Free to Learn: Protecting Muslim Students in Public Schools, Case Precedent and Social Theory in the Fight to Protect Their Rights

Harold Hinds

Follow this and additional works at: https://scholarship.richmond.edu/pilr
Part of the Public Law and Legal Theory Commons

Recommended Citation
Harold Hinds, Free to Learn: Protecting Muslim Students in Public Schools, Case Precedent and Social Theory in the Fight to Protect Their Rights, 27 RICH. PUB. INT. L. REV. 1 ().
Available at: https://scholarship.richmond.edu/pilr/vol27/iss3/3

This Article is brought to you for free and open access by the Law School Journals at UR Scholarship Repository. It has been accepted for inclusion in Richmond Public Interest Law Review by an authorized editor of UR Scholarship Repository. For more information, please contact scholarshiprepository@richmond.edu.
FREE TO LEARN: PROTECTING MUSLIM STUDENTS IN PUBLIC SCHOOLS, CASE PRECEDENT AND SOCIAL THEORY IN THE FIGHT TO PROTECT THEIR RIGHTS

Dr. Harold Hinds

*Harold Hinds is an education-focused civil rights attorney by training, and a third-year PhD student at the New School’s School of Policy, Management, and Environment. Harold’s research centers on studying how educational institutions can make better policies to more effectively support students and families. Harold is also a special education hearing officer with the New York City Office of Administrative Trials and Hearings - Special Education Hearings Division (OATH). He serves as an administrative law judge, hearing and deciding complaints related to the effective provision of special education services for students with disabilities in New York City. Prior to joining OATH, Harold was an associate partner at the education research group, Bellwether, advising educational institutions on how to navigate the ever-changing education policy landscape. Before joining Bellwether, Harold was a Senior Policy Advisor for Special Education Services Related to Public Charter Schools for the New York City Department of Education (NYC DOE), giving day-to-day legal counsel and policy guidance to various departments in the NYC DOE. Prior to his time at the NYC DOE, Harold served as a staff attorney at Advocates for Children of New York, providing direct legal representation to children from low-income families whose civil and educational rights had been violated. Harold is a proud graduate of Boston College’s JD/Masters in Education dual degree program, as well as Boston College’s Carroll School of Management. Harold lives in Brooklyn, NY, with his wife and son, and patiently awaits the day when the Boston Celtics win another championship.
To Ibrahim, who has spent nearly twenty years teaching me how, through our differences, we all share so much in common.

ABSTRACT

In the aftermath of 9/11, anti-Muslim American sentiments surged. With social tensions escalating as a result of the ongoing Israel-Gaza war and, what many feel is xenophobic rhetoric from high profile political figures, discrimination against Muslim Americans has further grown. Muslim youth in this country have experienced acute discrimination that has the potential to make school an uncomfortable and hostile place. This article explains the different ways in which Muslim American students experience discrimination and provides a roadmap for how administrators, activists, attorneys, and advocates can use the long and storied history of American civil rights litigation to protect the rights of Muslim students in K-12 schools. School leaders, district administrators, education lawyers, and civil rights groups will find the insights presented in this piece a helpful resource in defending the rights of the students they serve.

INTRODUCTION

Though family, neighborhood, and friends all play a substantive role in a child’s development, school attendance is another important vehicle for the growth of young people in America.1 Discussing the importance of education in the landmark school desegregation case, Brown v. Board of Education of Topeka, Kansas, then Chief Justice of the United States Supreme Court, Earl Warren, asserted that compulsory education “is the very foundation of good citizenship [and that] it is a principal instrument in awakening the child to cultural values . . . and in helping him to adjust normally to his environment.”2 In Brown, the Supreme Court maintained that it is through school, more than any other institution, that children learn what it means to be American.3 At school, children learn which habits, perspectives, and practices should be admired and emulated, and which should be admonished and

---

1 See Brown v. Bd. of Educ., 347 U.S. 483, 493 (1954) (“Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship.”).

2 Id. (“It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment.”).

3 See id.
Children’s interactions with their peers and teachers also teach students how to interact with others, fostering either a sense of tolerance or a tendency towards bigotry in young people. Because of this, schools can either do tremendous good in the lives of the children and young adults who attend them, or cause serious harm to their development and self-image.

Generally, when a student’s culture, identity, and ideals align with her community’s mainstream beliefs, she finds school a safe space to learn and grow. But when her culture, identity, or ideals conflict with what is considered to be the norm, she is often met with hostility and bigotry. All too often, students who are markedly different from their peers end up victimized by school policies that stifle their identity and rob them of their dignity. Gay, lesbian, bisexual, transgender, and gender-nonconforming students, for example, often find themselves targets of virulent attacks from bigoted peers, teachers, and administrators who promote policies that harm rather than affirm these students. As was the case when the Court decided Brown, students of color still find themselves subjected to discriminatory treatment because of their race. Likewise, politically active students with views that contradict popular sensibilities of their communities have always encountered opposition from administrators and teachers who disagree with these students’ political views.

Though different from sexual orientation, race, and political perspective, religion is an important issue affecting how many students interact with the American educational system. As America becomes a more diverse and cosmopolitan nation, our perceptions about what constitutes a “typical American student” must also change. Changing student demographics and the inherent challenges of learning to accept them become an increasingly

---

4 See id.
5 See Jing Chen et al., Influences of Teacher-Child Relationships and Classroom Social Management on Child-Perceived Peer Social Experiences During Early School Years, FRONTIERS IN PSYCH., Oct. 2020, at 8-9 (discussing how a child’s interactions with their teachers can influence the child’s interactions with their classmates).
6 See Lisa Delpit, Other People’s Children: Cultural Conflict in the Classroom 25-28 (The New Press 2006) (discussing the cultural differences between Black students and white teachers that make success for these students challenging).
8 See generally id.
9 See, e.g., Zamecnik v. Indian Prairie School, 636 F.3d 874 (7th Cir. 2011).
10 See B.W.A. v. Farmington R-7 School Dist., 554 F.3d 734, 736 (8th Cir. 2009).
complicated concern for students with religious views that differ from the mainstream Judeo-Christian customs observed by the general populous.\textsuperscript{14} Muslim students often find it especially hard to navigate the social and cultural landscape of the American public school system.\textsuperscript{15}

