

MCCOLLUM V. BOARD OF EDUCATION, 333 U. S. 203 (1948)

U.S. Supreme Court

McCullum v. Board of Education, 333 U.S. 203 (1948)

**Illinois ex rel. McCollum v. Board of Education of School District No. 71, Champaign
County, Illinois**

Decided March 8, 1948

APPEAL FROM THE SUPREME COURT OF ILLINOIS

MR. JUSTICE BLACK delivered the opinion of the Court.

This case relates to the power of a state to utilize its tax supported public school system in aid of religious instruction insofar as that power may be restricted by the First and Fourteenth Amendments to the Federal Constitution.

The appellant, Vashti McCollum, began this action for mandamus against the Champaign Board of Education in the Circuit Court of Champaign County, Illinois. Her asserted interest was that of a resident and taxpayer of Champaign and of a parent whose child was then enrolled in the Champaign public schools. Illinois has a compulsory education law which, with exceptions, requires parents to send their children, aged seven to sixteen, to its tax-supported public schools, where the children are to remain in attendance during the hours when the schools are regularly in session. Parents who violate this law commit a misdemeanor punishable by fine unless the children attend private or parochial schools which meet educational standards fixed by the State. District boards of education are given general supervisory powers over the use of the public school buildings within the school districts.

Appellant's petition for mandamus alleged that religious teachers, employed by private religious groups, were permitted to come weekly into the school buildings during the regular hours set apart for secular teaching, and then and there, for a period of thirty minutes, substitute their religious teaching for the secular education provided under the compulsory education law. The petitioner charged that this joint public school religious group program violated the First and Fourteenth Amendments to the United States Constitution. The prayer of her petition was that the Board of Education be ordered to "adopt and enforce rules and regulations prohibiting all instruction in and teaching of religious education in all public schools in Champaign School District Number 71, . . . and in all public school houses and buildings in said district when occupied by public schools.... "

The foregoing facts, without reference to others that appear in the record, show the use of tax supported property for religious instruction and the close cooperation between the school authorities and the religious council in promoting religious education. The operation of the State's compulsory education system thus assists and is integrated with the program of religious instruction carried on by separate religious sects. Pupils compelled by law to go to school for secular education are released in part from their legal duty upon the condition that they attend the

religious classes. This is beyond all question a utilization of the tax-established and tax-supported public school system to aid religious groups to spread their faith. And it falls squarely under the ban of the First Amendment (made applicable to the States by the Fourteenth) as we interpreted it in *Everson v. Board of Education*, 330 U. S. 1. There we said:

"Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force or influence a person to go to or to remain away from church against his will, or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or nonattendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups, and *vice versa*. In the words of Jefferson, the clause against establishment of religion by law was intended to erect 'a wall of separation between church and State.'"

Recognizing that the Illinois program is barred by the First and Fourteenth Amendments if we adhere to the views expressed both by the majority and the minority in the *Everson* case, counsel for the respondents challenge those views as dicta, and urge that we reconsider and repudiate them. They argue that, historically, the First Amendment was intended to forbid only government preference of one religion over another, not an impartial governmental assistance of all religions. In addition, they ask that we distinguish or overrule our holding in the *Everson* case that the Fourteenth Amendment made the "establishment of religion" clause of the First Amendment applicable as a prohibition against the States. After giving full consideration to the arguments presented, we are unable to accept either of these contentions.

To hold that a state cannot, consistently with the First and Fourteenth Amendments, utilize its public school system to aid any or all religious faiths or sects in the dissemination of their doctrines and ideals does not, as counsel urge, manifest a governmental hostility to religion or religious teachings. A manifestation of such hostility would be at war with our national tradition as embodied in the First Amendment's guaranty of the free exercise of religion. For the First Amendment rests upon the premise that both religion and government can best work to achieve their lofty aims if each is left free from the other within its respective sphere. Or, as we said in the *Everson* case, the First Amendment has erected a wall between Church and State which must be kept high and impregnable.

Here not only are the State's tax-supported public school buildings used for the dissemination of religious doctrines. The State also affords sectarian groups an invaluable aid in that it helps to provide pupils for their religious classes through use of the State's compulsory public school machinery. This is not separation of Church and State.

The cause is reversed and remanded to the State Supreme Court for proceedings not inconsistent with this opinion.