UNIT 5

A table of important Establishment Clause cases dealing with religion and education: 1899 to 1970.

The following table references Supreme Court cases dealing with religion and education. Cases are arranged by date.

Table compiled by Susan Batte

Note: in the final column, "S" designates a ruling favoring separationism, "A" designates a ruling favoring a non-preferentialist or accomodationist position, and "N" designates a neutral ruling.

Date	Case	Vote	Issue Raised	Holding/Rationale	S/P/N
1899	*Bradfield v. Roberts*, 175 U.S. 291 - Taxpayer sued U.S. Treasurer b/c Congress appropriated money for a charity hospital chartered by Congress but operated by a Roman Catholic sisterhood.	9:0	Is the Congressional appropriation of funds for a hospital chartered by Congress and operated by a religious organization a violation of the First Amendment?	The Court held that the secular charter granted to the hospital and controlled by Congress made the hospital a secular corporation, regardless of who actually operated it.	N
1908	*Quick Bear v. Leupp*, 210 U.S. 50 - Sioux Indians sued U.S. Officials acting as Trustees who paid out money from a treaty fund and trust fund to Catholic Indian Mission to provide schools	9:0	Is it a violation of the Establishment Clause of the First Amendment for Congress as Trustee of Indian funds to pay a Catholic Indian Mission to provide schools?	The Court held that the funds belonged to the Indians who could use the money as they saw fit to educate their children. The Court did not find it significant that Congress could appropriate money w/o prior consent from the Indians	N
1925	*Pierce v. Society of Sisters*, 268 U.S. 510 - Private Military Academy and private school operated by the Society challenged Oregon's compulsory education act.	9:0	Does the Oregon Compulsory Education act deny the right of private and parochial schools to do business in violation of the due process clause of the 14th amendment?	The Court held that the Act interfered with private schools' business & parents' liberty by compelling parents to send their children to public schools - both due process violations	N
1930	*Cochran v. Louisiana State Board of Education*, 281 U.S. 370 - A LA Act allowed that tax funds be used to supply books to all school age children free of	8:0	Does a LA statute providing free secular text books to all school children regardless of whether they attend public, private or parochial	The Court held that the appropriation of funds to purchase text books was permissible under a "child benefit" theory. This was the first time the Court would allow indirect aid to religious schools based on the "child	N

	cost. Taxpayers sued claiming the Act violated the 14th amend. due process clause.		school a violation of the 14th amendment due process clause?	benefit" theory.	
1947	*Everson v. Board of Education*, 330 U.S. 1 - Pursuant to NJ statute, local school board authorized reimbursement to parents of school age children for bus transportation on public buses to and from school.	5:4	Does a state statute giving reimbursement of the cost of transportation to and from school to parents of school age children violate the Establishment Clause of the 1st Amendment as applied to by the 14th Amendment?	The Court acknowledged that the First Amendment was intended to erect a wall of separation between church and state; however, the Court found that the plan to reimburse parents for bus transportation came under the child benefit theory.	N
1948	*McCollum v. Board of Education*, 333 U.S. 203 - An Ill. state plan offered religious instruction in the public schools. Children who did not wish to participate could be reassigned to other classes where no religious instruction was being offered, i.e., study hall, etc.	8:1	Does a state plan permitting religious instruction in the public schools with the provision that non-participants be reassigned to classes offering no religious instruction violate the Establishment Clause of the First Amendment?	Because public schools have compulsory education requirements, the Ill. plan created a situation where students were forced to participate in religious instruction or risk being ostracized by teachers and peers. The Court found the plan did violate the Establishment Clause.	S
1952	*Zorach v. Clauson*, 343 U.S. 306 - NY state plan offered a "release time" program to allow students to attend religious classes off school grounds during the school day	6:3	Does a plan allowing religious instruction to be offered off school grounds while non-participants remained in school pursuant to state compulsory education requirements violate the Establishment Clause of the First Amendment?	The Court held that because the program was offered off school grounds, the "release time" program did not violate the Establishment Clause.	N
1962	*Engel v. Vitale*, 370 U.S. 421 - NY Board of Regents composed the following prayer: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country" to be recited in public schools each morning.	8:1	Does the recitation of a non-denominational prayer in public schools violate the Establishment Clause of the First Amendment?	The Court held that "the constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is not part of the business of government to compose official prayers for any group of the American people, to recite as a part of a religious program carried on by government."	S