For example, when assessing public school holiday observance, virtually all public schools in this country provide accommodations for students celebrating traditional Christian holidays like Christmas, Easter, and Good Friday.\textsuperscript{16} However, very few provide meaningful accommodations for Muslim students. Eid al Fitr, Eid Adha, and Ashura are three of the most important holidays in the Muslim world.\textsuperscript{17} As of the date of this article, only a handful of school districts in a few states officially recognize any of these holidays.\textsuperscript{18} Additionally, though most American families think very little about things like uniforms, school dress codes, lunch menus, and sports schedules, these things can, and often do, act as barriers to many Muslim students effectively engaging with and in their schools.\textsuperscript{19}

Furthermore, post-9/11 sentiment in America has increased hostility and outright discrimination against Muslims in all areas of life, including schooling.\textsuperscript{20} For example, in 2010, Muslims in New York City had to deal with profound animus towards their efforts to build a community center in Manhattan.\textsuperscript{21} Several states, including Tennessee and Oklahoma, have outlawed the citing of Sharia law in court opinions, and high-profile political officials have openly stated that they would advocate requiring Muslim-American staff who worked with them as court staff and administrators to take “loyalty


\textsuperscript{17} See id.


oaths” to ensure that they had no intention to subvert American interests.\textsuperscript{22} 2017 polling from the Pew Research Center found that within the first few months of the Trump administration, nearly half of Muslim American adults reported being subjected to hostile treatment because of their faith.\textsuperscript{23}

Additional studies have also shown that in the aftermath of the 9/11 terrorist attacks, many Americans became increasingly suspicious and uncomfortable with Muslim Americans.\textsuperscript{24} Since then, many Americans have developed a more skeptical view of Islam generally and Muslim Americans specifically.\textsuperscript{25} In 2005, forty-one percent of Americans had “favorable” opinions of Islam. In 2010, that number had dropped to thirty percent.\textsuperscript{26} Simultaneously, the percentage of Americans with unfavorable views about Muslims rose from thirty-six to thirty-eight percent.\textsuperscript{27} Forty percent of Americans surveyed in 2011 stated that they believed Islam was more likely than other religions to encourage violence towards those of other faiths, an alarming increase from the twenty-five percent of Americans who shared that view in 2002.\textsuperscript{28} In recent years, corresponding with the advent of Donald Trump’s presidency, negative views of Muslim-Americans and Islam have only gotten worse.\textsuperscript{29} In a 2019 survey asking Americans how warm or cool their sentiments were towards different religious groups, survey participants felt less warm about Muslims than any other religious group, including atheists.\textsuperscript{30} Only twenty-two percent of respondents had warm feelings towards Muslims.\textsuperscript{31}

Regarding schooling, many public school districts have seen increased
levels of violence and threats of violence directed toward Muslim students.\textsuperscript{32} Substantive research also suggests that many Muslim students feel stigmatized because of their beliefs, feel pressured to conform to the general customs of their fellow students, and often take active strides to hide their faith.\textsuperscript{33} In 2021, the Council on American-Islamic Relations California Chapter (CAIR-CA) issued a report documenting the experiences of Muslim students in public schools.\textsuperscript{34} The report concluded that, among other things, fifty-five percent of Muslim students in California felt “unsafe, unwelcome or uncomfortable” at school because of their faith.\textsuperscript{35}

In addition to enduring ill-treatment at the hands of their peers, some schools enact policies that curtail the rights of Muslim students and actively discriminate against them because of their faith.\textsuperscript{36} In \textit{Neal v. Edison School District}, for example, a non-Muslim teacher filed suit against the district on behalf of his Muslim students, alleging that the district had engaged in systemic discrimination against his students and subjected students to cruel and embarrassing treatment as a way of persecuting them because of their faith.\textsuperscript{37}

During Ramadan, Muslim children were required to go through the lunch line and remain in the lunch room, even though they were fasting during the day as a religious obligation. Such overt discrimination and harassment had a powerful impact . . . on the children directly involved since it communicated to him the message that those of other faiths were “second-class.”\textsuperscript{38}

Though the actions of school officials in \textit{Neal} were particularly outrageous, this discrimination against Muslim students is all too common in America. As stated earlier, current American perceptions of Muslim Americans are anything but positive and affirming.\textsuperscript{39} As general American sentiments about Muslim Americans have become more hostile, documented incidents of bigotry and harassment have also increased.\textsuperscript{40} For the six years preceding 2001, the average number of hate crimes against Muslim

\begin{thebibliography}{9}
\bibitem{33} \textit{Lori Peek, Behind the Backlash: Muslim Americans After 9/11}, at 38-40 (2011).
\bibitem{34} \textit{Examining Islamophobia in California Schools, Council on American-Islamic Relations Calif.} 4 (2021).
\bibitem{35} Id.
\bibitem{36} See, \textit{e.g.}, Brief for United States’ Memorandum of Law in Support of Its Cross-Motion for Summary Judgment and in Opposition to Defendants’ Motion for Summary Judgment at 1-3, \textit{Hearn v. Muskogee Public School District et al.}, CIV 03-598 (E. D. Okla. 2004).
\bibitem{38} Id.
\bibitem{40} See id.
\end{thebibliography}
Americans reported to the Federal Bureau of Investigation (FBI) was roughly 27.5 per year. In the aftermath of 9/11, for the six years following the attacks, the average jumped to just over 143 per year. Complaints of civil rights violations filed with the Council on American Islamic Relations (CAIR) increased noticeably from 366 between 2000 and 2001 to 525 between 2001-2002. Complaints continued to increase in subsequent years. From 2001 to 2008 the number of yearly complaints increased by 2,203.

In Behind the Backlash, a book devoted to analyzing the experiences of Muslim Americans post-9/11, author Lori Peek cites the experience of a young Muslim American college student as the student combated bigotry from teachers and fellow students:

This guy in my class, he blurts out, “Muslim parents teach their children to become terrorists.” Another guy piles on and says, “Yeah, we should kill all the Muslim children now, because when they grow up, they’re going to be terrorists. They’re brainwashing the kids.” The sad thing is it is clear that I am Muslim. I am sitting in there and they know this is my faith, but they say it anyway.

