. It sets up the structure of government with the legislative, executive and judicial branches. It grants limited power to the federal government and reserves other powers to the States and citizens.

The Bill of Rights represents the first Ten Amendments to the Constitution. Unlike some systems, the American constitutional system begins with the assumption that we have certain basic freedoms that are exempt from unreasonable governmental interference. The Bill of Rights includes our fundamental guarantees of individual liberty, including the freedom of speech, freedom of religion, right against self-incrimination, right to a jury, right to a lawyer, right against cruel and unusual punishment and reserves rights to the several States and citizens.

The Supreme Court and Case Law:

The Supreme Court is the most powerful court in America and is the final decision-maker when it comes to interpreting the Constitution. Each court, from the trial level to the Supreme Court, decides cases based on arguments by lawyers, looking at how other courts have decided similar issues in the past. Judges look to past cases, history, and other legal principles to answer the question of how to decide the cases before them.

The First Amendment:

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

- United States Constitution, Amendment 1

The Religion Clauses:

In the Constitution, the right to be free from establishment of religion by the government and the right to free exercise of one’s own religion are called the religion clauses.

Discussion Questions:

- Why is it important to be studying these basic concepts of religion and democracy in school? Why did the founders limit government interference in religion?

- When the First Amendment says Congress shall make no law respecting an establishment of religion, what do we mean by “establishment” of religion?
- What kinds of issues involving freedom of religion might arise in a public school setting?
 - o Should school officials be able to establish a morning prayer for all students? What if the prayer did not mention a specific God or religion?
 - See Engel v. Vitale below
 - o Should moments of silence or prayers be allowed during official school functions?
 - See Lee v. Weisman in Part 2
 - o Should public high school students be allowed to elect fellow students to give a “solemnizing” invocation at football games – essentially offering a blessing at the beginning of the game? What if the blessing was non-religious?

Freedom from Establishment of Religion at School:

· Lemon v. Kurtzman – Created the traditional test for deciding whether a governmental practice violates the Establishment Clause. A challenged government practice must: 1) have a primary secular (not religious) purpose; 2) have a primarily secular effect; and 3) avoid “excessive entanglement” with religion. If a practice failed to meet any one of these requirements, it violated the Establishment Clause.

Part Two: Supreme Court Case Law – Engel v. Vitale & Lee v. Weisman

Engel v. Vitale Case Summary:

The question for the Supreme Court was whether the Establishment Clause of the First Amendment was violated by the required reading of a prayer at the beginning of each school day.

Facts: A New York School District decided to have the class recite the following prayer at the beginning of each school day. “Almighty God, we acknowledge our dependence upon Thee and we beg Thy blessings upon us, our parents, our teachers and our Country.” Ten families in the school district sued.

Holding: The Supreme Court held the mandatory prayer in school to be unconstitutional.

Legal Issue: The issue was whether this type of required prayer violated the Establishment Clause. The Supreme Court held that it did because the New York program officially supported the religious beliefs embodied in the prayer. The Court read the Establishment Clause to forbid this type of direct governmental involvement in religion.

Discussion Questions:

- Would it make a difference if, instead of a prayer composed by the school, a school had teachers and students read excerpts from the Bible?
 - o In Abington School District v. Schempp (1963) the court decided that this practice violated the Establishment Clause by putting the government in the posture of leading a religious exercise.
- What about teaching religion as fact in schools, such as courses on the history of religion or the Bible as literature...Is that allowed? (Yes) Why is that different?

- Whether the school system composes a prayer or selects bible passages for reading, it is unconstitutional if the purpose is a kind of devotional worship rather than academic study and critique.

Lee v. Weisman Case Summary:

The question for the Supreme Court was whether a public school could have a religious leader give an “invocation prayer” or benediction at a public school graduation ceremony.

Facts: A middle school in Providence, Rhode Island invited a rabbi to give an opening prayer at the middle school graduation ceremony. The prayer was non-denominational but religious in nature. Deborah Weisman and her father objected to the reading of a prayer by a religious figure, arguing it violated the First Amendment’s Establishment Clause.

Holding: The Court held that a required prayer violated the Establishment Clause, because it was a “state-sponsored and state-directed religious exercise in public school” and it was “clear that graduation prayers bore the imprint of the State and thus put school-age children who objected in an untenable position” of missing a graduation ceremony because of religious objection.

Legal Issue: The issue for the Court was whether the prayer was a state endorsement of religion. Justice Kennedy, writing to the Court, reasoned that because it was a formal state sponsored activity that all but required middle and high school students’ presence, the religious nature of the ceremony was tantamount to the establishment of religion.

Discussion Questions:

- Why is it important in Lee that it was a public ceremony? Is it the nature of the ceremony that matters of the nature of the prayer? What if a teacher, rather than a rabbi had said the same thing?
- What was objectionable about the prayer? It was a prayer for “diversity,” “liberty,” “the political process,” “the court system,” and the “destiny,” and “aspirations” of America? How can a prayer like that be considered “establishing” religion? Why is it any different than if someone gave a commencement speech proclaiming the value of diversity, liberty, etc?
- What if the activity in which the prayer is given is a voluntary extra-curricular one, such as a football game? What if the students can choose what they want announced before the game, and a student chooses to have a prayer recited? Does it matter if students can opt out of either the prayer recital or the activity all together?
 - In Santa Fe v. Doe, the court faced this issue wherein students were allowed to choose a pre-game speaker to solemnize football games (among both religious and non-religious speakers) and held that the school’s policy was a violation of the Establishment Clause.