

## Texts and Court Cases

### Constitutional Provisions Relating to Separation of Church and State

Article VI, Section 3. The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Amendment I. 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.

Amendment XIV, Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

### Court Decisions Relating to the Separation of Church and State

Everson v. Board of Education, 330 U.S. 1, 15-16 (1947) [Hugo Black, J.]

"The 'establishment of religion' clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect 'a wall of separation between Church and State.'" 330 U.S. 1, 15-16.

Checklist of Constitutional Issues (from Findlaw.com)

The United States was the first country to make religious freedom part of its fundamental law. Through the years, the ways in which people may practice and express their religious convictions has been refined by cases heard by the Supreme Court. This process has been particularly common where public schooling and religion intersect-- few issues receive so much public and legal attention. This checklist can help you determine whether your local public school is engaged in practices that have been addressed by the Court.

My public high school starts its graduation ceremonies with a nondenominational prayer. Even nonsectarian prayer at a public school graduation is unconstitutional. It violates the constitutional prohibition on establishment of religion because it involves the government (acting through the public school) in a religious activity. *Lee v. Weisman*, 505 U.S. 577 (1992).

My local public school requires the students to observe a "prayerful moment of silence" every morning after the Pledge of Allegiance. Even if public school students are given the option of meditating during a moment of silence intended for prayer, requiring such a moment during the school day violates the Constitution. *Wallace v. Jaffree*, 472 U.S. 38 (1985).

The state started giving salary "boosters" to teachers at the local religious schools. The government can't get involved in religious education financially; it could cause government to become entangled in religious matters. *Lemon v. Kurtzman*, 403 U.S. 602 (1971).

The school district pays for students to get bussed to voluntary monthly religious education programs. Certain expenditures can be made for social policy purposes that don't get the government too involved. For instance, in *Everson v. Board of Education*, 330 U.S. 1 (1947), it was considered acceptable for tax money to go to a bus fare program to get students to and from a religious schools.