In the wake of the Israel-Hamas war, Muslim advocacy groups have seen a major spike in hate crimes against Muslims in this country. In October 2023, the Council on American-Islamic Relations reported receiving 774 reports of bias incidents and requests for help from Muslims across the US. This was a 182% increase in reports and requests from the same time period the year prior. Schools have not been immune from the challenges facing the country at large. In November 2023, the U.S. Department of Education’s Office for Civil Rights issued a press release directing schools to take active steps to protect Jewish and Muslim students from discrimination, harassment,

---

41 Peek, supra note 33, at 30.
42 Id.
43 Id. at 33.
44 Id.
45 Id.
46 Id. at 89.
49 Venkatraman & Alsharif, supra note 48.
and violence.\textsuperscript{50} Given the undercurrent of distrust and sometimes outright hostility directed towards Muslim Americans in this day and age, schools, as one of the most significant influences in the lives of children and young adults, need to ensure that Muslim students are protected in both their physical persons and ability to exercise their faith.\textsuperscript{51}

Every day, Muslim American students have to fight for their right to express their faith with dignity. The fact that this happens in a nation that purports to hold freedom of religion as a foundational tenant of its identity is abhorrent. Like everyone else in this country, Muslims have the right to exercise and be protected in exercising their faith in every facet of life, including while attending school.\textsuperscript{52} When implemented effectively, the rich body of Supreme Court case law that has developed over the years involving civil rights and religious liberties can provide substantive guidance for administrators looking to create policies to support Muslim students in public schools.\textsuperscript{53} These cases can also serve as a substantive check on administrators who discriminate against Muslim students and stifle their ability to practice their faith with honor and dignity.

I. ANALYSIS

The terrorist attacks of September 11, 2001, placed America’s understanding of Muslim Americans and American-Islamic relations in a new and often contentious light.\textsuperscript{54} Much has been written and said about the seriousness of this contention and the impact these increased tensions could have on the evolution of American culture.\textsuperscript{55} If given only a cursory glance, some might think the legal and cultural issues they create are entirely novel. In considering this, some may contend that the American legal and policy apparatus, designed to confront these issues, is actually incapable of dealing with them.\textsuperscript{56} However, this argument discounts the American Constitution's intent


\textsuperscript{51} See Peek, supra note 33.

\textsuperscript{52} See generally U.S. CONST. amend. XIV, § 1; 42 U.S.C. § 1983.


\textsuperscript{54} See generally PEW RSCHL CTR., MUSLIM AMERICANS: NO SIGNS OF GROWTH IN ALIENATION OR SUPPORT FOR EXTREMISM 13, 26-28, 34-35 (2011).

\textsuperscript{55} See id.

to protect civil liberties, and fails to appreciate our nation’s history of using the law to protect vulnerable populations.\textsuperscript{57}

\textit{A. Discrimination – An Age-Old Problem in America}

At their core, the issues facing American-Islamic relations are not wholly different from those affecting any group whose rights have been violated and demonized by popular culture for one reason or another.\textsuperscript{58} This treatment is often described as ‘otherization,’ a common term used in sociology to describe the systematic degradation of a distinctly identifiable group by the general populous.\textsuperscript{59} New York University globalization and immigration professors Carola and Marcelo Suarez-Orozco provide a particularly vivid definition of otherization and how it impacts vulnerable communities through the contextual lenses of America’s reaction to Latin American immigrants:

Much of the current fear of immigrants is irrational and “paranoid fear” when group fear is laced with paranoid content. A person or group is singled out as the cause of another group’s unbearable tensions and accused of possessing unacceptable traits (such as savagery, primitiveness, or aggression). The disparaged group that is singled out as the cause of unbearable anxieties then becomes a target of further self-righteous hatred and aggression. Projecting its own hatred and desire to destroy onto the scapegoated group, the paranoid group is ever vigilant, certain that the disparaged “Other” is a constant threat. In paranoia, the more severe one’s inner tension, the more the “Other” becomes “the bad object,” in psychodynamic terms; the more intense the hatred toward the Other is; and the more intense is the certainty that the Other is dangerous.\textsuperscript{60}

Otherization has been seen in American culture in many different forms, including the treatment of Irish Americans before the mid-twentieth century, the vilification of Native Americans during the era of westward expansion, and the treatment of Japanese Americans during World War II, to name a few.\textsuperscript{61}

As the above-referenced definition illustrates, groups subjected to otherization are considered fundamentally different and less worthy of respect than those not otherized. This justifies the dominant group’s fear, condemnation, and ostracization of the otherized group.\textsuperscript{62} The fundamental differences

\textsuperscript{57} See id.

\textsuperscript{58} See Pew Rsch. Ctr., Muslim Americans: No Signs of Growth in Alienation or Support for Extremism, \textit{supra} note 54, at 34-35.


\textsuperscript{60} Id.

\textsuperscript{61} See Carola & Suarez-Orozco, \textit{supra} note 59, at 15; see generally John Gjerde, Major Problems in American Immigration and Ethnic History (1998) (documenting stories and experiences from Irish, Italian, and Jewish immigrants in the early twentieth century).

\textsuperscript{62} See Carola & Suarez-Orozco, \textit{supra} note 59, at 38.
between the otherized and dominant groups are what makes the otherized group’s treatment acceptable.\textsuperscript{63} In both relatively benign areas like diet and dress, to more culturally significant regions like race, ethnicity, and perceived patriotic commitment, Muslim Americans are generally considered different from other Americans.\textsuperscript{64} Because of these perceived differences and the sociological weight ascribed to them, Muslim Americans have become lightning rods for reflexive hatred and misplaced angst felt by many non-Muslim Americans.\textsuperscript{65} As is typical for most otherized groups, children and adolescents have the most challenging time adjusting to the realization that they and their people are hated and feared for no reason other than the general ignorance of those around them.\textsuperscript{66} In a research study conducted by Selcuk Sirin and Michelle Fine, two psychology professors teaching at New York University and the City University of New York, respectively, one young Muslim woman, eighteen at the time of the study but roughly thirteen at the time of the September 11th attacks, recounts a conversation with her mother about how to conduct herself in public shortly after the attacks:

My mom would tell me . . . just right after September 11th – if anybody asks you what you are, don’t tell them. Lie . . . There was a lot of anxiety. It was really hard in the beginning . . . people were scared and they kind of wanted to point fingers at people . . . and they wanted somebody to blame. And there we were.\textsuperscript{67}

\textbf{B. Brown as Precedent For Supporting Muslim Students}

The most acutely recognizable form of otherization for most Americans is the treatment of Black Americans in Southern states prior to the Civil Rights Movement of the 1950s and 1960s. Though Black Americans were otherized in many ways, the most memorable and iconic illustration of civil rights era discrimination and otherization in the minds of many Americans is the racial segregation of public schools.\textsuperscript{68}

Analogous to the arguments made by people seeking to limit the rights of Muslim communities today, opponents of school integration argued that Black Americans were dangerous and that fair and equitable treatment of

\textsuperscript{63} See id.


