

A background image of a city skyline at dusk or dawn, with several tall buildings visible. The sky is a pale blue, and some building windows are lit up.

FRANCZEK WEBINAR SERIES

Religious Issues in Schools

A background image of a city skyline at night, with a river in the foreground. The city lights are reflected in the water, and the sky is dark.

Jackie Gharapour Wernz and Brianne Dunn

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Supporters: Student Religious Liberty Bill Protects All Ohio Students

‘NYU admin know about antisemitism on campus, don’t do enough’

U.S. Secretary of Education Betsy DeVos Announces Proposed Rule Regarding Equal Treatment of Faith-Based Education Institutions, Provides Updated School Prayer Guidance



Donald J. Trump 
@realDonaldTrump



Numerous states introducing Bible Literacy classes, giving students the option of studying the Bible. Starting to make a turn back? Great!


Current Events

Supreme Court Considers Religious Schools Case

Sociology of Religion

ASR | ASSOCIATION FOR THE SOCIOLOGY OF RELIGION

Make America Christian Again: Christian Nationalism and Voting for Donald Trump in the 2016 Presidential Election

Andrew L Whitehead , Samuel L Perry, Joseph O Baker

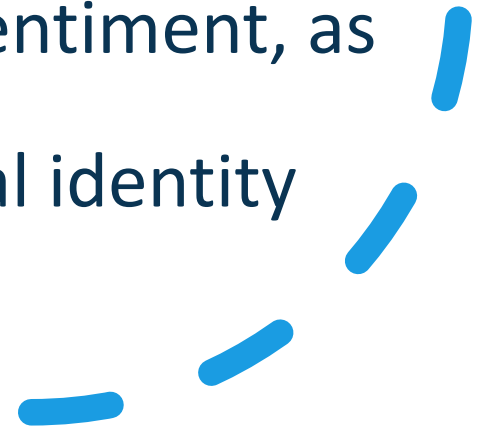
Sociology of Religion, Volume 79, Issue 2, Summer 2018, Pages 147–171,

<https://doi.org/10.1093/socrel/srx070>

Published: 25 January 2018



The current study establishes that, independent of these influences, voting for Trump was, at least for many Americans, a symbolic defense of the United States' perceived Christian heritage. Data from a national probability sample of Americans surveyed soon after the 2016 election shows that greater adherence to Christian nationalist ideology was a robust predictor of voting for Trump, even after controlling for economic dissatisfaction, sexism, anti-black prejudice, anti-Muslim refugee attitudes, and anti-immigrant sentiment, as well as measures of religion, sociodemographics, and political identity more generally.



ELECTION COMMENTARY

Trump is doubling down on his evangelical supporters for his re-election

Having alienated many of his supporters from 2016, President Trump is trying to increase turnout among his core group of supporters - and promising to fight for the religious right's agenda.

Commentary by John Gallagher Saturday, January 4, 2020 6 Comments

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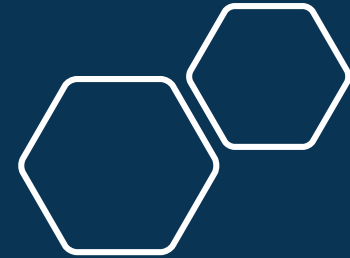
OUR COLUMNISTS

THE REAL PURPOSE OF TRUMP'S EXECUTIVE ORDER ON ANTI-SEMITISM



By Masha Gessen

December 12, 2019



On Wednesday, [Donald Trump] signed an executive order that will allow federal funds to be withheld from colleges where students are not protected from anti-Semitism—using an absurdly defined version of what constitutes anti-Semitism. Recent precedent and the history of legislative efforts that preceded the executive order would suggest that its main targets are campus groups critical of Israeli policies. What the order itself did not make explicit, the President’s son-in-law did: on Wednesday, Jared Kushner published an Op-Ed in the *Times* in which he stressed that the definition of anti-Semitism used in the executive order “makes clear what our administration has stated publicly on the record: Anti-Zionism is anti-Semitism.”



