

ABSTRACT

Ronna Greff Schneider,
Getting Help with Their Homework: Schools, Lower Courts, and the Supreme Court Justices Look for Answers Under the Establishment Clause

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Abstract by Camelia Lopez-Fernandini

The author examines recent Supreme Court decisions addressing the Establishment Clause, explores questions that remain from them, and highlights the lower courts' efforts to address religious issues in school. In focusing on four recent cases, the author acknowledges significant changes in the Court's view of the Establishment Clause. For example, in *Agostini v. Felton*, Justice O'Connor collapsed the third and final prong of the *Lemon* Test into the second, making excessive entanglement merely a criteria for determining impermissible effect. In *Santa Fe Indep. School Dist. v. Doe*, the Court addressed the constitutionality of prayer at school-sponsored events. In *Mitchell v. Helms*, the Court upheld *Agostini* and permitted federal funding for sectarian schools. Finally in *Good News Club v. Milford*, facilities were allowed to be used for an after school religious club.

The author criticizes the Court's decisions and guidelines as lacking clarity, certainty, and consistency. Unanswered questions of government and religion are a product of the Court's ambiguity. The author goes on to focus on how the lower courts struggle to consistently interpret the recent Supreme Court's decisions. Among the conflicting issues is the tension between free speech and the Establishment Clause. The author concludes by examining the Justices' individual positions regarding their recent decisions and how their views will be applied to new issues, such as school vouchers.