\textsuperscript{65} See Skerry, supra note 39.

\textsuperscript{66} See PEEK, supra note 33, at 37-39.

\textsuperscript{67} SELCUK SIRIN & MICHELLE FINE, MUSLIM AMERICAN YOUTH: UNDERSTANDING HYPHENATED IDENTITIES THROUGH MULTIPLE METHODS 11 (2008).

Black children would allow a dangerous element to infiltrate and corrupt society at large.\textsuperscript{69} Though retrograde by our current standards, in the 1950s, many Americans (white Americans in particular) shared these views.\textsuperscript{70} Many more, if they did not support them, at least thought that these ideas were reasonable.\textsuperscript{71}

Despite the general acceptance of the otherization of Black Americans at that time, civil rights advocates, everyday Black women and men who refused to be treated like second-class citizens, and non-Black allies who recognized injustice for what it was and chose to take a stand against it, used the American legal system to fight for change. The positive ramifications of this fighting still impact us today. In outlawing school segregation based on race, the Court in \textit{Brown} wrote down what could reasonably be considered the nine most important words ever to be written related to education policy.\textsuperscript{72} The Court held that when a state makes public education available, it “must be made available to all on equal terms.”\textsuperscript{73}

Like Black students being barred from equal opportunities for academic advancement in the pre-\textit{Brown} era, accounts like those in the previous section of Muslim students being persecuted and shamed for their faith violate these students’ rights to access education on equal terms as their non-Muslim peers. The groundwork laid by seminal civil rights cases like \textit{Brown} and its progeny, and the litany of cases it spawned, serve as a beacon of hope for advocates seeking to protect the rights of Muslim Americans in general, and Muslim American youth attending public schools, specifically.\textsuperscript{74}

\textbf{C. Keyishian and Free Speech in Protection}

While \textit{Brown} addressed general civil rights issues that can be applied to the current plight of Muslim students, the 1960s brought us another landmark civil rights case that established principles and precedents that can be used here.\textsuperscript{75} Around the same time that the Court was deciding \textit{Brown}, America found itself sharply divided on how to deal with what some perceived as the

---


\textsuperscript{71} See generally id.


\textsuperscript{73} \textit{Brown}, 347 U.S. at 493.

\textsuperscript{74} LAVENGE, supra note 69.

\textsuperscript{75} See generally Sweezy v. N.H., 354 U.S. 234 (1957).
rising threat of communism. In an effort to thwart the imagined “rising Communist menace,” governmental institutions, schools in particular, committed what, in retrospect, were egregious violations of civil rights. Some schools required students and faculty to take loyalty oaths to prove their commitment to America and fired faculty members or expelled students who refused to take them.

Despite the weighty and inflammatory nature of the issues at play, the American legal system has proved it is more than capable of handling the claims and conflicts identified in suits arising from these matters. In Keyishian v. Board of Regents of the University of the State of New York, the United States Supreme Court validated the decision of several members of the university who refused to sign a document certifying that they were not Communists and had never associated with Communists. In striking down the school’s requirement as unconstitutional, the Court stated that “vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.”

The plight of students accused of being Communists during the mid-twentieth century and the harassment they were subjected to can be likened to the predicament many Muslim-American students find themselves in today as they attend school in this post-9/11 era. Like students in the 1950s and 1960s with political and social views that supported Socialist laws, policies, and regulations, Muslim-American students growing up in schools and communities that do not affirm their religious identities are often perceived as having views, opinions, and beliefs that school officials and the general

---

80 See Keyishian v. Bd. of Regents of the Univ. of the State of N.Y., 385 U.S. 589, 592 (1967).
81 Id. at 603.
82 Shah, supra note 15; see Charles Haynes, Muslim Students’ Needs in Public Schools, 22 UPDATE ON L. RELATED EDUC. 17, 18-21 (1998).
Every effort is therefore made to otherize, demonize, and discriminate against these students as a misguided attempt by the general populous to protect itself against that threat. In *Muslim American Youth*, Sirin and Fine note the experience of one young Muslim woman reflecting on vivid memories from September 11, 2001:

I remember that day [9/11/01], my father drove home a number of children from school . . . As he dropped them at the elementary school, where they would meet their parents, the police were there, taking names, phone numbers, and licenses. That was frightening enough, but as we drove off we found ourselves in a big traffic jam and some woman screamed out of her car, “Why don’t you just go home?” I knew then that everything was going to be different.

**D. The Fight for Civil Rights and the Muslim-American Experience**

Like the struggles mentioned above for justice and social inclusion at issue in *Brown* and *Keyishian*, Muslim Americans now find themselves subjected to new stigmatization and vitriolic prejudices that advocates must fight to overcome. Far-right media outlets, for example, routinely paint Islam generally and Muslim-Americans specifically as an extratextual threat to America. Though not as virulent, more mainstream conservative media networks still discuss Islam in a negative light.

If our legal system was sturdy enough for advocates to fight back against the racial discrimination faced by Black students in the 1950s (through civil rights litigation like *Brown*) and against efforts by schools to silence free thought in the 1960s (by procuring court decisions like *Keyishian*), it can deal with issues of discrimination against Muslim students who are forced to deal

---


84 Shah, *supra* note 15 (discussing bias faced by Muslim students post 9/11).


86 See Safire, *supra* note 83.


with school policies that undermine their beliefs, deny them access to opportunities to openly practice their faith, and subject them to ridicule by school staff and fellow students. The same principles that courts have used to protect the rights of disaffected students at risk of discrimination from a fearful and misunderstanding public are just as applicable to the current issues facing Muslim American students today. The legal challenges faced by Muslim Americans, and Muslim American students in particular, though substantive, are neither insurmountable nor unique to our times.

