



**CCSESA**

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# California Three Rs

## Rights, Responsibility, and Respect

*A Project of the California County Superintendents Educational  
Services Association and The First Amendment Center*

**Volume 6, Number 1**

**August 2008**

### The First Amendment and School Clubs

Adapted from Finding Common Ground

Secondary school students are social beings who enjoy forming clubs related to their special interests, some connected to the curriculum and some that are not. Though educational research has long touted the positive relationship between participation in extra curricular activities and school success, school managers have not always found this part of the school administration an easy one in today's pluralistic society. Sometimes school officials deny student requests for certain clubs because they deem them too controversial or inappropriate. Though this response is generally done in an effort to protect the school from a predicted negative consequence, it is generally not the proper course of action. Since the 1984 Equal Access Act, declared constitutional in *Westside Community Board of Education v. Merbens* (1990), the law is pretty clear about the First Amendment and student clubs in secondary public schools.

#### The Equal Access Act (20 U.S.C. 4071-74)

- (a) It shall be unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings.
- (b) A public secondary school has a limited open forum whenever such school grants an offering to or opportunity for one or more noncurriculum-related student groups to meet on school premises during noninstructional time.
- (c) Schools shall be deemed to offer a fair opportunity to students who wish to conduct a meeting within its limited open forum if such school uniformly provides that—
  - (1) the meeting is voluntary and student-initiated;
  - (2) there is no sponsorship of the meeting by the school, the government, or its agents or employees;
  - (3) employees or agents of the school or government are present at religious meetings only in a nonparticipatory capacity;
  - (4) the meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school; and
  - (5) nonschool persons may not direct, conduct, control, or regularly attend activities of student groups.
- (d) Nothing in this subchapter shall be construed to authorize the United States or any State or political subdivision thereof—
  - (1) to influence the form or content of any prayer or other religious activity;
  - (2) to require any person to participate in prayer or other religious activity;
  - (3) to expend public funds beyond the incidental cost of providing the space for student-initiated meetings;
  - (4) to compel any school agent or employee to attend a school meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee;
  - (5) to sanction meetings that are otherwise unlawful;
  - (6) to limit the rights of groups of students which are not of a specified numerical size;
  - (7) to abridge the constitutional rights of any person.

There are really three basic elements or concepts in the Equal Access Act that school officials need to think about in making decisions related to noncurricular clubs on secondary (as defined by California Education Code SEC. 50-53) campuses.

The first concept is *nondiscrimination*. Though Congress created the law largely to prevent discrimination against religious clubs, the clause against nondiscrimination “on the basis of the religious, political, philosophical, or other content of the speech” applies more broadly. Under the law if a school opens its facilities to “any noncurriculum related group,” it must open its facilities to all student groups. This means that if a school allows students to form a chess club or a Key club, it usually must also allow the formation of a Bible club, Muslim club, gay-lesbian club or other group that some might consider controversial. The goal is not preferred treatment but equal treatment of religious and nonreligious speech. If other clubs use the school bulletin to advertise events, religious and controversial clubs must also be permitted to do so.

The second concept is the protection of *student-initiated and student-led meetings*. The First Amendment prohibits government initiated and government led religious activities in public schools. The Court in the Mergens case made it clear that the Equal Access Act points to the difference between government led speech endorsing religion which is prohibited by the Establishment Clause and student or private speech endorsing religion which is protected by the Free Exercise Clause.

The third concept is *local control*. The Act does not limit the authority of the school to maintain order or to protect the well being of the students and the faculty. As with all school activities and clubs, it is required that faculty be present for the meetings as a nonparticipating monitor. The staff member, however, may not influence the content of any prayer or religious activity, nor can school employees be required to attend the meeting if its content is contrary to their own beliefs. Schools must maintain order and are not required to permit meetings at which unlawful conduct occurs, but they cannot bar students from discussing controversial issues because the club’s stance on those issues is not popular with some students.

The complexities of the Equal Access Act merit careful consideration and the creation of comprehensive school and district policies. Everyone in the school and community must understand what constitutes a limited open forum. Policies for operation of this forum, developed well in advance and consistently applied, will help schools deal constructively with the controversies that arise in schools when people’s values and desire to protect their children are at play. These policies need to specify the appropriate times for all student clubs to meet, the number of times that non school personnel may attend, the limits on proselytizing, the responsibilities of the club monitor, how to maintain order when the club’s actions are controversial, etc.

