

Prayer and Friday Night Lights? An Establishment Clause Case from Texas

Overview

In this lesson, students explore the scope and limits of the establishment clause of the First Amendment. First, students read and discuss an article on the constitutional issue of student-led prayer at public school events. Next, they role-play Supreme Court justices and attorneys deciding this **issue**. **Finally, in a whole-class discussion, they debrief their own findings and compare them with those of the Supreme Court in the case of *Santa Fe Independent School District v. Jane Doe et al.***

Objectives

Students will be able to:

- Explain what the First Amendment says about freedom of religion;
- Trace how the Supreme Court has ruled on religious issues in public schools over time;
- Defend a position using evidence-based arguments about the separation of church and state in public schools;
- Deliberate with peers to make a decision about the constitutionality of student-led prayer in public schools.

Standards and Topics

- CCSS.ELA-LITERACY.RH.9-10.1: Cite specific textual evidence to support analysis of primary and secondary sources, attending to such features as the date and origin of the information.
- CCSS.ELA-LITERACY.RH.9-10.4: Determine the meaning of words and phrases as they are used in a text, including vocabulary describing political, social, or economic aspects of history/social science.
- CCSS.ELA-LITERACY.SL.9-10.4: Present information, findings, and supporting evidence clearly, concisely, and logically such that listeners can follow the line of reasoning and the organization, development, substance, and style are appropriate to purpose, audience, and task.

Topics: First Amendment, freedom of religion, establishment clause, separation of church and state, United States Supreme Court, judicial review

Materials

Handout A: Prayer and Friday Night Lights? An Establishment Clause Case from Texas (one for each student)

Handout B: Instructions & Procedures for the Moot Court/The Question Before the Supreme Court (one for each student)

Handout C: Moot Court Preparation Guide for Supreme Court Justices (one for each student serving as a Supreme Court justice)

Procedure

I. Video clip and discussion

- A. Introduce the [short clip from the 2004 film, Friday Night Lights](#) that this lesson uses to begin a conversation about student-led prayer at public school events.

Tell students that today they will be exploring the scope and limitations of the establishment clause of the First Amendment, that part of the Bill of Rights that delineates a separation between church and state in the United States. As they may already know, the role of prayer and religion in public life has often been debated in this country. Tell students that this film clip is an introduction to a Supreme Court case that originated in Texas and raised important constitutional questions about prayer at public school events.

The clip shows a part of a locker room speech by a Texas public high school football coach, after which he gives the floor to a student, who leads his teammates in reciting the Lord's Prayer, a widely-recited prayer in Catholicism and many Protestant sects. Note that the clip portrays this in a very positive light, with triumphant music playing in the background. It's important to point out to students that this is just one Hollywood portrayal of student-led prayer.

Tell students that they will be viewing the clip and then having a brief discussion about what they observe and any questions they have. Start the clip at 1:48 and play it until the end.

- B. Ask students what they observe in the clip and if it raises any questions for them. If it doesn't, that's fine.

II. Reading -- Handout A: Prayer and Friday Night Lights? An Establishment Clause Case from Texas

- A. Give each student a copy of Handout A: Prayer and Friday Night Lights? An Establishment Clause Case from Texas
- B. Conduct a class discussion using the Writing & Discussion questions at the end of the handout.
1. What is the establishment clause? What is its purpose?
 2. Do you think the establishment clause is an important part of political life in the United States? Why or why not?

Note: Handout A and other student materials have deliberately left out the name of this case (Santa Fe Independent School District v. Jane Doe et al.) in an effort to keep students from just jumping to the Supreme Court's decision.

III. Role Play: Moot Court Activity

- A. Inform students that they are going to take part in a role play of the Supreme Court deciding the constitutional question raised in this case. They will either play the role of a Supreme Court Justice, an attorney for the school board, or an attorney for the families who challenged the school board policy.

The question they need to answer is the one that was before the court in 2000: *Did the school board policy permitting student-led, student-initiated prayer at football games violate the establishment clause?* (See Slide 1).

Note: Avoid putting students into any role in which they might object to arguing for a position due to moral or religious reasons.

- B. Distribute a copy of Handout B: Instructions & Procedures for the Moot Court to each student.
- C. Walk students through the procedures outlined on Handout B, and check for understanding. Point out that the other side of the handout provides further information on the case.
- D. Form them into groups of seven. Each group is its own court. Each member of each group will have one of the following roles:
 - Two will be attorneys for the school district (appellants)
 - Two will be attorneys for the anonymous Catholic and Mormon families (respondents)
 - Three will be Supreme Court Justices (the three justices are a “panel”).