E. First Amendment Protections for Muslim Students

Two sections of the First Amendment, generally referred to as the Establishment Clause and the Free Exercise Clause, state that “Congress shall make no law respecting an establishment of religion or abridging the free exercise thereof.” A static definition of proper adherence to these provisions is nearly impossible to formulate given this country's ever-evolving societal and cultural character and the immense diversity between and among different regions and states regarding social norms and customs. What is readily established, though, is that the ultimate purpose of these clauses is to protect religious exercise from government influence and pervasion. Assessed in the broadest of strokes, accommodating Muslim students would require schools to refrain from imposing religion on students and ensure they allow students to exercise their faith freely. The former can most appropriately be considered an Establishment Clause issue, while the Free Exercise Clause would govern the latter. Both are essential parts of the First Amendment to the United States Constitution. Crafting policies that comply with both clauses is important for creating a safe and comfortable school environment for Muslim students.

F. Application of the Establishment Clause to Protect Muslim Students

Despite the complexity involved in setting standards for religious rights and evaluating what constitutes government establishment of religion, the

---

90 See Haynes, supra note 82, at 18-21.
92 See Haynes, supra note 82, at 17-21.
93 PEEK, supra note 33, at 214-22.
94 See Haynes, supra note 82, at 18-21.
95 See generally Shah, supra note 15.
97 See U.S. CONST. amend. I.
U.S. Supreme Court has provided some broad definitions that can be used as reference points. The Court has written that religious establishment occurs when the state or its actors “endorse or disapprove of religion.” For decades, the Court relied on *Lemon v. Kutzman* in addressing government establishment of religion in public schools. Here, the Court established standards to assess and prevent excessive state entanglement in religious activity and created a test to decide whether or not government action had gotten too entrenched in religious affairs. The “Lemon Test” established a threefold assessment to judge whether or not state action violated the Establishment Clause. The test dictated that state action must (1) be secular in purpose, (2) that the principle or primary effect cannot be to advance or inhibit religion, and (3) that the action must not foster excessive entanglement in religion.

While *Lemon* is still good law, in many ways its use and applicability has been supplanted by the more recent Supreme Court case *Kennedy v. Bremerton School District*. In some ways, *Kennedy* may make it difficult for administrators to protect the rights of Muslim students in public schools. In other ways, the decision makes those efforts easier, as it clarifies the rights of members of the school community to engage in public displays of their faith.

In *Kennedy*, a Christian high school football coach who adopted the practice of praying with players, on the field after games filed suit against his school district after his contract was not renewed, ostensibly, because he refused to stop this practice after being directed to do so by district administrators. In siding with Kennedy and overturning the decision of the district and appellate courts, the Supreme Court concluded that the district’s efforts to stop Kennedy from praying on the field after games infringed on his personal, individual, religious rights. Where the Court in *Lemon* considered the actions of individuals as attributable to the school or district as a whole, in *Kennedy*, the Court appears to establish a difference between school staff as actors on behalf of the district or school and school staff as individual actors acting in their personal capacity. This distinction is absent from the

---

101 *Id.* at 612-13.
102 *Id.*
103 *Id.*
105 *See id.* at 535.
106 *Id.* at 514-520.
107 *Id.* at 543.
108 *Id.* at 529-30; *see Lemon*, 403 U.S. at 605.
reasoning in *Lemon* and gives individual school representatives greater agency in engaging in religious activity.

While significant focus on *Kennedy* has understandably been on its potential to undermine traditional interpretations of separation of church and state—and the potential for expanded persecution of religious minorities—on its face, if applied fairly, the decision might actually bolster the rights of religious minorities, including Muslims.\(^{109}\) Though there has been no real analysis to this end, the Court’s finding that Kennedy had the right to lead students in prayers to Christ would necessitate courts protecting the rights of coaches, teachers, counselors, and principals in future instances to lead prayers to Allah. If *Kennedy* gives Christian school officials the right to engage with students about their faith, it must also give Muslim school officials the right to do the same. Given that Muslims are distinctly in the minority in this country, this application would no doubt be the exception rather than the rule; but, the Supreme Court’s reasoning in *Kennedy* can serve as another tool for conscientious administrators looking to protect, support, and encourage their Muslim students.

Aside from *Kennedy*’s potential to be a resource to protect Muslim students, there is no doubt that there is also great potential for the decision to lead to violations of the Establishment Clause. Advocates looking to protect the rights of students who are religious minorities like Muslim students should not despair, as there exists established jurisprudence to confront Establishment Clause violations.\(^ {110}\) Moreover, such violations are neither new nor uncommon—even a cursory review of religious involvement in public schools throughout American history shows a pattern of consistent violations of the Establishment Clause.\(^ {111}\) Well into the mid-twentieth century, for example, overt displays of formal religious activities in public schools were accepted fixtures of American life.\(^ {112}\)

In the late nineteenth and early twentieth century, for example, the Bureau of Indian Affairs used boarding schools to pacify Native Americans and in-doctrinate Native American youth with traditional American values such as “individualism, industry, private property; the acceptance of Christian doctrine and morality . . . [and] the abandonment of loyalty to the tribal


\(^{110}\) See, e.g., Engel, 370 U.S. at 430-33.

\(^{111}\) See, e.g., Good News Club, 533 U.S. at 98; Lamb’s Chapel, 508 U.S. at 384; Engel, 370 U.S. at 421; see also JOSEPH P. VITERITTI, THE LAST FREEDOM 100, 102 (2009).

\(^{112}\) See VITERITTI, supra note 111, at 100.
community.” In 1951, the New York State Board of Regents distributed a “Statement on Moral and Spiritual Training in the Schools.” The statement included a prayer to be read aloud by a teacher at the beginning of every class: "[a]lmighty God, we acknowledge our dependence upon Thee, and we beg Thy blessing upon us, our parents, our teachers and our Country.” In justifying the statement and the attached prayer, the Regents stated that it was a response to combat the “concentrated attacks by an atheistic way of life upon our world.” In 1963, thirty-seven states allowed teacher-facilitated prayer and other religious exercises in their classrooms, and thirteen states permitted Bible reading. Though many schools justified these policies by noting tradition and the desire to instill in America’s youth strong moral virtues, such activities were ultimately held to be clear violations of the government’s constitutional obligation to not endorse or infringe upon religion.

In *Engel v. Vitale*, the Supreme Court held that the aforementioned New York regulation and most laws like it were inherently unconstitutional. The Court stated that the requirement was “wholly inconsistent with the Establishment Clause” and constituted clear “government sponsored religious activity.” In discussing the coercive nature of the regulation, the Court went on to say that “[w]hen the power, prestige and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain.” The Court in *Engel* also noted that “[t]he Establishment Clause, unlike the Free Exercise Clause, does not depend on any showing of direct governmental compulsion and is violated by the enactment of laws which establish an official religion whether those laws operate directly to coerce non-observing individuals or not.”