1963	*Abington v. Schemmp*, 374 U.S. 203 - PA. Statute required that 10 versus from the Bible be read in Public Schools; Md. allowed for daily bible reading and the recitation of the Lord's Prayer in public schools.	8:1	Does the reading of Bible verses and the recitation of the Lord's Prayer in public schools violate the Establishment Clause of the First Amendment?	The Court found that neither program had a secular purpose but both had the primary effect of advancing religion. Under the "secular purpose" and "primary effect" tests, The Court found that both states' plans violated the Establishment Clause.	S
1968	*Board of Education v. Allen*, 392 U.S. 236 - A NY state law required that Public Schools lend textbooks to all students, grades seven through twelve, free of charge. The Board of Education filed suit and sought a declaration that the law violated state and federal constitutions.	5:3	Does a statute that requires public schools to loan parochial school children textbooks for free violate the Establishment Clause of the First Amendment?	The Court applied the "purpose" and "primary effect" tests to determine that the law did not advance or prohibit religion. Instead, the Court found that the purpose of the law was to further "the educational opportunities available to the young," and that the loan of textbooks benefited parents and children, not the parochial schools.	A
1968	*Epperson v. Arkansas*, 393 U.S. 97 - Arkansas law making it illegal to teach evolution in the public schools was challenged by a biology teacher.	9:0	Does a statute prohibiting the teaching of evolution in public schools violate the Establishment Clause of the First Amendment?	The Court held that prohibiting the teaching of evolution actually had the effect of advancing a particular religion's beliefs and so violated the secular purpose test.	S
1968	*Flast v. Cohen*, 392 U.S. 83 - Seven taxpayers brought suit to enjoin the Secretary of HEW from spending funds to provide services and textbooks to religious schools.		Do taxpayers have standing to file a suit challenging the constitutionality of a federal statute on the ground that it violates the Establishment and the Free Exercise Clauses of the First Amendment.	The Court held that the taxpayers had standing to sue. "Our history vividly illustrates that one of the specific evils feared by those who drafted the Establishment Clause ... was that the taxing and spending power would be used to favor one religion over another or to support religion in general."	S
1970	*Waltz v. Tax Commission*, 397 U.S. 664 - Waltz, a NY lawyer, sought to have NY's tax exemption for religious institutions eliminated. He filed suit after he purchased property in NY City so he could qualify as a taxpayer.	7:1	Is a tax exemption to a religious institution a violation of the Establishment Clause because it requires taxpayers to make indirect "contributions" to those religious institutions?	The Court upheld the tax exemption b/c it was applied to non-religious institutions as well as religious; b/c levying taxes on churches would require state entanglement in religious affairs; b/c the tax exemption had been in effect for 2 centuries and no establishment had resulted from it.	N

Continue to Table 2

A table of important Establishment Clause cases dealing with religion and education: 1971 to 1977

The following table references Supreme Court cases dealing with religion and education. Cases are arranged by date.

Table compiled by Susan Batte

Note: in the final column, "S" designates a ruling favoring separationism, "A" designates a ruling favoring a non-preferentialist or accomodationist position, and "N" designates a neutral ruling.