Note: If necessary to accommodate your class size, you can form some groups of five students rather than seven. In case of this, each group should still have three justices and can have just one attorney for each side.

- E. Distribute a copy of Handout C: Moot Court Preparation Guide for Supreme Court Justices to each student who is serving as a justice.
- F. Give the courts enough time, probably 15 minutes, to prepare their arguments and questions. Students can refer to the instructions and tasks outlined on Handout B and on Slide 2. To develop the arguments they will present, students should refer to Handout A, as well as the arguments listed on the back of Handout B.
- G. To begin the court session, attorneys for the school district will speak first. Attorneys for the anonymous Catholic and Mormon families will speak second. Use Slide 3 to help students stay on track through this process.
 - Remind students that the justices may ask questions at any time.
 - Attorneys for the school district take turns giving a one-minute summary of their arguments.
 - Attorneys for the anonymous Catholic and Mormon families take turns giving a one-minute summary of their arguments.
 - Attorneys for each side have one minute to rebut their opponent’s arguments. Their rebuttal must be addressed to the justices, not in a direct debate with their opponent.
 - After hearing both sides, justices in each group deliberate out loud. Attorneys listen but do not interrupt the justices.
 - Justices deliberate by discussing the arguments they heard. Justices share with each other the most persuasive and least persuasive arguments they heard.
 - Justices provide reasons why they thought arguments were most persuasive or least persuasive.
 - After justices deliberate, each panel votes whether they will rule in favor of the school district or the anonymous Catholic and Mormon families.

H. After justices deliberate, take a poll of the panels in the classroom.

- How many panels voted for the school district?
- How many for the anonymous Catholic and Mormon families?
- How many panels were unanimous in their decision?
- How many had a dissenting justice (voting differently than the other two)?

Note: These questions are also listed on Slide 4.

1. Alternatively, have the judge panels come to the front of the room to form a large group and deliberate in a fishbowl activity.

IV. Closure/Assessment

1. Debrief the activity with the students by asking the following questions in a whole-class discussion:

- What was the most persuasive argument you heard?
- Which side in the case do you think had the stronger arguments? Why?
- What facts of the case do you think were the most important for the school district?
- What facts of the case do you think were most important for the anonymous Catholic and Mormon families?
- How do you think the real Supreme Court decided this case? What makes you think the court decided the case that way?

Note: These questions are also listed on Slides 5-6.

2. Show Slide 7, which reveals how the Supreme Court ruled in this case.

3. Ask students these follow-up questions:

What do you think of Justice Stevens's arguments in the majority opinion? Are there parts that you find more or less convincing? Did any of these points come up in your moot court?

Note: These questions are also listed on Slide 7.

4. Exit ticket

Direct students to address the following prompts on a piece of loose-leaf paper.

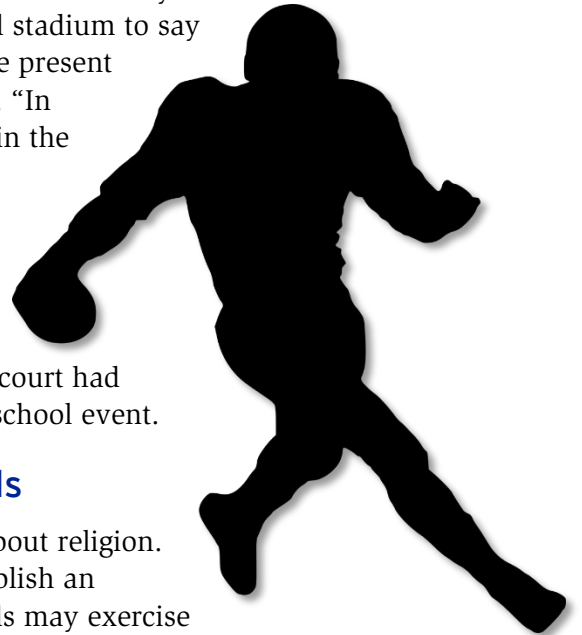
- Now that you have heard arguments on both sides of this case and learned about the court's decision in *Santa Fe Independent School District v. Jane Doe et al.*, think back to the film clip we watched at the beginning of class. Note at least one NEW observation and one NEW question you have about it now.

Note: These instructions are also listed on Slide 8.

Prayer and Friday Night Lights? An Establishment Clause Case from Texas

Religion and high school football are strong traditions in Santa Fe, Texas. Both traditions combined in the fall of 1999 when Santa Fe High School senior Marian Lynn Ward used the press box microphone at the school's football stadium to say a brief pregame prayer. After asking God to watch over those present and to inspire good sportsmanship, Marian ended by saying, "In Jesus's name I pray. Amen." The 4,000 students and adults in the stands enthusiastically cheered the 17-year-old student.

