

Objections to SB07-138
Concerning the Creation of Religious Bills of Rights for Individuals
Connected to Public Schools
(by Gary McCaleb, Sr. Attorney, Alliance Defense Fund)

1. If I understand it correctly, a child of a religion that does not respect the place of women in society may exempt himself from any class where it is taught that women have equal rights under the law?

Courts have drawn a line between learning *about* materials that clash with one's faith, and being forced by the school to change your values. The brightest dividing line is whether the teaching has a coercive effect on the child, trying to change his or her values. Put another way, it would be one thing to tell an Islamic student "this is what American law holds about women's rights" and another to say, "The Koran's view of the woman's role is wrong." The first situation generally would not violate the student's rights; the latter likely would.

2. If the religion of a child's family teaches that the earth is flat, may that child be exempted from any class where the actual facts of the matter are taught?

This bill is not about protecting the religious child from knowledge, but rather prohibiting the school from using science to supplant religious orthodoxy.

3. If a teacher's religion teaches that the earth is flat, may that teacher be excused from teaching the truth in his or her science class?

Similar objections were raised from many school districts to attorneys fighting to get Bible clubs onto campus; the argument was "If we let the Christians in, then we have to let the [skinheads/Nazis/Satanists] in." Oddly enough, a lot of Bible clubs were allowed onto campus and we have yet to see a "parade of horrors" club come in, or even seek access.

This is an area with relatively little case law, but Americans have a long and honorable tradition of honoring dissenters among government ranks, including conscientious objection to military service and postal clerks who, during the Vietnam War, refused to handle draft cards. There will be some gray around the edges of this, but consider the abortion/sex ed issues that arise--the pro-abortion teacher who's forced to teach abstinence, or the pro-life teacher who's forced to commend to his charges what he knows to be murder...should the state coerce either teacher to deal with the subject?

4. Who will decide which religions are afforded these remarkable rights?

Anyone who calls these "remarkable rights" should check out the First Amendment, which protected the remarkable right of religious people being exempt from direct congressional regulation--and before it was maimed by activist judges--also left liberty for state-established religion.

We should remember just how powerful the First Amendment must be to accomplish its purpose. There is a perfectly terrifying quote from the 9th Circuit Court of Appeals, worrying that federal election regulations will be "eviscerated" by the First Amendment if

the court is not vigilant--which is exactly the opposite of what the court should have been thinking.

As to "which religions," it is the individual who would assert a sincerely held religious belief that presents a conflict of conscience. A lot of these types of questions are no more than "red herrings." It's like saying that if we allow pharmacists to opt out of dispensing abortion drugs, then they will demand to opt out of dispensing pain killers because their religion appreciates personal suffering as a way to glory. It seldom happens in the real world.

5. The bill is contrary to the constitution of the United States. The bill would license teachers to teach nonsense and children to refuse to learn truth. I can think of no greater disaster that could be visited upon the education of our children.

None of these rights is novel; all have roots in the First Amendment and case law. But perhaps the greatest error that critics make is assuming that faith is ignorant and science is the sole arbiter of truth. Yet the incredible flowering of western knowledge would not have happened but for Christianity and its assumption of a rational God, knowable to some extent by studying his works. Some of the most common "examples" of faith vs. science are seriously misconstrued. For example, anti-faith critics often point to the dispute between the Vatican and Galileo, unaware that the dispute there was primarily whether Galileo could teach his heliocentric beliefs as a fact rather than theory. One obscure consequence of that dispute was that the Vatican actually included features in some cathedrals to help examine the theory...sort of a church-cum-observatory.

6. How does one distinguish a belief that has religious faith roots and just a strongly-held view?

The Courts have made "religion" murky but the personal liberty of conscience remains a solid principle and would serve as the dividing line in most cases.

7. Taken it to its logical conclusion, any yahoo can challenge any educational standard based on some obscure, tenuous claim to "faith" in some pseudo-religious precept.

This bill is not repealing any educational standards; it is educating students, teachers, and administrators about the Constitution. It is faith, not science that supports the notion to inalienable rights. A violation of conscience is not a "perceived slight;" it is a misapplication of state power in an attempt to conform the individual's free will to a state-decreed orthodoxy. This was so important to our Founding Fathers that the Constitution could not come about until the Bill of Rights enumerated certain liberties upon which the government could not easily tread.

Some will say that religious kids are ignorant and that they seek special protection from every uncomfortable "fact" that may come their way. "This isn't about shielding religious kids from facts or even unproven theories-it is about making sure that the government respects its limits of power and does not use its power to change a child's religious beliefs."

[Scientists sometimes wrong](#)

Ironically, it is often the scientists, not religious people, that exclude the other's point of view, and even very noted evolutionary thinkers like Steven Jay Gould admitted that scientists could be very blind to criticism when they were defending "science." Among the most embarrassing examples of that was the treatment of a geologist, J. Harlan Bretz, who proposed a theory of catastrophic flooding over a large area of eastern Washington State, called the "Scablands." To put it politely, he was laughed out of the profession by his peers who would not budge from a gradualist explanation. But other researchers eventually validated his theory, and after some *forty years* he was vindicated through that research. This is not an "evolutionist vs. creationist" story, but shows just how entrenched and "dogmatic" scientists can be--and how wrong they can be. Some excellent, world-class scientists are doing great science because of their faith, not against it.

8. What about Moslems, Wicca's, tree-worshippers, etc? School curriculum has enough in it to "offend" just about anybody. It might make a farce out of the schoolroom

The concise answer revolves around a conscience issue.

Let's talk about it from the "tree-worshiper's situation.

There needs to be a genuine invasion of a person's conscience--so a school could teach kids about logging and the use of renewable resources which would no doubt offend the average tree worshipper... but so far "no harm no foul." However, if the teacher says *"and as a class exercise, we're all going to write a letter to Sen. Schultheis to encourage him in his new 'Cut a Tree for Tomorrow's Homes' bill,"* then the serious tree worshipper has a rights of conscience issue--his private will is being hijacked by a government actor to advocate a position he holds as a moral/religious view, and the religious liberty bill would come to the young environmentalist's rescue....