Date	Case	Vote	Issue Raised	Holding/Rationale	S/P/N
1971	*Lemon v. Kurtzman* and *Early v. Dicenso*, 403 U.S. 602 - PA & RI state statutes provided for direct aid to parochial schools with restrictions that the money only be spent for secular instruction	8:0 and 8:1	Does a state statute that provides for direct aid to parochial schools while restricting the use of such aid to secular instruction violate the Establishment Clause of the 1st Amendment.	The Court held that such plans cause excessive entanglement of civil authority and religion and recognized that the relatively few religious institutions that would benefit from such direct appropriations would promote divisiveness along religious lines	S
1971	*Tilton v. Richardson*, 403 U.S. 672 - Title I of the Higher Educational Facilities Act allowed for Federal loans and grants to colleges and universities for the construction of academic facilities. The act required that the facility must not be used for religious purposes for 20 years.	5:4	Does a federally funded program that provides direct aid to religious affiliated colleges and universities (1) have a sectarian purpose, (2) have the primary effect of advancing or prohibiting religion and (3) foster entanglement between civil government and religion in violation of the Establishment Clause of the First Amendment?	The Court held that the Act was constitutional generally, but that the 20 year restriction of use of the facility to secular activities alone did foster excessive entanglement and was struck from the plan. The Court found several distinctions between colleges and universities to uphold the statutory scheme, including the fact that colleges do not have as their primary goal the indoctrination of students into a particular religion and the that college students are much less impressionable.	A
1972	*Essex v. Wolman*,409 U.S. 808 - An Ohio statute authorizing grants to schools contained a provision for reimbursing parents of children attending non-public schools for tuition costs. Taxpayers sued to enjoin the enforcement of that provision of the Act.	8:1	Does an act providing educational grants to reimburse parents of parochial school children for tuition costs, though stating a secular purpose, violate the Establishment Clause of the First Amendment?	The Court held that stating a secular purpose alone was insufficient to validate the Ohio plan. Because the administrators of the grant would have to monitor the money given to parents of parochial school children to ensure it was not being used for religious purposes, the Court found that the plan fostered excessive entanglement with religion.	S
1973	*Hunt v. McNair*, 413 U.S. 734 - A SC state bond issue	6:3	Does a state plan that allows for the loan of	The Court held that the plan (1) had a secular purpose since all colleges	A

	authorized by an Educational Facilities Act loaned the proceeds from state bonds to a Baptist College. The money was used to fund a building project which was conveyed to the administrators of the Act until the Bible college could repay the loan		government funds to a religious affiliated college for the building of campus facilities, the conveyance of those facilities to a governmental authority and then reconveyance of those facilities to the religious affiliated college violate the Establishment Clause of the First Amendment?	could get grants under this program; (2) neither advanced or prohibited religion since the money could not be used to fund facilities used for religious purposes; (3) caused no excessive entanglement even though under the plan, the governmental authority could foreclose if the college failed to pay back the loan.	
1973	*Levitt v. Commission for Public Education & Religious Liberty, (PEARL)* 413 U.S. 476 - Involved a NY plan to provide funds to pay for testing, including teacher prepared tests.	8:1	Does a state statute that provides for direct aid to parochial schools violate the Establishment Clause of the First Amendment?	The Court found that *Levitt*, *Nyquist* and *Sloan* had the purpose of advancing religion and violated the Establishment Clause. The plans made no attempt to ensure state funds were not being used for religious purposes. The tuition reimbursements were seen as a "reward" to parents for sending their children to sectarian schools.	S
1973	*PEARL v. Nyquist*, 413 U.S. 756 - Involved a NY plan to pay for maintenance and repairs to non-public schools; tuition reimbursement for parents of parochial school children where family income was under $500 and tax deductions for parents of parochial school children where family income was between $500 and $25,000.	6:3	Does a state statute that provides for tuition reimbursement and tax deduction for parents of parochial school children violate the Establishment Clause of the First Amendment?	The Court found that *Levitt*, *Nyquist* and *Sloan* had the purpose of advancing religion and violated the Establishment Clause. The plans made no attempt to ensure state funds were not being used for religious purposes. The tuition reimbursements were seen as a "reward" to parents for sending their children to sectarian schools.	S
1973	*Sloan v. Lemon*, 413 U.S. 825 - PA plan for Tuition reimbursement for parents of parochial school children where family income was under $500.	6:3	Does a state statute that provides for tuition reimbursement for parents of parochial school children violate the Establishment Clause of the First Amendment?	The Court found that *Levitt*, *Nyquist* and *Sloan* had the purpose of advancing religion and violated the Establishment Clause. The plans made no attempt to ensure state funds were not being used for religious purposes. The tuition reimbursements were seen as a "reward" to parents for sending their children to sectarian schools.	S
1974	*Marburger & Griggs v. Public Funds for Public Schools*, 417 U.S. 961 - This NJ plan at issue reimbursed parents of non-Public School children $10 - $20 dollars for schools books and provided additional funds to schools for supplies, equipment and services.	6:3	Does a plan that provides direct aid to parents of parochial school children for textbooks and direct aid to parochial schools for equipment and services violate the Establishment Clause of the First Amendment?	The Court affirmed the lower court's ruling that direct aid violated the Establishment Clause. "The interest of the public lies not so much in the continuation of aid to non-public schools as it does in the continued vitality of the Establishment Clause."	S
1975	*Meek v. Pittenger*, 421 U.S. 349 - A PA statutory plan	6:3	Does a state plan providing aid to	The Court held that under *Board of Education v. Allen*, loans of textbooks	A/S