The previous spring, the student body at Santa Fe High had elected Marian to deliver an "invocation and/or message" of her choice at each football home game. This was in line with a school-board policy. That policy was challenged in a case that eventually reached the U.S. Supreme Court. The court had never before decided a case about a student-led prayer at a school event.



The Church, The State, and the Public Schools

The First Amendment of the Bill of Rights says two things about religion. It prohibits Congress from passing any laws that would establish an officially approved religion, and it guarantees that individuals may exercise their own religious beliefs. (The two clauses are known as the establishment clause and free-exercise clause.) Through the 14th Amendment, state and local governments, including agencies like the public schools, are also bound by these First Amendment clauses.

The creators of the First Amendment knew from first-hand experience that establishing an official religion was dangerous because government could use its power to force people to worship in a certain way. During colonial times, religious groups like the Baptists, Quakers, and Catholics were often persecuted in communities where they were in the minority.

Religion, especially as practiced by the Christian (usually Protestant) majority, has always had an important influence in American society. Official state-supported Christian churches were eventually "disestablished" after the adoption of the Bill of Rights. But Christian religious practices remained a part of public life – and public schools – in many states. For example, mandatory daily prayers, Bible readings, and similar devotional exercises were common in public schools well into the 20th century.

But starting in the 1960s, the U.S. Supreme Court began to abolish adult-led prayers in the public schools. The Supreme Court ruled that such practices established a government-approved religion, in most cases Christianity, which violated the establishment clause of the First Amendment. To avoid this situation, public schools had to appear strictly neutral and neither endorse nor oppose religion.

Some argued that prayers should continue in schools, and those students who did not want to participate in them could remain silent or be excused. But the Supreme Court pointed out that this would brand the non-participating students as outsiders and could subject them to ridicule and harassment by their peers.

Over the next few decades, the Supreme Court generally continued to restrict the role of religion in the public schools. An exception was a decision in 1990 involving a high school that refused to permit a Christian club to form. The high court ruled that students could voluntarily meet outside of instructional time to exercise their right of religious speech. [*Westside Community Schools v. Mergens*, 496 U.S. 226 (1990)]

Two years later the Supreme Court held that a public school inviting clergy to give an invocation and benediction at a graduation ceremony violated the establishment clause. The court found that because a school graduation is “one of life’s most significant occasions,” students are really compelled to attend them. In such a setting, the court concluded, students should not be forced to participate in a religious exercise that might violate their beliefs. [*Lee v. Weisman*, 505 U.S. 577 (1992)]

Student-Led Prayer

Santa Fe is a heavily Baptist community of about 8,000 people on the Gulf Coast of Texas. In April 1995, a Catholic and a Mormon family both sued the Santa Fe public school district for failing to stop persistent religious practices in the schools. The federal district court allowed the two plaintiff families to file their lawsuit under the assumed name “Jane Doe” because of allegations of intimidation by school authorities and by people in the community.

The plaintiffs objected to teachers promoting their religious views in the classroom, school administrators distributing Bibles on campuses, and a long history of Christian prayers at graduations and athletic events. The federal district court found incidents in which students and even some teachers harassed those who did not accept the Bibles and did not participate in prayers at school events.

By fall 1995, the school board had developed the following policy covering pregame ceremonies at home varsity football games:

The board has chosen to permit students to deliver a brief invocation and/or message to be delivered during the pregame ceremonies of home varsity football games to solemnize the event, to promote good sportsmanship and student safety, and to establish the appropriate environment for the competition.

The policy went on to describe a procedure for two special student elections each spring. One would decide in a secret ballot whether the majority of Santa Fe High students wanted a pregame “invocation and/or message.” The second vote, also by secret ballot, would choose a student volunteer to deliver it. The student who was chosen, like Marian Lynn Ward in 1999, could then decide what to say, as long as this was “consistent with the goals and purposes of the policy.

The federal district court ordered that only non-sectarian prayers were permitted. On appeal, the U.S. circuit court decided that the policy was unconstitutional. The school board appealed to the U.S. Supreme Court.

Writing & Discussion

1. What is the establishment clause? What is its purpose?
2. Do you think the establishment clause is an important part of political life in the United States? Why or why not?

