



FREE EXERCISE: FROM CONCEPT TO PRACTICE

INTRODUCTION: As Protestantism began to spread and multiply through continental Europe in the 17th century, many governments reacted to this diversity of religious belief by trying to impose a single, established religion upon their populations. Sometimes the enforcement of religious uniformity was attempted through bloody persecution. At other times conformity was legislated, and failure to comply was punishable by fines or imprisonment.

Many of the members of these new denominations believed that they needed a new home in which to practice their religion freely; thus, there was the migration of Puritans to Massachusetts, Quakers to Pennsylvania, Dutch Reformed to New York, as well as the settlement of other colonies. Missionaries and settlers from France, Spain and England established their own religion as the official religion of their colony, and by the time of the American Revolution, most colonies had their own established religion. The great irony of this situation was that the colonists, many of whom had left the Old World to escape persecution, were themselves persecuting and banishing members of non-established religions, as was the case in the Massachusetts banishment of prominent Baptist, Roger Williams.

The plight of conformity within diversity, with most colonies having their own established religion, confronted the newly liberated nation as it strove to create a union. The solution was a legally enacted amendment to protect religious freedom: the First Amendment.

The First Amendment became possible through the union of two groups of people. James Madison, Thomas Jefferson and Benjamin Franklin, who were influenced by the natural-rights-of-man doctrines of the Enlightenment, believed that freedom of religion was a natural right. They formed an alliance with the religiously committed Protestant Christians, who had been stirred into new faiths through the Great Awakening (a series of religious revivals that swept over the American colonies in the 1730's and 1740's). These were mostly Baptists, Presbyterians and other Anglican reformers who were being denied their religious freedom by the established churches.

Since the passage of the First Amendment, not only has freedom of religion flourished in America, but also many new religions have arisen in our society – a society that has become decidedly pluralistic. Court challenges to this principle have helped articulate a variety of ways and manners in which Americans are legally permitted to exercise and express their different religious views. The concept of free exercise has been rigorously examined as it applies in many aspects of our own lives: in the military, in the schools, in government buildings, etc. What is unique about the American context today is not only that there is no established religion, but also that our right to the free exercise of religion encourages religious expression in many surroundings.

Learning Objectives: Students will learn to evaluate the free exercise principle as it applies in numerous aspects of their own lives as they:

- Debate and discuss the legal and practical implications; and
- Study correct, legal interpretations.

Class Exercise

Free Exercise in School: Have the students answer and discuss the following hypothetical questions, and then see how the weight of court decisions on these matters has addressed the questions.

Topic: Should it be permissible for students to pray in school?

- A. Is there a difference between students praying individually or someone leading them in prayer?
- B. If the court is trying to balance the need for schools to be able to accomplish educational goals, while protecting the individual student's right to pray in school:
 1. Under what circumstances might the protection of this right interfere with educational goals?
 2. Under what circumstances would the two not clash?
 3. Think of your own school day and what you do during it in order to address these questions.

Source: Although not produced by the U.S. Department of Education, in September 1995 under the direction of President William Jefferson Clinton, U.S. Secretary of Education, Richard W. Riley, distributed a statement of principles to every school district in the United States addressing religious expression in the public schools. *Religion in the Public Schools: A Joint Statement of Current Law* was, in part, issued to put to rest the misconception that prayer and other types of religious expression are banned in American public schools. The guidelines were re-issued with minor updates in 1998. In 2003, U.S. Secretary of Education, Rod Paige, issued the Bush Administration's updates on current-state-of-law guidelines for religion in the public schools, further supporting the protected First Amendment rights of students, stating: "...the First Amendment forbids religious activity that is sponsored by the government but protects religious activity that is initiated by private individuals' such as students." The following are excerpts from the directives.

Student Prayer: "Students may pray when not engaged in school activities or instruction, subject to the same rules designed to prevent material disruption of the educational program that are applied to other privately initiated expressive activities. Among other things, students may read their Bibles or other scriptures, say grace before meals, and pray or study religious materials with fellow students during recess, the lunch hour, or other non-instructional time to the same extent that they may engage in nonreligious activities. While school authorities may impose rules of order and pedagogical restrictions on student activities, they may not discriminate against student prayer or religious speech in applying such rules and restrictions.

If a school has a 'minute of silence' or other quiet periods during the school day, students are free to pray silently, or not to pray, during these periods of time. Teachers and other school employees may neither encourage nor discourage students from praying during such time periods." Guidelines, 2003

Teaching about Religion: "Students may be taught about religion, but public schools may not teach religion. As the U.S. Supreme Court has repeatedly said, '[i]t might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization.' It would be difficult to teach art, music, literature and most social studies without considering religious influences. The history of religion, comparative religion, the Bible (or other scripture) -as- literature (either as a separate course or within some other existing course), are all permissible public school subjects. It is both permissible and desirable to teach objectively about the role of religion in the history of the United States and other countries. One can teach that the Pilgrims came to this country with a particular religious vision, that Catholics and others have been subject to persecution or that many of those participating in the abolitionist, women's suffrage and civil rights movements had religious motivations." Joint Statement, 1995

Student Assignments: "Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of their submissions. Such home and classroom work should be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school. Thus, if a teacher's assignment involves writing a poem, the work of a student who submits a poem in the form of a prayer (for example, a psalm) should be judged on the basis of academic standards (such as literary quality) and neither penalized nor rewarded on account of its religious content." Guidelines, 2003

Religious Literature: "Students have the right to distribute religious literature to their schoolmates, subject to those reasonable time, place, and manner or other constitutionally acceptable restrictions imposed on the distribution of all non-school literature. Thus, a school may confine distribution of all literature to a particular table at particular times. It may not single out religious literature for burdensome regulation." Joint Statement, 1995

Student Garb: "Schools enjoy substantial discretion in adopting policies relating to student dress and school uniforms. Students generally have no Federal right to be exempted from religiously-neutral and generally applicable school dress rules based on their religious beliefs or practices; however, schools may not single out religious attire in general, or attire of a particular religion for prohibition or regulation. Students may display religious messages on items of clothing to the same extent that they are permitted to display other comparable messages. Religious messages may not be singled out for suppression, but rather are subject to the same rules as generally apply to comparable messages." Joint Statement, 1998

For the full text of the Joint Statement, visit:
<http://www.ed.gov/Speeches/04-1995/prayer.html> and
<http://www.ed.gov/Speeches/08-1995/religion.html>.

For the 2003 official guidelines (begin at Overview of Governing Constitution Principles), visit: http://www.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html; and http://www.ed.gov/policy/gen/guid/religionandschools/letter_20030207.html.

For more in-depth study and materials on religion in the public schools, visit:
<http://firstfreedom.org/education/constitution.html>.