As schools and districts develop these policies, they may seek assistance from the consensus document “Student Religious Clubs” that was developed by representatives from twenty major national religious and educational organizations. It is available in Finding Common Ground: A First Amendment Guide to Religion and Public Schools (2007) Chapter 7, pp. 77-88. (Available from the First Amendment Center in pdf format at <http://www.firstamendmentcenter.org/about.aspx?id=6276>). An additional excellent resource from the First Amendment Center are the legal research articles by David L. Hudson on student religious expression. The one on Student Clubs may be found at <http://www.firstamendmentcenter.org/Speech/studentexpression/topic.aspx?topic=Clubs>.

It is also essential for students to develop a deep understanding of the Three Rs: Rights, Responsibility, and Respect and how these principles should play out on their school campuses. First Amendment liberties are the glue that keeps America together, and allows its democratic institutions to function in the world’s most pluralistic society. Students who learn to listen respectfully to and protect the rights of those with whom they disagree are developing the skills and dispositions essential for their future role as citizens in a constitutional democracy. They learn the important lesson that we are only as free ourselves as we are effective in protecting the rights of others to be free.

Religion in American History TAH Project, California 3Rs Project, Inland Empire Council for the Social Studies,  
CSU San Bernardino & Cal Poly Pomona, in cooperation with the United States Holocaust Memorial Museum  
*invite K-12 educators to*

## **Lessons from the Holocaust**

### **The Importance of America's Experiment in Democracy**

Studying the Holocaust both challenges and inspires people. It reveals the depths of inhumanity and invigorates a commitment to democracy. Through it we learn of courage, of altruism, and of the devastating consequences of silence and inaction. These are lessons that are easily forgotten by students born two or more generations after the overwhelming oppression of the Holocaust unless educators step forward to prepare this generation of young people to take their place as the next leaders and defenders of rights in America and abroad. The First Amendment, founded on the inviolable dignity of every person, embodies these rights and is the boldest statement ever made to preserve public justice. American society will only be free to the degree that these rights are understood and protected by future generations. Join other educators in learning about the Holocaust and how it informs the civic mission of schools to help students link the past to their social and political choices of today. Each participant will receive resources for the classroom.

**Date:** October 25, 2008

**Location:** Kellogg West Conference Center

**Time:** 8:00 a.m. – 4:00 p.m.

Cal Poly Pomona, 3801 W. Temple Ave.

**Cost:** \$40 (includes lunch and materials)

Pomona, CA 91768

*Program open to all educators.*

*TAH teachers funded by their respective programs; student teacher scholarships available.*

**Questions:** [alopezhill@verizon.net](mailto:alopezhill@verizon.net) or 909-537-5459

#### **Tentative Agenda**

**Keynote "Linking the Past to Moral Choices Today"**

**Dr. Dan Alba, Director Los Angeles, Facing History and Ourselves Project**

**"Rise of the Nazi's – Why Did It Happen?" - Skip Aldrich, Consultant U.S. Holocaust Museum**

**"Three Rs of Human Rights" – Dr. Peg Hill, Director CA 3Rs & Religion in American History**

**"Teaching About the Holocaust" – Marilyn Lubarsky, Consultant U.S. Holocaust Museum**

**Survivor Interview and Online First Person Resources for the Classroom**

#### **Registration Coupon - Lessons of the Holocaust**

**Name:** \_\_\_\_\_ **School:** \_\_\_\_\_

**School Address:** \_\_\_\_\_ **City:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**School phone ( ):** \_\_\_\_\_ **Email (required):** \_\_\_\_\_

**Teaching American History Project Attending:** \_\_\_\_\_

Mail completed registration coupon and checks (no POs) made out to Inland Empire Council for the Social Studies to: IECSS – Box 582, 1042 N. Mountain Ave., Ste B, Upland, CA 91786

Communication will be via email.

**REGISTRATION DEADLINE: October 15, 2008**

The Religion in American History Institute, Constitutional Rights Foundation,  
Orange County Department of Education, San Bernardino County Superintendent of Schools,  
San Joaquin County Office of Education, Center for Civic Education, California Three Rs Project,  
and UC Irvine School of Social Sciences

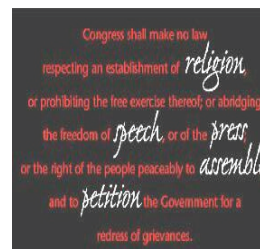
*invite*  
***K-12 teachers, pre-service teachers, curriculum specialists, and school administrators***  
*to a*

## ***Constitution Day Conference***



# **Freedom of Conscience: Cornerstone of America's Constitutional Liberties**

*A special focus on the First Amendment*



**September 13, 2008 8:00 a.m. – 3:00 p.m.**  
**Social Sciences Lecture Hall, Social Sciences Plaza, UC Irvine**

### **KEYNOTE SPEAKERS**

**Erwin Chemerinsky, Dean, College of Law, UC Irvine**  
**Charles Haynes, Sr. Scholar, Freedom Forum First Amendment Center,  
Washington DC**

Select from 24 small group sessions featuring standards-aligned lesson demonstrations and resources on First Amendment topics for elementary, middle, and high school presented by teacher leaders from the Teaching American History grant project and representatives from the Constitutional Rights Foundation, and the Center for Civic Education. Lessons and materials are appropriate for school Constitution Day programs and classroom use.