Instructions & Procedures for the Moot Court

Note your assigned role here: _____

A. Prepare for Court

Attorneys for the school district:

- Read the constitutional question in the case and the arguments for your side.
- Be prepared to explain and answer questions about your arguments. Do not merely read them word for word from the article.
- Attorneys are encouraged to make inferences based on the background to the case and the arguments presented.
- *You are arguing that the school board policy permitting student-led, student initiated prayer at football games did not violate the Establishment Clause.*
- Attorneys for the anonymous Catholic and Mormon families:
 - Read the constitutional question in the case and the arguments for your side.
 - Be prepared to explain and answer questions about your arguments.
 - Do not merely read them word for word from the article.
 - Attorneys are encouraged to make inferences based on the background to the case and the arguments presented.
 - *You are arguing that the school board policy permitting student-led, student initiated prayer at football games violated the Establishment Clause.*

B. Conduct the Hearing

1. The justices will preside over the hearing and give both sides equal time.
 - Attorneys for the school district speak first. (1 minute to summarize arguments)
 - Attorneys for the anonymous Catholic and Mormon families speak next. (1 minute to summarize arguments)
 - The justices may ask questions at any time -- either during or after each presenter's statement. (The time for a justice's question does not count as part of the one-minute arguments.)
2. Each side has one minute to rebut of their opponent's arguments. The rebuttal must be addressed to the justices, not directly at the opposing attorney.
3. After hearing both sides, justices deliberate out loud. Attorneys listen but do not interrupt the justices.

Our court's decision is in favor of _____.

The Question before the Supreme Court

When this case reached the Supreme Court in March 2000, the justices agreed to decide on the following constitutional question: *“Whether [the school board] policy permitting student-led, student initiated prayer at football games violated the Establishment Clause.”*

In preparation for their presentations during oral arguments before the court, both sides had submit written briefs of their key arguments.

The School District

Attorneys representing the school district appealed the case to the Supreme Court, so they were petitioners. To support their position, they argued:

1. The school board policy does not violate the establishment clause because the decisions whether to have a pregame “invocation and/or message,” who will deliver it, and what the student will say is entirely in the hands of students exercising their First Amendment rights.
2. The school board policy is neutral and does not endorse any religion.
3. The student-led “invocation and/or message” could be a prayer, if the student chooses, or, it could be a non-religious statement that conforms to the stated purposes of the school board policy.
4. The school board policy has non-religious purposes such as promoting student free speech and good sportsmanship.
5. The “invocation and/or message” is delivered by a student at a sports event outside of school hours before a mix of students and adults who are attending voluntarily.

The Anonymous Catholic and Mormon Families

Attorneys representing the anonymous Catholic and Mormon families were responding to the school district’s appeal. So they were respondents. To support their position, they argued:

1. The school board policy does violate the establishment clause because using the word “invocation” plus the long tradition of pregame Christian prayers at Santa Fe High football games clearly show a school endorsement of the community’s dominant religion.
2. The two-part election procedure in the school board policy leaves little doubt that the views of the religious majority (mainly Baptists) will be imposed on those who hold different beliefs.
3. The school is not neutral and uninvolved since the student-led prayer can only be delivered during the school’s pregame ceremony, over the school stadium’s public address system, before a crowd assembled on school property for a school-sponsored event.
4. Football team members, band members, and cheerleaders must attend the school’s football games. If any of them chose not participate in the pregame student-led prayer, they could be harassed by others both at the game and later on at school.
5. The school board policy is a sham designed to make sure that the longstanding practice of Christian prayers remains an official Santa Fe High School tradition.

Moot Court Preparation Guide for Supreme Court Justices

Preparation

Review the constitutional question in the case and the arguments for both sides on Handout B.

Create questions to ask both sides about whether the school board policy to permit student-led, student initiated prayer at football games violates the establishment clause.

Remember: you are independent, which means you cannot reveal an opinion of the case before you have heard from the attorneys for both sides.

Sample question for the Petitioners: *How is a football game different from a school graduation?*
Additional questions:

Sample question for the Respondents: *Does the restriction on prayer at school graduations also apply to football games?*

Additional questions:

During the Hearing (One justice should be a timekeeper).

- Remind the attorneys to address all statements to you (the justices); they should not direct arguments or rebuttals to the opposing attorney.
- Attorneys for the school district speak first. (1 minute)
- Attorneys for the anonymous Catholic and Mormon families speak next. (1 minute)
- You may ask questions at any time -- either during or after each presenter's statement. (The time for a justice's question does not count as part of the one-minute arguments.)
- Each side has one minute for a closing statement or argument.

Deliberation

After hearing both sides, you will deliberate out loud by discussing the arguments you heard. You will discuss what you thought were the most persuasive and least persuasive arguments and why you found them persuasive or not. Attorneys will listen but may not interrupt.

After you deliberate, you will vote on whether you rule in favor of the school district or the anonymous Catholic and Mormon families and note your decision below.

Our court's decision is in favor of _____.