	loaned textbooks, instructional equipment and materials to parochial schools and provided state paid teachers to parochial schools to provide remedial teaching, counseling, guidance and testing services.		parochial schools in the form of textbooks, instructional equipment and materials and auxiliary services violate the Establishment Clause of the First Amendment?	to parochial schools are permissible. However, the court also found that the loan of instructional materials had the primary effect of advancing the school's mission and providing auxiliary services necessarily created an excessive entanglement of religious and government.	
1976	*Roemer v. Maryland Public Works Board*, 426 U.S. 736 - A MD law provided for the appropriation of funds to private colleges, excluding those that awarded only seminary degrees, to use for non-sectarian purposes and required that the schools submit affidavits to verify what the money was to be used for and to report any changes in use. If necessary, the plan provided for a government audit of the school.	5:4	Does the appropriation of funds to private religious affiliated colleges and universities to be used only for non-sectarian activities or purposes constitute a violation of the Establishment Clause of the First Amendment?	The Court begins its opinion "We are asked once again to police the constitutional boundary between church and state." Even though some colleges benefiting from the funds required students to take certain religious classes, a divided Court held that the plan did not violate the Establishment Clause. The Court found the audit portion of the plan was too brief and inconsequential to foster excessive entanglement.	A
1977	*Wolman v. Walter*, 433 U.S. 229 - An Ohio State law providing for a variety of services and materials to parochial schools was created in response to the Court's ruling in *Meek*. The plan included the loan of textbooks; appropriations of money to schools for state standardized testing, diagnostic health services on school grounds and therapy and counseling to be held at public schools; loan of instructional equipment to parents of parochial school children; and funding of field trips.	8:1 to 5:4	Does a state plan for aid to parochial schools in the form of loans of textbooks, funding of auxiliary services, loans of instructional materials to parents and funding of field trips violate the Establishment Clause of the 1st Amendment?	The Court upheld all but the last two parts of the state statutory scheme. The auxiliary services were upheld because the Court was satisfied that the Ohio plan had cured the problem in *Meek* by providing for therapy and counseling at public schools and by funding only diagnostic health services and state standardized testing. However, the Court found that the loan of materials to parents was merely an attempt to circumvent *Meek*, and funding field trips did not allow for monitoring to prevent the advancing or prohibiting of religion.	A/S
1977	*NY v. Cathedral Academy*, 434 U.S. 125 - Cathedral Academy incurred expenses under the statutory scheme struck down in *Levitt* (1973). In response, the NY legislature passed a law allowing parochial schools to be reimbursed for expenses they incurred prior to the date of the Court's *Levitt* decision.	6:3	Does a state law that allows a sectarian school to receive reimbursement for the expenses of record keeping and testing services already incurred and as allowed for in a prior statutory scheme - such scheme having been declared unconstitutional - violate the Establishment Clause of the First Amendment?	A similar issue arose after the *Lemon* decision (1971) and the Court allowed reimbursement where *Lemon* had provided for an injunction against further unconstitutional action. *Levitt*, however, enjoined past, present and future action. So the Court held that allowing reimbursement under *Levitt* would have the primary effect of advancing religion.	S
1977	*Byrne v. Public Funds for Public Schools*, 442 U.S.	6:3	Does a state tax deduction against gross	The Court affirmed a lower court's ruling that the tax scheme did violate	S

	907- A NJ statute allowed the parents of non-public school children to receive a personal deduction of $1,000 against gross income for reimbursement of the costs of non-public education.		income for parents of parochial school children violate the Establishment Clause of the First Amendment?	the Establishment Clause. Since only parents of non-Public School children benefited from the plan, the lower court viewed *Nyquist* (1973) as controlling. Any plan that excludes a class of parents (here Public School children's parents) has the effect of advancing religion.	
1980	*Stone v. Graham*, 449 U.S. 39 - A KY statute provides for the placement of the 10 Commandments in all public school classrooms - funding to come from private sources rather than the state or federal coffers. A disclaimer appeared at the bottom of the display asserting that the 10 Commandments had a secular purpose for being in the classroom insomuch as they were the basis of Western Law.	5:4	Does a state plan for placing the 10 Commandments in all public school classrooms violate the Establishment Clause of the First Amendment?	The Court held "the pre-eminent purpose for posting the 10 Commandments on school room walls is plainly religious in nature." The plan was held to violate the Establishment Clause.	S

Continue to Table 3

Copyright 1996, Susan M. Batte.

