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**A FEW YEARS AGO,**

Collin County made national news when Jonathan Morgan, a student at Thomas Elementary in Plano Independent School District, was forced to stop giving his fellow classmates certain gifts around Christmastime. The items in question were simply candy cane-shaped pens with a message about the Christian symbolism relating to this popular holiday candy.

Jonathan's parents protested saying the school district's policies infringed on their son's first amendment rights. Other parents at the same school made similar complaints, arguing against policies that prohibited the use of red and green napkins at the school's "winter party" and forbade students from passing out invitations to church or other religious events while on school property.

Incidents similar to this one have happened across Texas, where public school students have been reprimanded for even the simplest expressions of faith.

And so this past legislative session, I served as a co-author of House Bill 3678, which was introduced to allow students to voluntarily express their religious viewpoints while at school and to add to discussions on art, literature, science or other subjects in which the free expression of religious views may have previously been excluded. This bill, which Governor Perry signed into law, is known as the "Religious Viewpoints Antidiscrimination Act" or the "Schoolchildren's Religious Liberties Act," and it requires school districts to implement policies to protect students' rights to freely exercise their



*Gathering for prayer at the flagpole*  
photo by Chris Fritchie

3678 may further complicate this distinction and create a bigger problem for parents who may or may not want their children engaging in certain activities at school. Additionally, he worried that allowing students to express their religious viewpoints may take away from instructional time in the classroom. Fortunately, when speaking with this particular individual a few months later, he stated that much to his surprise, the schools in the district he represents have not experienced any problems as a result of the new policies.

Despite the concerns of some school districts, this Act actually clarifies the first amendment rights of students at school by putting in place certain

## Religious Viewpoints in School

By Representative Ken Paxton

religion while at school. The bill does not, however, require any student to pray or express any religious viewpoint, but simply protects the students who wish to do so.

Many school districts have not welcomed the new requirements set forth in HB 3678, which went into effect last June (2007), as school districts have in the past struggled to avoid situations that may cross the legal line of separation of church and state. One school spokesman in my district expressed his concerns to my office over the summer, stating that the policies set forth from House Bill

policies based on court decisions and federal regulations regarding religious expression. Additionally, this Act authorizes school districts to adopt and implement policies that establish a limited public forum, provide certain disclaimers and set forth guidelines for permissible forums of religious expression by students. School districts simply need to adopt the model policy described in the Act or develop a local policy to comply with its provisions. And so, this Act should in fact reduce the number of lawsuits against school districts in Texas, thus eliminating unnecessary spending of

taxpayer dollars on legal fees and court costs.

There have been numerous cases where the Courts have ruled against various school districts and in favor of citizens wanting to practice their religion freely. One of the earliest court cases regarding this issue is *Zorach v. Claiborn* (1952). In this case, the Supreme Court upheld the practice of providing “release-time” for students to be absent from school in order to attend religious classes and programs elsewhere.

In Nebraska, students were told that they could not form a Christian Club in their high school because the school believed that having a faculty sponsor of the club would give the impression that the school actually endorsed the club and the faith it represented. In this case (*Board of Education of the Westside Community Schools v. Mergens*), the Supreme Court ruled in favor of the students, thus granting them the right to form a Christian Club and participate in a prayer club at their school with a limited open forum. This case opened the door for other opportunities for students to organize religious-based clubs and lead Bible studies and pray while on a public school campus.

