

Unmasking Michael McConnell's School Privatization Scheme

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There is little doubt that questions regarding the appropriate relationship between religion and public education are some of the more vexing matters facing both intellectuals and practitioners of public schooling today. Beside perennial issues such as whether schools should include creationism or intelligent design in biological science classes, and whether and in what fashion public schools should offer bible elective courses, the issue of school choice — particularly vouchers and home schooling — have remained at the top of the list for philosophical and policy debate. Erik Owens, in his insightful essay, helps move the conversation regarding the appropriateness (or inappropriateness) of school privatization deeper. He does so by critically examining a provocative essay by the philosopher Michael McConnell that seeks to make a case for extending the notion of disestablishment from the religious realm to the educational realm. While McConnell argues that in the name of civic pluralism we ought to reject the idea of a public school monopoly in the same manner that we have rejected the notion of an established church, Owens's critique points out that in important ways McConnell's call for school privatization, couched in the terms of educational disestablishment, falls short.

Owens begins his essay by explaining that a legal *paideia* should be understood as a doctrine that helps to shape the character of both U.S. citizens and law. The question he sets out to examine is whether, as McConnell would have us think, the concept of disestablishment should be extended to American public education and hence be treated as a legal *paideia*. As Owens deftly shows in his illuminating essay, McConnell's argument fails to persuade for several reasons. I will mention just two. First, Owens asserts that McConnell's educational disestablishment is actually an example of educational toleration since McConnell allows for government to maintain a significant role in education. As Owens rightly argues, this is a very different situation than religious disestablishment, where the government is absolutely prohibited from any substantive role in religion. Second, Owens's critique is on target when he says religious disestablishment is not analogous to educational disestablishment since the way government is strictly prohibited from being in the business of religion is not at all like the relationship McConnell envisages between government and education, since government will still play an important role in education.

There is little that I disagree with in Owens's essay, except to say that I do not think he is forceful enough in some of his assessments of McConnell's position. Thus, in the remaining space, I will examine a couple of areas where I think a more vigorous response to McConnell's argument is warranted.

At the beginning of his essay, Owens argues that McConnell makes his case in the name of cultivating a more “‘pluralist’ educational system that truly respects religious freedom by giving parents real choices about their children's education.”

While Owens concedes that McConnell's argument is problematic, I would like to first take issue with the uncontested claim that the current "public school monopoly" limits or inhibits students' religious freedom. Contrary to McConnell's unsubstantiated claim, there is good reason to think that public schools are in fact quite respectful of students' religious freedom. Students may pray in school, they may read from their bibles or other scriptural texts, they may have religious clubs, they may say grace before meals, they may even give religious speeches intended to persuade, stopping short only of harassment. Where appropriate, students may include religious matter in written or oral assignments, students may distribute religious literature on the same terms as other material not related to school curricula or activities, students have a right to excusal from lessons objectionable on religious grounds, and they are guaranteed released time for religious instruction.¹ Far from inhibiting religious freedom, public schools grant students great latitude with respect to religious expression. One must assume that as a jurist, McConnell is keenly aware of what is and what is not permissible in public schools regarding religion; thus I can only surmise that contrary to his alleged concern that the public school monopoly prevents promotion of pluralistic values, McConnell's real interest is to justify school privatization generally and public funding to religious schools specifically. While McConnell is not the first to make a case for public funding of private schools, claiming that public schools by virtue of their monopoly do not respect religious freedom does not strike me as a sustainable position.

The more crucial matter for McConnell to examine and defend is the claim that a pluralistically organized school system is better equipped to attend to the pluralistic commitments of our liberal, pluralistic, democratic state than one arranged democratically. McConnell, it would seem, thinks that by organizing schools democratically, schools cannot value the rich pluralism of our society. As Owens observes, it is not entirely clear that this is the case. Consider the fact that McConnell wrongly suggests that the only options for a democratically organized public school monopoly with respect to curriculum are either to alienate some citizens with its decisions, or, in order to avoid offending any one constituency, water down the curriculum to a "least common denominator" solution. As Owens points out there are other proposals currently advocated and employed in schools that allow students to wrestle with important issues such as religious belief. Citing Robert Kunzman's ethical dialogue as one such approach, Owens makes his point.²

Yet in this instance as well, a critique of McConnell could go further. Taking McConnell's rationale that democratically organized schools cannot represent the richness of our pluralistic state, and only by organizing schools along pluralistic lines can this commitment be realized, McConnell fails to point out that the sorts of schools that would gain inclusion in a pluralistically organized school system may promote values that are antithetical to our liberal, pluralistic, democratic state. That is, McConnell's voucher scheme, in its effort to be pluralistic, would necessarily have to admit a wide spectrum of schools embodying a wide range of values and ideals. This means that evangelical fundamentalist schools, for example, would have to be included as an option for students, even though the ethos of these schools

is fundamentally unpluralistic. For that matter particularistic schools of any stripe could gain entry into this new school scheme, opening up the possibility of tax-supported white supremacist schools or homophobic schools, for example. The particularistic curricula and values of these schools would then, when successful, help students learn to value particularistic sets of values and ideals, thereby undermining the liberal, pluralistic, democratic state.

As Owens points out, McConnell does not appear to be too concerned that private schools would undermine civic values, but if such a situation were to emerge, any problems that might arise could be managed since the government would retain significant oversight over the new pluralistically organized educational system. By retaining an oversight function, including establishing criteria for “minimal civic responsibility,” the state would presumably be able to leverage some control over schools. It is not clear from Owens’s argument what McConnell means when he says that the government will maintain a significant ongoing role in schools beyond establishing minimal accreditation standards, but it seems to me that if government has this function then a school that did not meet such standards could be excluded from the mix of taxpayer-supported schools. Yet once the government is granted this important function, a critical vulnerability in McConnell’s thesis is revealed. By excluding schools that do not meet minimal standards, the very basis for a pluralistically organized school system is undermined, since the government could weed out those schools that did not meet liberal, pluralistic, and democratic ideals. If, then, schools that were objectionable on these grounds, like Christian fundamentalist schools, were systematically excluded, given the fact that public schools already grant students wide latitude in religious expression in the first place, it is not entirely clear why a democratic arrangement of schools would not suffice in meeting students’ pluralistic needs.

Owens’s overarching critique of McConnell’s attempt to extend the legal *paideia* of religious disestablishment to the realm of education is quite successful. He does an excellent job highlighting many of the areas where the analogy simply does not obtain. I think Owens does a good job calling into question McConnell’s real purpose — providing an elegant, philosophically demanding argument for tax support to religious schools. Arguing in principle that a democratically arranged system of schools is antithetical to liberal goals of pluralism, McConnell tries to make a case for educational privatization. Owens has helped to unmask this true purpose and in that pursuit he should be applauded.

1. U.S. Department of Education, “Religious Expression in Public Schools” (May 1998), <http://www.ed.gov/Speeches/08-1995/religion.html>.

2. For other examples see Nel Noddings, *Educating for Intelligent Belief or Unbelief* (New York: Teachers College Press, 1993); and Warren Nord, *Religion and American Education: Rethinking a National Dilemma* (Chapel Hill: University of North Carolina Press, 1995).