A table of important Establishment Clause cases dealing with religion and education: 1978 to present.

The following table references Supreme Court cases dealing with religion and education. Cases are arranged by date.

Table compiled by Susan Batte

Note: in the final column, "S" designates a ruling favoring separationism, "A" designates a ruling favoring a non-preferentialist or accomodationist position, and "N" designates a neutral ruling.

Date	Case	Vote	Issue Raised	Holding/Rationale	S/P/N
1980	*Committee for Public Education and Religious Liberty v. Regan*, 444 U.S. 646 - The state plan for funding the grading of state-prepared tests in this case differs from *Wolman* in that parochial school teachers graded the tests and the funding was paid directly to the parochial school.	5:4	Is the payment of state funding to parochial schools and the use of parochial school personnel to grade state-prepared tests a violation of the Establishment Clause of the 1st Amendment?	The Court followed *Wolman* and after applying the three-part Lemon test found the funding plan to be constitutional. The Court held that the following costs were reimbursable: proportionate shares of teachers' salaries and fringe benefits for administering grading and reporting tests and reporting on student attendance and performance; and supplies and data processing used in connection with the tests.	A
1983	*Mueller v. Allen*, 463 U.S. 388 - A Minnesota plan allowed a tax deduction of $500-$700 for parents of school children for actual expenses incurred for tuition, books and transportation.	5:4	Does a state tax deduction primarily benefiting parents of parochial school children by reimbursing them for education expenses incurred in sending their children to parochial school violate the Establishment Clause of the 1st Amendment?	The Court held that providing deductions to aid parents in sending their children to parochial school had the secular purpose of offering "wholesome" competition with public schools. Because a variety of deductions are offered under the plan, including medical, it neither advanced or prohibited religion. Since the aid to parochial schools only came as the result of the private choices of individual parents, the Majority found "no imprimatur of State approval."	A
1985	*Grand Rapids v. Ball*, 473 U.S. 373 - A Michigan state plan provided for the funding of special education programs in non-public schools. The courses offered were supplementary and the program paid for the salaries of the teachers and the course materials. Most of the teachers were also employees of the	5:4	Does a state plan to fund special education supplemental programs in parochial schools violate the Establishment Clause of the First Amendment?	The Court originally held that the Lemon test applied to invalidate the plan because its primary effect was to advance religion. The Court overruled that portion of the case after Agostini:"We have departed from the rule ... that all government aid that directly aids the educational function of religious schools is invalid." (Citing Witters & Zobrest) Overruled by Agostini v. Felton.	S