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Supreme Court



SUPREME COURT

Supreme Court appears likely to allow public funding for religious schools

Such a ruling could affect laws or constitutional provisions in 37 states that currently bar public funding for schools and churches.

Espinoza v. Montana Dep't of Revenue

- Montana's constitution prohibits aid to religious schools
- Montana law allows tax credits for families who send children to religious schools
- Supreme Court is reviewing the Montana Supreme Court's decision that this program is unconstitutional and shut down the entire program

Espinoza v. Montana Dep't of Revenue

According to the petitioners:

With this decision, the Montana court further deepened the long-standing split on whether barring religious options from student-aid programs violates the federal Religion and Equal Protection Clauses.

Espinoza v. Montana Dep't of Revenue

According to the State:

The constitutional provision is based on a concern that diverting funds from public schools would tend to weaken the system in favor of schools established for private or religious purposes.

Espinoza v. Montana Dep't of Revenue

- A majority of the Supreme Court seemed critical of the Montana decision
- Concern that the constitutional provision was implemented based on anti-Catholic sentiment
- Relying on decisions that allowed for more limited, indirect funding of private parochial schools (e.g., playgrounds)

Espinoza v. Montana Dep't of Revenue

- Trump administration brief supporting use of funds for religious purpose
- Such a decision would be a “virtual earthquake” in the public education system, sending money cascading away from public schools (Randi Weingarten, President of the AFT)



Anti-Semitism

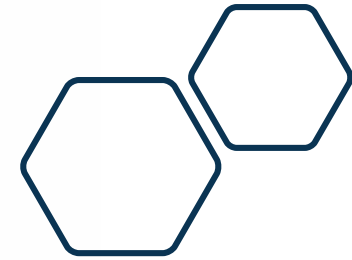
Complaints on the Rise

- Duke University: Event, Conflict Over Gaza: People, Politics, and Possibilities, was sponsored by the Duke-UNC Middle East Consortium, and according to news reports was replete with anti-Israel and anti-Semitic references
- Vassar College: Pro-Israel activist Hen Mazzig gave a presentation on indigenous Jews of the Middle East; students protested outside, chanting, "From the river to the sea Palestine will be free" so loudly Mazzig had to stop speaking until they left

Trump aims to crack down on anti-Semitism on college campuses using civil rights protections

By [Veronica Stracqualursi](#), [Paul LeBlanc](#) and [Betsy Klein](#), CNN

Updated 9:22 PM ET, Wed December 11, 2019



Antisemitism: Fundamentals

- Title VI does not cover discrimination or harassment based on religion
- OCR has long interpreted Title VI to prohibit discrimination against Jewish students
- Jewish students may face discrimination based on actual or perceived shared ancestry or ethnic characteristics

Executive Order

While Title VI does not cover discrimination based on religion, individuals who face discrimination on the basis of race, color, or national origin do not lose protection under Title VI for also being a member of a group that shares common religious practices. Discrimination against Jews may give rise to a Title VI violation when the discrimination is based on an individual's race, color, or national origin.

Definition of Anti-Semitism

- International Holocaust Remembrance Alliance and IHRA's "Contemporary Examples of Anti-Semitism"
- One example: Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.
- Fact Sheet accompanying Executive Order referred to a disturbing trend of rising anti-Semitism on college campuses

Practical Takeaways

- Unlikely to have a significant impact on how OCR defines antisemitism, except in limited circumstances where comments on Israel are at play
- OCR loves the First Amendment – how will it strike the balance?

Practical Takeaways

- Be prepared for an uptick in complaints (they have already started)
- Handle with care any complaints of mistreatment of Jewish students by peers, particularly if comments on Israel are involved
- Equity officials should ensure they understand the sometimes-thin line between Free Speech and discriminatory speech
- Training, understanding is key



Prayer in Schools

K-12 Guidance on Prayer in School

- To receive funds under the ESEA, a school district must certify in writing to its state educational agency that no policy of the school district prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary and secondary schools.
- The state agencies will establish a process for certification
- Must provide the information by October 1 of each year

K-12 Guidance on Prayer in School

- State agencies will notify the federal DOE each year of any school districts that have:
 1. Not filed the certification, or
 2. Been the subject of a religious discrimination complaint to the state agency or via lawsuit

K-12 Guidance



- Governed by the First Amendment
- Prevents government from establishing religion
- Protects privately initiated religious expression and activities from government interference and discrimination

Basic Rules: Religion

- Schools cannot endorse religion
- Schools can limit some religious speech in schools (but not other, and you need to know the difference!)

