

Establishment Clause Cases: The Essentials

- The Establishment Clause of the First Amendment applies to the states through the 14th Amendment.
- It interpreted on a continuum from “strict separationists” who follow the phrase “wall of separation between church and state” very closely to “accommodationists” who hate the wall metaphor and are not as quick to divide religion from government.

Case	Issue	Ruling
<i>Everson vs. Board of Ed. (1947)</i>	Does a Ewing, NJ school board policy allowing Catholic students to ride public school buses violate the Establishment Clause?	No. Public services are not based on religion. School bus rides are publically available to everyone, the church is not receiving special treatment or compensation. Also, Catholic parents pay taxes to the school district like everyone else.
<i>Engle vs. Vitale (1962)</i>	Does a New York state law required a state-written prayer to be recited by public school children violate the Establishment Clause?	Yes. A committee of the NY state legislature wrote the prayer, required to be recited everyday by public school students and teachers.
<i>Abington Township vs. Schemp (1963)</i>	Does a Pennsylvania law requiring Bible reading in public schools violate the Establishment Clause?	Yes. Same reasoning as Engle vs. Vitale case.
<i>Epperson vs. Arkansas (1968)</i>	Does an Arkansas law prohibiting the teaching of Darwin’s theory of evolution in public schools violate the Establishment Clause?	Yes. The AR legislature had an admittedly religious purpose in requiring the bible creation story to be taught instead of evolution.
<i>Lemon vs. Kurtzman (1971)</i>	Does a Rhode Island law allowing a pay raise for parochial school teachers who teach nonreligious subjects violate the Establishment Clause?	Yes. The three part Lemon test. State money may be used for non-religious items such as textbooks or lab equipment but not for teacher pay in religious schools.

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<i>Lynch vs. Donnelly (1984)</i>	Did the city of Pawtucket, RI, violate the Establishment Clause when they set up a nativity scene along with Santa's workshop and other secular symbols of the Christmas season in the town square?	No. Endorsement test. Aka the "plastic reindeer rule." As long as non-religious symbols of the Christmas season accompany religious ones on public property, the establishment clause is not violated. State cannot appear to be endorsing religion.
<i>Allegheny County vs. ACLU (1989)</i>	Does an Allegheny County, PA courthouse violate the EC when it places a nativity scene unadorned with other secular symbols of the Christmas season on public property?	Yes. Endorsement test. Same as Lynch and Donnelly case.
<i>Wallace vs. Jaffree (1985)</i>	Does an Alabama statute requiring a moment of silent prayer or meditation violate the Establishment Clause?	Yes. Because the word prayer is specifically written in the statute, that's a problem. In TX we say "moment of silence."
<i>Lee and Weisman (1992)</i>	Does a Providence, RI school board policy inviting a "guest clergyman" to give an invocation at public school graduation violate the Establishment Clause if school officials help him write the prayer?	Yes. Coercion test. Students at public school graduation ceremonies are a captive audience. Here the prayer was edited by the school principal.
<i>Board of Education vs. Mergens (1990)</i>	Does a school board policy denying access to a student-led religion club to school facilities violate the Equal Access Act?	Yes. Congress passed the Equal Access Act to allow student-led religious activity in public school campuses. This case applied to high school students.
<i>Good News Club vs. Milford Central School District (2001)</i>	Does the EC prohibit a public school from opening its doors, in an after school program, to a religious club for children?	No. Equal Access Act. Same as Mergens case, but here rule is applied to elementary school-age children. School administrators are not leading the meeting, so no appearance of public endorsement of religion.
<i>Stone vs. Graham (1980)</i> <i>McCreary County vs. ACLU of KY (2005)</i> <i>Von Orton vs. Perry (2005)</i>	Does the posting of the Ten Commandments in a public school classroom violate the Establishment Clause? What if the Ten Commandments are posted in a county courthouse? What about the grounds of the Texas state capital?	It depends. Court will look at where display is posted, in what context and for what purpose. <i>Stone</i> case said commandments couldn't be displayed. 2005 cases were split, county court house no, TX state capital yes. If you're confused, so are many constitutional law scholars.