	non-public school. Six taxpayers filed suit against the school district.				
1985	*Aguilar v. Felton*, 473 U.S. 402 - NYC school plan authorized the distribution of federal funds under Title I of the Elementary and Secondary Education Act of 1965 to pay the salaries of public employees who teach supplemental special education to educationally and economically deprived students in parochial schools. The program provided for monthly supervisory visits to ensure no religion was being taught or advanced.	5:4	Does the federal funding of public school employees to teach special education programs in parochial schools violate the Establishment Clause of the 1st Amendment?	The Court originally agreed with the reasoning of Grand Rapids and found that the Title I remedial instruction advanced the cause of the religious school. In addition, the Court found that the plan's measures to safeguard against Establishment actually caused an excessive entanglement between Church and State. Overruled by Agostini v. Felton.	S
1985	*Wallace v. Jaffree*, 472 U.S. 38 - AL passed 3 successive statutes concerning school prayer and moment of silence. St.1 allowed for a moment of silence for grade 1-6; St.2 allowed for a moment of silence and voluntary prayer for all grades; St.3 authorized teachers to lead students in voluntary prayer. Jaffree, a parent for 3 school-age children filed suit to enjoin the practice as unconstitutional.	6:3	Does a statute that authorizes a school to provide a moment of silence or voluntary prayer (Statute 2) violate the Establishment Clause of the 1st Amendment?	Statute 3 had already been declared unconstitutional by the Court. The Constitutionality of Statute 1 had not been questioned. The Court, however, found that Statute 2 was unconstitutional, basing its decision on statements from the bill's sponsor that the purpose of the statute was religious in nature. The Court also found that the enactment of statutes 1 and 3 tended to show that the legislature did not have a constitutional purpose in mind when it passed Statute 2.	S
1986	*Witters v. Washington Dept. of Services for the Blind*, 474 U.S. 481 - Witters, a vision impaired individual, applied for state funding for higher education benefits offered under a statutory scheme to help the visually impaired become "productive members of society." The Commission empowered to provide the funds denied Witters application for benefits because he had chosen to enter a Bible College in preparation for a vocation as a minister.	9:0	Does state financial aid to an individual who is studying to become a minister violate the Establishment Clause of the 1st Amendment?	The Court reversed this case on appeal from the State Supreme Court which had decided that if Witters received funding it would have the effect of advancing religion. The Supreme Court held that the statute had a secular purpose and that the program provided "neutrally available" state aid. The Court then sent the case back to the state court to apply the entanglement test.	A
1987	*Edwards v. Aguillard*, 482 U.S. 578 - A LA Act prohibited the teaching of evolution unless creationism was also taught. Parents, teachers and religious leaders challenged the constitutionality of the statute.	8:1	Does a state law requiring that the scientific theory of evolution may not be taught in schools unless the religious theory of creationism is also taught along with it	The Supreme Court found that the state law served a particular religious purpose - it advanced a religious doctrine by providing that a certain subject, evolution, would never be taught unless a religious perspective of that subject was presented along with it.	S

			violate the Establishment Clause of the 1st Amendment?		
1988	*Bowen v. Kendrick*, 487 U.S. 589 - The Adolescent Family Life Act, passed by Congress, gave federal grants of funds to public and private organizations to provide counseling, educational and referral services to adolescents on issues concerning sexual activity of adolescents, teen pregnancy, family planning and abortion. A provision of the Act required grant applicants to describe how they will involve religious organizations in the provision of services.	8:1	Does the provision of federal funding to private religious organizations to offer family life counseling to adolescents which requires the incorporation of religion as a part of the program violate the Establishment Clause of the 1st Amendment?	The Court reviewed the constitutionality of the Act and of its application and found that on its face the Act did not have the principle purpose or effect of advancing religion. The Court held that it was not a violation of the Establishment Clause for a religious organization to participate in the state program even when certain religious goals were furthered. The case was then remanded to determine whether the program caused excessive entanglement of government with religion.	A
1990	*Board of Education v. Mergens*, 496 U.S. 226 - Students at a public High School asked for permission to start an extracurricular religious club to meet during non-instructional time. The School Board denied permission on the ground that it would violate the Establishment Clause. The students sued claiming the School Board had violated the Equal Access Act.	8:1	(1) Does prohibiting an extracurricular religious club to meet during non-instructional time at a public high school violate the Equal Access Act? (2) Does the Equal Access Act violate the Establishment Clause of the 1st Amendment?	(1) The Court found that the school's actions did violate the Equal Access Act because the school allowed other extra-curricular groups, chess, student government, social service organizations, to meet during non-instructional time. (2) The Court upheld the Equal Access Act which embodied the *Widmar* decision and applied it to high schools. The Court saw no difference between college students in *Widmar* and high school students in *Mergens*, and reasoned that high schoolers could understand that the school was not specifically endorsing the religious club.	A/N
1992	*Lee v. Weisman*, 505 U.S. 577 - The Providence School Commission allowed principals to invite members of the clergy to give invocations and benedictions at middle and high school graduations. Weisman objected to their practice for his daughter's middle school graduation. The principal ignored Williams' request, invited a Rabbi to give the Invocation and Benediction, and supplied instructions to the Rabbi concerning the content of the prayers. Weisman sought a permanent injunction barring Providence schools from "inviting the clergy to delivery invocations and benedictions at future graduations.	8:1	Does a secondary school graduation prayer given by a member of the clergy where the school principal controls the content of the prayer violate the Establishment Clause of the 1st Amendment?	Even though the school did not require students to attend the graduation ceremonies, the Court found that the practical and symbolic importance of the event, in essence, rendered its attendance "obligatory." Graduation prayer at secondary school, therefore, violated the Establishment Clause. The principal picked the clergy and controlled the content of the prayer - such actions were the equivalent of state endorsement of religious exercise.	S