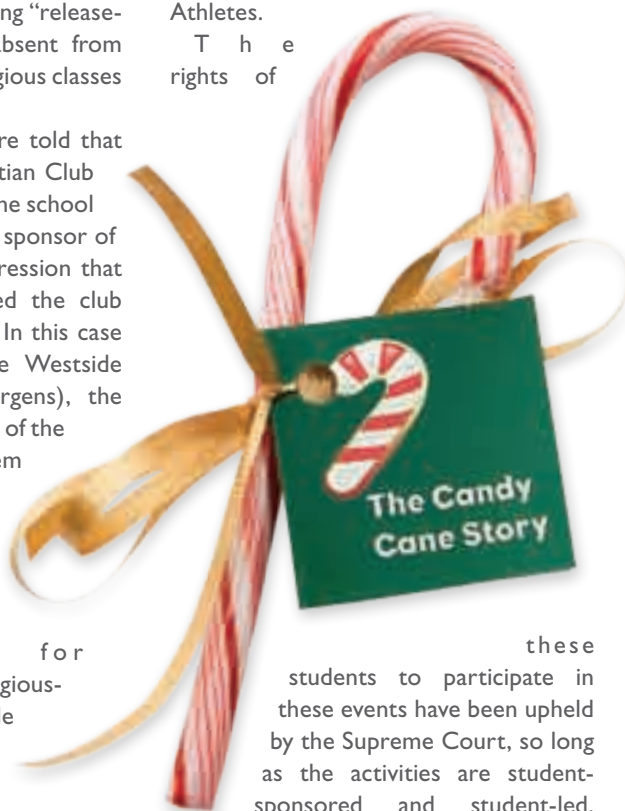
In another case from New York (*Lamb’s Chapel v. Center Moriches Union Free School District*), the Supreme Court ruled unanimously that a school district could not prohibit a religious organization from using a public school for religious activities after hours.

With regard to the situation in Plano, Jonathan Morgan’s parents joined the other parents of students at Thomas Elementary in filing a suit against the school district claiming that the Plano Independent School District’s policies violated their children’s right to freely exercise their religion. Jonathan was eventually allowed to hand out his candy canes, but it took a court order before this activity was deemed permissible by the school district.

After numerous attempts to stop legal expression of faith in the public schools, students from around the country, and even around the world, continue to participate in an annual gathering

of Christian students of all ages at the flagpole of their local school to pray, read from the Bible and sing hymns. This event, which began in Burleson, Texas, is called, “See You at the Pole.” Other organizations with a religious foundation have been formed and are in place in public schools across the United States, including Young Life and Fellowship of Christian Athletes.

The rights of



these students to participate in these events have been upheld by the Supreme Court, so long as the activities are student-sponsored and student-led. Additionally, the United States Department of Education released a document titled, “Religious Expression in Public Schools,” in 1998 that includes a statement about a student’s rights to engage in prayer and talk to peers about religious topics.

The founders of our nation clearly appreciated the need to protect the rights of its citizens to freely exercise their religion of choice. Indeed, the first amendment of the U.S. Constitution states, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...” I maintain that our founding fathers intended there to be a freedom of religion in the United States, and not a freedom from religion. This belief has been upheld by our federal courts, as demonstrated by the aforementioned decisions.

The establishment clause found in the U.S. Constitution was put in place to

prohibit our government from declaring a national religion, something that was prevalent in numerous other nations at the time when our country was founded. Some have interpreted this clause to mean that there is a “wall of separation” between church and state. Many court decisions, however, indicate that most justices do not agree with this interpretation. In fact, in the *Zorach* case, Justice Douglas said that the Constitution does not demand a “callous indifference to religion.”

The free exercise clause prohibits governments from interfering with an individual’s right to practice his/her religion. While the establishment clause and exercise clause seem to inherently contradict one another in many situations, the judiciary should be commended for the times when the justices are able to achieve a balance in their rulings.

Just as our federal courts have had to contend with the issue of religious freedom, understandably, many school districts have struggled with establishing policies that ensure students’ rights are protected while also addressing concerns from parents who are uncomfortable with their children participating in certain religious activities at school. However, with the implementation of House Bill 3678, precedents set forth by the courts are codified, so that Texas school districts’ policies and procedures are in accordance with case law, which should prove beneficial for school districts across Texas.

Allowing students to express their religious beliefs, as well as their secular views, provides an open forum that encourages growth and provides educational opportunities in our public schools. For students, personal expression promotes self-confidence and maturity and gives students experience in organizing their thoughts and making a concise presentation before an audience. The government has no right to prohibit private citizens from living out their faith and sharing it with others, whether these individuals are participating in activities or discussion in or out of the public school environment.

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*Ken Paxton is the Texas State Representative for District 70 that includes Frisco.*