Guidance: Can't Do....

- Teachers and other public school officials, acting in their official capacities, may not lead their classes in prayer, devotional readings from the Bible, or other religious activities
- School officials may not use their authority to attempt to persuade or compel students to participate in prayer or other religious activities

Guidance: Example – Can't Do

A public school that invites a rabbi to deliver prayer at a graduation ceremony violates the First Amendment because the conduct is "attributable to the State" and applies "subtle coercive pressures," "where the student had no real alternative which would have allowed her to avoid" the prayer.

Guidance: Can Do.... Students

- Nothing in the Constitution . . . prohibits any public school student from voluntarily praying at any time before, during, or after the schoolday
- Students may pray with fellow students during the school day on the same terms and conditions that they may engage in other conversation or speech
- Students may also speak to, and attempt to persuade, their peers about religious topics just as they do with regard to political topics

Example: Student Can Do

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, Torahs, Korans, 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.

Example – Student Can Do

Students may organize prayer groups, religious clubs, and "see you at the pole" gatherings before school to the same extent that students are permitted to organize other noncurricular student activities groups. Such groups must be given the same access to school facilities for assembling as is given to other noncurricular groups, without discrimination because of the religious perspective of their expression.

Guidance: Can't Do.... Employees

When acting in their official capacities as representatives of the State, teachers, school administrators, and other school employees are prohibited by the First Amendment from encouraging or discouraging prayer, and from actively participating in such activity with students.

Guidance: Can Do.... Employees

- Teachers can take part in religious activities where the overall context makes clear that they are not participating in their official capacities
- Teachers can pray even during their workday at a time when it is permissible to engage in other private conduct such as making a personal telephone call

Example – Employee Can Do

Before school or during lunch teachers may meet with other teachers for prayer or Bible study to the same extent that they may engage in other conversation or nonreligious activities. Similarly, teachers may participate in their personal capacities in privately sponsored baccalaureate ceremonies or similar events.

Guidance – Examples of Student Can Dos

- Moments of Silence
- Prayer During Instructional Time
- Prayer in Class Assignments
- Student Assemblies/Noncurricular Activities
- Student Prayer at Graduation
- Baccalaureate Ceremonies

Guidance – Application to Contexts

- Religious Literature
- Teaching About Religion
- Student Dress Codes and Policies
- Religious Excusals


Guidance – Equal Access Act

- General Provisions
- Prayer Services and Worship Exercises
- Means of Publicizing Meetings
- Lunch-time and Recess
- Leadership of Religious Student Groups