While a school may not formally sponsor a religious activity, when conduct by school officials creates a hostile environment for students with different religious beliefs, or when members of the school community are encouraged to create a hostile environment, the school may still be engaging in

---

113 SIRIN & FINE, supra note 67, at 66.
114 VITERITTI, supra note 111, at 101.
115 *Engel*, 370 U.S. at 422.
116 VITERITTI, supra note 111, at 101.
117 *Id.* at 100.
118 See *Engel*, 370 U.S. at 433.
119 *Id.* at 430-33.
120 *Id.* at 424-5.
121 *Id.* at 431.
122 *Id.* at 430.
religious activity that violates the Establishment Clause.\textsuperscript{123} Even if a school publicly alleges neutrality when its actions and policies favor and support a particular religious viewpoint, the alleged neutrality is disingenuous and the school has, in fact, excluded its students who do not subscribe to the endorsed faith.\textsuperscript{124} While it would seem clear that schools should not be allowed to force students to actively engage in teacher-led prayer, deciding whether a school’s actions violate the Establishment Clause is much harder to do when the action in dispute occurs during extracurricular activities, especially those that are student-led or voluntary.\textsuperscript{125} It also presents challenges to supporting and encouraging Muslim students that are looking to practice their faith publicly on school grounds. Though there are differences among circuit courts on where a line should be drawn, the U.S. Supreme Court established helpful guidelines in \textit{Santa Fe Independent School District v. Doe}, guidance that can help mitigate some of these challenges.\textsuperscript{126}

In \textit{Santa Fe}, the school district allowed students to say a “religiously neutral” invocation during the pre-game ceremonies at local high school football games.\textsuperscript{127} The alleged purpose of delivering the invocation was to “solemnize” the event, promote good sportsmanship and student safety, and set the “appropriate environment” for the competition.\textsuperscript{128} After encountering criticism for the policy, the district allowed students to vote to decide whether the invocation should be given, an act the district contended effectively distanced the high schools themselves from the invocation.\textsuperscript{129} The schools further argued the invocation was not coercive because students had the option not to partake in the prayer and, if they felt strongly enough, not attend the football game.\textsuperscript{130}

The Court held that allowing the invocation violated the Establishment Clause because these invocations were “authorized by a government policy and [took] place on government property at government sponsored school-related events.”\textsuperscript{131} In the Court’s opinion, these activities distinctly appealed to Christian values and furthered efforts to promote Christianity at the expense of those who practiced other faiths.\textsuperscript{132} The Court noted that the

\begin{itemize}
\item \textsuperscript{124} See \textit{id.}
\item \textsuperscript{125} See \textit{id.}
\item \textsuperscript{126} See \textit{id. at} 295-98.
\item \textsuperscript{127} See \textit{id. at} 309-10.
\item \textsuperscript{128} See \textit{Santa Fe}, 530 U.S. at 306.
\item \textsuperscript{129} See \textit{id. at} 305-06.
\item \textsuperscript{130} \textit{Id. at} 310.
\item \textsuperscript{131} \textit{Id. at} 302.
\item \textsuperscript{132} \textit{Id. at} 299 n.7.
\end{itemize}
allegedly democratic decision to initiate a prayer did not help the school’s claim. The Court reasoned that taking a majority vote still violated the rights of students in the opposition minority. Students who voted “no, I don’t want to take part in this prayer” were still forced to do so. Speaking broadly about the issue, the Court commented, “[t]he whole theory of viewpoint neutrality is that minority views are treated with the same respect as are majority views.” A majority vote did not matter as it still stifled the views of those students in the minority.

As the Court’s reasoning in Santa Fe illustrates, schools cannot sidestep liability for endorsing religion by shrouding their actions with the cover of independent student speech. Displays of school-sponsored religiosity, whether overt or covert, or whether initiated by the school or facilitated by students with clear support and backing by school officials, have the potential to violate the religious rights of students who do not share the views being expressed and sponsored, and therefore constitute an establishment of religion. Even if not overt, elements of coercion are always present when these types of actions are allowed.

In Santa Fe, the plaintiffs were a small group of Mormon and Catholic families concerned about student-led prayers before football games. The outcry against the suit was so strong that the district court formally ordered town members to stop investigating who the movants were and to cease harassing the suspected claimants.

Though not exclusive or determinative, factors that support an activity being school-sponsored include whether the event took place with the support/involvement of school faculty, used school space during school hours, or included academics or some other important aspect of the school experience in the activity. When applied with fidelity, the standard established by the Supreme Court in Santa Fe leaves school officials looking to violate
the Establishment Clause with few avenues to operate successfully.\textsuperscript{143} The standard also provides a clear and helpful road map for Muslim students to use in creating clubs, setting up meetings, and facilitating programs that avoid the appearance of inappropriate Establishment Clause activities.

Even if no specific deity is referenced, the definition of religious activity is still expansive.\textsuperscript{144} In \textit{Rosenberger v. University of Virginia}, the Court held that religious activity is any activity that “primarily promotes or manifests a particular belief in or about a deity or an ultimate reality.”\textsuperscript{145} Some may argue that such a broad standard could stunt the formation of independently organized and operated student groups, or force students to suppress and hide their religious views, thus violating students’ First Amendment right to freely exercise their own religious beliefs.\textsuperscript{146} Such an interpretation, however, is a mischaracterization and oversimplification of the aforementioned standard.\textsuperscript{147} The definition above is only practically restrictive when the activity in question is clearly school-sponsored or when it is evidenced that the school, not the student(s), is behind the activity.\textsuperscript{148} Where the action is clearly independent and led, sponsored, and organized by students, not the school, the Establishment Clause has not been violated, and the school is in no danger of being held liable for unlawful conduct.\textsuperscript{149}