1993	*Zobrest v. Catalina*, 509 U.S. 1 - The Petitioner, a deaf high school student, requested that the state provide a sign language interpreter to provide assistance while he attends classes at a Roman Catholic High School pursuant to the Individuals with Disabilities Act.	8:1	Does providing a sign language interpreter to a deaf parochial school student violate the Establishment Clause of the 1st Amendment?	The Court held that providing a sign language interpreter to assist a deaf parochial high school student in a private religious school did not violate the Establishment Clause. The Court held that social welfare programs, applied neutrally to all handicapped children, were the same as providing police or fire protection to both public and private schools. The Dissent suggested that the IDEA statute did not allow for the provision of handicap services to private schools so long as such service was provided at a public school. The Dissent went on to say that the case should have been decided on the correct application of IDEA, and not on the constitutional claims.	A
1993	*Lamb's Chapel v. Center Moriches Union Free School*, 508 U.S. 385 - A religious organization was denied permission to show a Dobson religious film at a public school during a time when the school property was not being used for school purposes. The school district had a policy of allowing certain uses during "off hours", and specifically excluded the use of the building for religious purposes.	9:0	Is the refusal to allow a church to show a religious film at a public school when school property is not being used for school purposes and when other civic and social organizations are allowed use of the property a violation of the Free Speech Clause of the 1st Amendment?	The Court held that the school policy favored non-religious over religious viewpoints and therefore violated the Free Speech Clause. The Court went on to hold that use of school property to show the religious film was not a violation of the Establishment Clause because it was not scheduled during school hours or sponsored by the school and because the film was open to the public. The school board policy had in essence created an "open forum."	A/N
1994	*Board of Education of Kiryas Joel v. Grumet*, ___ U.S. ___ - The NY legislature passed an Act which created a special school district comprised solely of a Hasidim Village. The Board of Education of that district operated only a special education school, and the rest of the school- age children attended private religious school.	???	Does an Act creating a school district comprised only of a village of Hasidim Jews violate the Establishment Clause of the 1st Amendment?	The Court held that one of the primary principles of the Establishment Clause is that the "government should not prefer one religion to another, or religion to irreligion." The Act established a franchise by a religious test which resulted in a "purposeful and forbidden fusion of government and religious function."	S
1995	*Rosenberger v. University of Virginia*, 115 S.Ct. 2510 - A student organization at the University of Virginia applied for status as a student group entitled to certain benefits including the payment of publication fees for its religious-oriented newspaper. The University denied the group the status and benefits, and the group sued claiming a violation of the Free Speech and Establishment Clauses.	????	Does the denial of funding to a student-run religious organization at a public university violate the Free Speech and Establishment Clauses of the 1st Amendment?	The Court found that the university's actions had the effect of suppressing student speech in violation of the Free Speech Clause. In addition, the Court found the funding program was neutrally applied to religious and non-religious organizations. The money paid to the printer to publish the student newspaper allowed the group access to an "open forum" similar to the renting of a hall or leasing of equipment.	A

1997	*Agostini v. Felton*, No. 96-552, Decided June 23, 1997 - Aguilar v. Felton, revisited. Petitioners are parties bound by the injunction in Aguilar. The petition for review is based on the argument that intervening law invalidates the Court's decision in Aguilar.	5:4	Does the federal funding of public school employees to teach special education programs in parochial schools violate the Establishment Clause of the 1st Amendment?	The Court reverses its previous decisions in Grand Rapids v. Ball and Aguilar v. Felton. The Court says: "What has changed since we decided Ball and Aguilar is our understanding of the criteria used to assess whether aid to religion has an impermissible effect." The Court relies on the distinction that the program distributes funds to specific, eligible students as opposed to school wide which is permitted in public schools. The Court guts the excessive entanglement prong of the Lemon Test by saying that "pervasive monitoring" and "administrative cooperation" are acceptable given that no one objected to Title I funds used to pay for instruction that took place in mobile classrooms outside of the private schools. The Court refuses, however, to dispense with the prong altogether, so it appears the Lemon Test Remains in tact.	S

Copyright 1996, 1998, Susan M. Batte.