**\$100 stipend provided to the first 100 teacher registrants who attend the full day & submit a written summary of the sessions and keynote presentations.**

**There is no fee, but pre-registration is required.**

For questions, contact Dr. Peg Hill, (909) 537-5459 or via email [drpeghill@verizon.net](mailto:drpeghill@verizon.net)

-----**Constitution Day Conference, September 13, 2008**-----

Name: \_\_\_\_\_ Grade Level(s): \_\_\_\_\_

School Name & Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_

Email (required) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_

***Please fax the completed registration form to:***

*Deborah Granger, Coordinator, History-Social Science, Orange County Department of Education*

***Fax: (714) 662-7564 Phone: (714) 966-4447 Email: [dgranger@ocde.us](mailto:dgranger@ocde.us)***

**DEADLINE: September 8, 2008**

# Teaching World Religions in Public Schools

***Day 1: November 7, 2008***

***Day 2: December 2, 2008***



**The Santa Clara Unified School District,**

**The Santa Clara County Office of Education and the California 3Rs Project**

invite classroom teachers, curriculum specialists and school administrators to learn more about the major religions of the world. The California History-Social Science Content Standards include extensive coverage of world religions and the impact of religious ideas and practices on the story of human history. Teachers and administrators have requested academic background and teaching ideas on these topics. This 2-day workshop will feature scholar sessions on the major world religions covered in standards, paired with teacher discussions on how to apply this content in the classroom in a sensitive and constitutionally permissible manner.

**Location:** Santa Clara High School  
Science Lecture Lab  
3000 Benton St.  
Santa Clara, CA 95051

**Time:** 8:00-3:30pm.

**Breakfast and Lunch Provided**

**Materials:**

- World's Religions – Huston Smith
- Finding Common Ground: A Guide to Religious Liberty in Public Schools

**Content Topics**

November 7, 2008

3Rs Overview - Teaching About  
Religion in Public Schools

Session I - Buddhism

Session II - Hinduism

Session III - Judaism

December 2, 2008

3Rs Academic Study of Sacred Text

Session I - Early Christianity

Session II - Protestantism

Session III - Islam

**Registration:** Call Nora Dipko at (408) 423-2123 or email at [ndipko@scusd.net](mailto:ndipko@scusd.net)

**Cost:** \$100.00 per person (Included breakfast treats, lunch and materials)

**LIMITED SEATING Register Early!**

### **Common Ground Resources:**

***Finding Common Ground: A Guide to Religious Liberty in Public Schools*** by Charles C. Haynes and Oliver Thomas. First Amendment Center, 2007.

This book has guidelines on how to handle a wide range of issues related to religious liberty and public schools.

**First Amendment Center: Religious Liberty** [http://www.firstamendmentcenter.org/rel\\_liberty/index.aspx](http://www.firstamendmentcenter.org/rel_liberty/index.aspx)

This is an up-to-the-minute resource with current issues and court cases. A PDF version of ***Finding Common Ground*** is available here.

#### **For California Three Rs program information, contact...**

Dr. Margaret Hill, California 3Rs Project Lead, California State University San Bernardino,  
5500 University Pkwy., FO 115, San Bernardino, CA 92407, (909) 537-5459, [mhill@csusb.edu](mailto:mhill@csusb.edu)

#### **For First Amendment religious liberty information, contact...**

Dr. Charles C. Haynes, Senior Scholar, Freedom Forum First Amendment Center, 555 Pennsylvania Avenue, NW, Washington D.C. 20001 Tel: 202/292-6293 [chaynes@freedomforum.org](mailto:chaynes@freedomforum.org)

#### **For information on teaching about world religions, contact...**

Dr. Bruce Grelle, Director, Religion and Public Education Resource Center, Department of Religious Studies, California State University, Chico, 400 West First Street, Chico, CA 95929-0740, (530) 898-4739, [bgrelle@csuchico.edu](mailto:bgrelle@csuchico.edu)

Sign up to receive the **Three Rs Bulletin** and program announcements electronically at [mhill@csusb.edu](mailto:mhill@csusb.edu). or see [http://score.rims.k12.ca.us/score\\_lessons/3rs/index.html](http://score.rims.k12.ca.us/score_lessons/3rs/index.html)

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