In \textit{Santa Fe}, the prayer took place at an official varsity football game, on the school’s football field, and the school enacted several rules to keep the prayer in place—despite opposition and criticism.\textsuperscript{150} This was not an impromptu pick-up game between students on the playground where the students, independently and on their own volition, decided to say a quick prayer asking that no one get hurt.\textsuperscript{151} Rather, there were formal policies imposed by the district pushing this religious activity.\textsuperscript{152} This was prima facie attempt to establish religion in school activities. The holding in \textit{Santa Fe} shows that schools must have fairly strict standards against school-sponsored, endorsed, or facilitated religious activities.\textsuperscript{153} The court’s ruling in \textit{Santa Fe} also shows that not having these standards disrespects the religious rights of not just

\begin{itemize}
\item \textsuperscript{143} See id.
\item \textsuperscript{144} \textit{Rosenberger v. Rector & Visitors of the Univ. of Va.}, 515 U.S. 819, 825 (1995).
\item \textsuperscript{145} \textit{Id.}
\item \textsuperscript{146} See \textit{Christian Legal Soc’y Chapter of the Univ. of Cal.}, 561 U.S. at 740-41.
\item \textsuperscript{147} See id. at 687 n.16, 692 n.22.
\item \textsuperscript{148} See \textit{Santa Fe}, 530 U.S. at 294-96.
\item \textsuperscript{149} See \textit{Good News Club}, 533 U.S. at 115-16.
\item \textsuperscript{150} See \textit{Santa Fe}, 530 U.S. at 294-96.
\item \textsuperscript{151} See id. at 300.
\item \textsuperscript{152} Id. at 309.
\item \textsuperscript{153} See id. at 316-17.
\end{itemize}
Muslim students, but all students who might feel discriminated against by such activities and reflects a clear flouting of the Constitution.\textsuperscript{154} Muslim students and advocates looking to protect the rights of Muslim students can use this decision as a helpful resource in combating discriminatory practices of schools and districts looking to undermine these students’ rights.

\textit{G. Supporting Muslim Students through the Free Exercise Clause}

In addition to the obligations above to not subject Muslim students to school-sponsored religious activities, schools also have an affirmative obligation to allow Muslim students to have the space, time, and opportunity needed to practice their faith on school grounds.\textsuperscript{155} Though, in these times of heightened animosity and discrimination against Muslim Americans, schools may face public pressure to restrict the rights of Muslim students to freely practice their faith in public schools, doing so would be unconstitutional and violate federal case law established by the Supreme Court. In \textit{Good News Club v. Milford Central School}, the Court addressed the issue of student run religious clubs.\textsuperscript{156}

In this case, the Milford Central School District in Milford, New York, had adopted a policy allowing local residents to use school facilities for independent, community-based after-school activities.\textsuperscript{157} While a wide array of activities was allowed for community members using school facilities, religious worship was prohibited.\textsuperscript{158} Two local residents requested access to school facilities to host their newly created “Good News Club,” which was meant to provide participants with an outlet to engage in and exercise Christianity.\textsuperscript{159} Club meetings would involve singing Christian songs, participating in Bible lessons, scripture reading, and Christian prayer.\textsuperscript{160} The district denied the organizers’ application to use school space for the Good News Club, contending that these activities constituted religious worship, which prohibited the district’s community use policy.\textsuperscript{161}

The club’s organizers filed suit against the district, challenging the district’s prohibition on religious activity.\textsuperscript{162} In hearing the case, the U.S.
Supreme Court held that a school’s refusal to allow a religious club to hold meetings on school grounds, after school, when it allowed other organizations in the community to use the space for similar reasons, was a violation of the organization’s members’ First Amendment rights to free religious exercise. The Court agreed with the parties’ contention that, by allowing other organizations to use the school space, the school had created a “limited public forum, in the school. When created, limited public forums become spaces wherein the public agencies creating them must allow the public, without discrimination, to access and use the space on equal terms. Not allowing the Good News Club to meet, strictly because it was a religious organization engaging in religious activity, constituted discrimination against the members’ viewpoint and is inherently unconstitutional.

The Court’s reasoning in Good News Club can be applied to any faith group. Most, if not all, public schools allow students to form and participate in afterschool programs in things like arts, athletics, and independent academic enrichment efforts. If students also want to create religious clubs and engage in independent religious activities, schools must allow it. If a school allows non-religious organizations unencumbered use of school space, it would be unconstitutional for the school to enact a policy denying Muslim faith-based organizations the same level of access. Furthermore, the Court in Good News Club found that even though the organization’s teachings were “quintessentially religious” and “decidedly religious in nature,” such teaching could also be characterized as teaching morals and character development. The Court also stated that “[j]ust as there is no question that teaching morals and character development to children is a permissible purpose under [the school district’s] policy, it is clear that the Club teaches morals and character development to children.”

Islam, and the study of the Quran and its teachings, promote principles that can lead students to a more profound respect for others and improve moral

---

163 Id. at 106
164 Id. at 105.
165 See id. at 106-07.
166 Id. at 120.
167 See Good News Club, 533 U.S. at 114 (citing Rosenberger, 515 U.S. at 839).
169 See Good News Club, 533 U.S. at 110-12.
170 Id. at 111.
171 Id. at 108.
fortitude. It also has the potential to expose non-Muslim students to positive illustrations of Muslims and potentially help to stem the rising tide of islamophobia developing in our nation. The impact on students attending meetings and events sponsored by Muslim groups should therefore be considered just as meaningful and beneficial to the growth and development of children as Christianity was in Good News Club. Advocates working to protect the rights of Muslim students in public schools can push for schools and school districts to adopt policies that embrace faith-based affinity groups and promote Islam as an opportunity to further cultivate the strong moral character that we expect schools to instill in our children.

Another critical issue in ensuring that Muslim students can freely exercise their religious beliefs is dress, most notably, the wearing of hijabs by young Muslim women and kufis by young Muslim men. Hijabs and kufis, not unlike yarmulkes for Jewish men, head clothes for Pentecostal women, and turbans for Sikh men and women, are articles of religious garb that students wear as a profession of faith, as physical acts of worship, or as a way to demonstrate adherence to a fundamental tenant of their faith. These garments are essential to many Muslims and not being able to wear them constitutes a severe blow to their religious liberties. Though the importance of head coverings in the lives of many practicing Muslims would seem unquestionably protected by the First Amendment, schools have broad latitude and discretion in setting dress codes. Schools and school administrators looking to cause trouble for Muslim students, or simply failing to consider the needs of these students when making policies, could enact dress code policies that unduly restrict the religious rights of Muslim students.