Guidance – Leadership of Student Groups

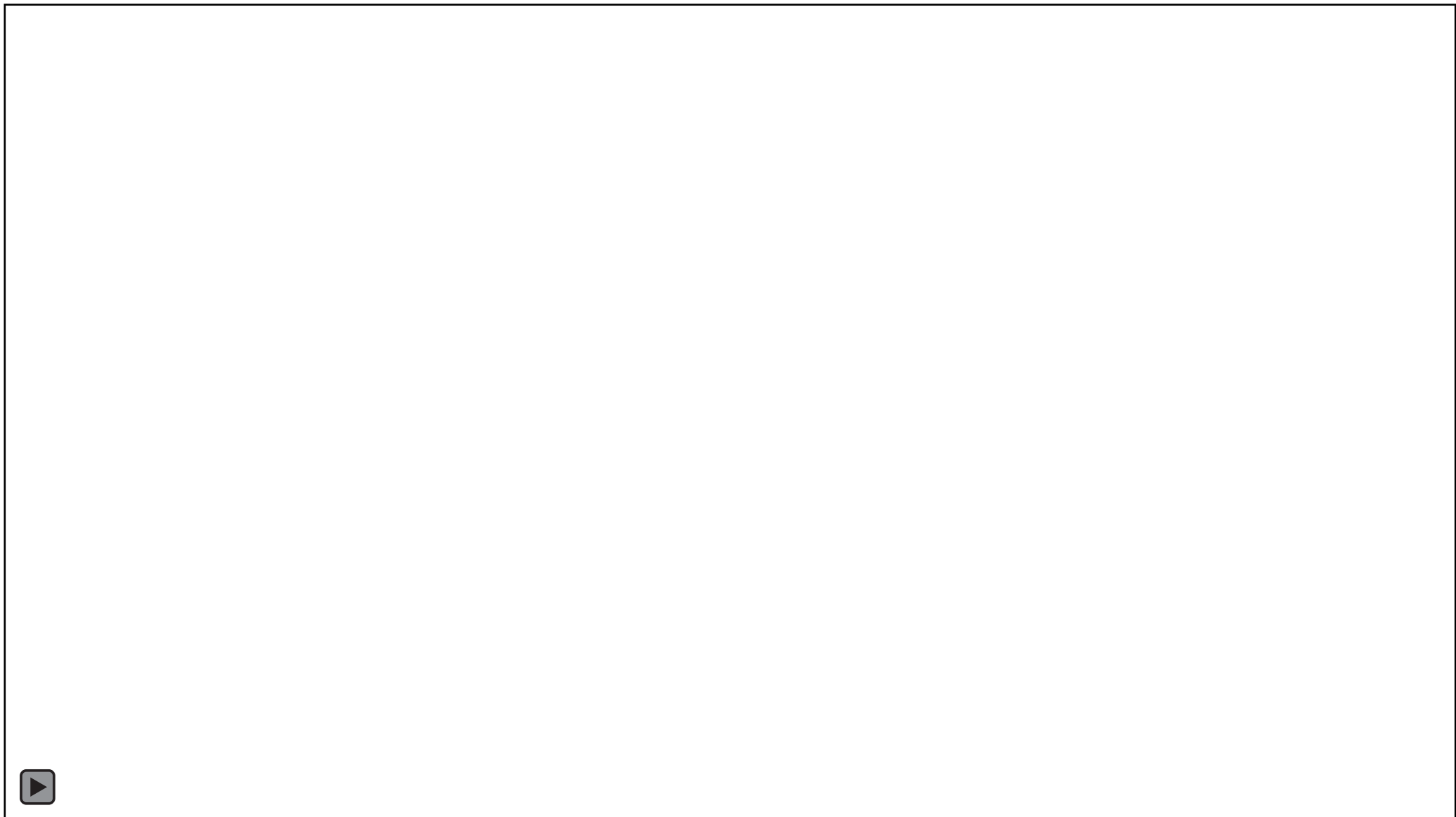
Similar to other student groups such as political student groups, the Equal Access Act permits religious student groups to allow only members of their religion to serve in leadership positions if these leadership positions are positions that affect the religious content of the speech at the group's meetings. For example, a religious student group may require leaders such as the group's president, vice-president, and music coordinator to be a dedicated member of a particular religion if the leaders' duties consist of leading prayers, devotions, and safeguarding the spiritual content of the meetings.

Christian Legal Society v. Martinez



All comer's policy
required for
religious student
group at law school

The diagram features a large dark blue rounded rectangle on the left containing the title. To its right, there are two small white hexagons with dark blue outlines. A larger dark blue hexagon with a white border is positioned below them, containing the text 'All comer's policy required for religious student group at law school'. A line extends from the bottom of this hexagon to a larger, empty white hexagon with a dark blue border on the right side of the image.





Faith- Based Colleges



Save the Date!

- March 17 at 12:00 PM
- One hour
- Topic: Confidentiality and Threat Assessments: Essentials for Threat Assessment Teams and School Leaders