Despite the substantial control schools have over student dress, because religion—and therefore religious wear—is a constitutionally protected right, school policies that prohibit students from wearing religious garments are subject to a “strict scrutiny” analysis when taken up by the courts. Under

---

173 See Good News Club, 533 U.S. at 108 (“[I]t is clear that the Club teaches morals and character development to children. For example, no one disputes that the Club instructs children to overcome feelings of jealousy, to treat others well regardless of how they treat the children, and to be obedient, even if it does so in a nonsecular way.”).
174 See Haynes, supra note 82, at 22.
175 See id. at 18, 20; see, e.g., Anna Piela, Muslim Women and the Politics of the Headscarf, JSTOR DAILY (Apr. 6, 2022), https://daily.jstor.org/muslim-women-and-the-politics-of-the-headscarf/.
177 See id. at 466.
178 See A.A. v. Needville Indep. Sch. Dist., 611 F.3d 248, 266-68 (5th Cir. 2010).
a strict scrutiny analysis, any action taken by a governmental institution that deprives individuals of rights may only be undertaken if that state has a clear and justifiable “compelling state interest” in the action.\(^\text{179}\) If a school does not have a compelling interest in depriving a student of a particular right, the school must stop.\(^\text{180}\)

Though courts differ in their views of what constitutes a compelling state interest in restricting things like religious dress, traditionally established principles governing schools curtailing religious rights dictate that the school’s decision must be (1) for a clearly secular purpose, and (2) universally applied to all students.\(^\text{181}\)

One of the more prominent cases in recent memory addressing the rights of Muslim students to wear religious garb was *Hearn v. Muskogee Public School District*.\(^\text{182}\) In *Hearn*, an Oklahoma high school student sued her school district, alleging that her school violated her right to free religious expression when school administrators forced her to remove her hijab.\(^\text{183}\) The school argued that it enacted this policy to promote a religion-free zone, further safety and discipline, and avoid unnecessary distractions.\(^\text{184}\) However, when the suit began to garner media attention, the school vacated the policy and instituted a new one.\(^\text{185}\) The new policy allowed students to apply for permits to wear religious garments for “bona fide religious reasons.”\(^\text{186}\) A student’s ability to wear a religious head covering was, therefore, subject to the school’s determination of which students’ religious convictions were sincere and which were not.\(^\text{187}\) The school, in effect, became the arbitrator of religious conviction.\(^\text{188}\)

Shortly after this new policy was instituted, the United States


\(^{180}\) See id. at 403.

\(^{181}\) Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, supra note 155; see Lamb’s Chapel, 508 U.S. at 395.


\(^{183}\) Id. at 19-20.

\(^{184}\) Id. at 7.


\(^{187}\) See id.

\(^{188}\) See id.
Department of Justice filed an amicus brief on behalf of Hearn.\textsuperscript{189} The Justice Department argued that the school’s policy was invalid because there was no genuinely consistent, universally applied policy behind the school’s decision not to allow Hearn to wear her hijab.\textsuperscript{190} In fact, Hearn had been allowed to wear her hijab the previous year and was only forced to remove it on September 11, 2003.\textsuperscript{191} The school district also permitted non-Muslim students to wear religious clothing and other accessories without incident.\textsuperscript{192} In 2004, in lieu of further litigation, Hearn and the school district agreed to a six-year consent decree, wherein the school agreed to let Hearn wear her hijab without interference and made similar allowances for other students.\textsuperscript{193} While Hearn successfully battled against her school’s discriminatory policies, she should never have had to fight that fight in the first place.

The school’s policies in \textit{Hearn} illustrate the active discrimination Muslim students often encounter when attempting to exercise their faith.\textsuperscript{194} School officials who enact dress code policies that disenfranchise religiously observant students must think long and hard about the possible repercussions of these decisions.\textsuperscript{195} Higher-ranking officials and those reviewing school policies should also think critically about plausible motives behind these types of policies and not allow themselves to be a party to discrimination. Even when administrators set dress code policies that inadvertently impact religious rights for the arguably legitimate purpose of limiting distraction, these administrators should balance the interests at stake in enacting such policies.\textsuperscript{196} These policies have the potential to undermine students’ rights to freely exercise their religion while also harming the emotional and spiritual

\begin{itemize}
\item \textsuperscript{189} See Brief for Dept. of Justice, \textit{supra} note 36 at 2.
\item \textsuperscript{191} \textit{Id}. at 1.
\item \textsuperscript{192} \textit{Id}.
\item \textsuperscript{195} See, e.g., \textit{Id}. at 2-3; \textit{see also} Yick Wo v. Hopkins, 118 U.S. 356, 373-74 (1886) (“Though a law be fair on its face . . . if it is administered by public authority with an evil eye and an unequal hand, so as practically to make illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution.”).
\end{itemize}
development of religiously observant students. 197

CONCLUSION

Religion is an essential component of life for many Americans. The debate over the relationship between religion and this nation’s legal system has always been important, often accompanied by intense conflict and social unrest. 198 When we think about the fear and unrest many Americans have about Muslims, we can understand why schools might turn a blind eye to discrimination against them or try to hinder their ability to practice their faith openly and freely. 199 Faced with public pressure and community unrest, schools and school districts might find it in their immediate interest to deny Muslim students the protections the Constitution affords. 200

While at first blush the challenges Muslim students face might appear novel, less than sixty years ago, this nation faced a not so dissimilar conflict involving race, as Black students were denied access to the same opportunities as their white counterparts. 201 There too, schools were faced with conflicting public sentiments, and attempts to protect the constitutional rights of Black students were often met with obstinance and anger. 202 In Brown, the Supreme Court made clear that public opposition to equal protection was no excuse for not taking action that would remedy the problems posed by segregation. 203 “[I]t should go without saying that the vitality of these constitutional principles cannot be allowed to yield simply because of disagreement with them.” 204

As schools grapple with learning how to support Muslim students at a time when negative public sentiment makes that particularly challenging, schools can look to the constitutional principles that guided us through other divisive times in this country’s history. 205 Taking the lessons learned from cases like Brown, Keyishian, Lemon, Santa Fe, Good News Club, and the litany of cases

197 See id.
201 See LAVERGNE, supra note 69, at 96-106.
202 See id. at 103-05.
203 See Brown, 349 U.S. at 300.
204 Id.
205 See, e.g., id.
they spawned that furthered the efforts to protect civil and religious liberties, schools can ensure that the rights of Muslim students and the opportunities they need to express their faith are protected. 206

206 See, e.g., id. at 483; Keyishian, 385 U.S. at 589; Lemon, 403 U.S. at 602; Santa Fe, 530 U.S. at 290; Good News Club, 533 U.S. at 98.