

This summary provides information and an overview of the law for educational purposes only. These summaries may become outdated and may not represent the current state of the law. Reading this material DOES NOT create an attorney-client relationship between you and the American Center for Law and Justice, and this material should NOT be taken as legal advice. You should not take any action based on the educational materials provided on this website, but should consult with an attorney if you have a legal question.

What is Mindfulness and is it Secular?

The term “mindfulness” was developed by Jon Kabat-Zinn, a Buddhist and a trained Dharma teacher. Mindfulness “serves as a euphemism for Buddhadharma,”¹ and is the seventh aspect of the eightfold path of Buddhist awakening. Mindfulness is used by Buddhists to obtain *nirvana* – a Buddhist religious belief that “profound insight result[s] in the end of suffering.”² Simply put, mindfulness is considered to be the gateway to meditation: “[m]indfulness is often aligned with the ‘time of Buddha,’ in which the Buddha discovered that focusing entirely on his breath would allow him to see reality and reach meditation more quickly.”³ “[I]t is no coincidence that many modern mindfulness practices begin by focusing on one or both of these [foundations] of Buddha” – *i.e.* the body and breath.⁴ Simply put, mindfulness meditation is to Buddhism what prayer is to many other religions, including Christianity.

¹ Candy Gunther Brown (2017) Ethics, Transparency, and Diversity in Mindfulness Programs. In: Monteiro L., Compson J., Musten F. (eds) PRACTITIONER’S GUIDE TO ETHICS AND MINDFULNESS-BASED INTERVENTIONS. MINDFULNESS IN BEHAVIORAL HEALTH, 48 (Springer, Cham).

² Andres Fossas, *The Basics of Mindfulness: Where did it come from?* WELLDIING.ORG (Jan. 27, 2015), <https://welldoing.org/article/basics-of-mindfulness-come-from> (explaining that mindfulness is a type of Buddhist meditation called “Vipassana,” meaning “clear awareness” or “insight”).

³ *Id.*

⁴ *Id.* See also Lecia Bushak, *Mindfulness vs Meditation: The Difference Between These Two Pathways To Well-Being And Peace Of Mind*, MEDICAL DAILY (Mar. 10, 2016), <https://www.medicaldaily.com/mindfulness-meditation-differences-377346> (“‘Mindfulness is a form of meditation,’ Lodro Rinzler, a meditation author and teacher, as well as founder of MNDFL, told *Medical Daily*. ‘There are many forms of meditation, including contemplation and visualization, but mindfulness is the type where you bring your full mind to an object.’ Being mindful of your breath, for example, is a common form of mindfulness during meditation. Following your breath improves your awareness of being in the present. This is called mindfulness meditation, known as *shamatha* among Buddhists.”).

Some of the more popular mindfulness programs being implemented in the daily activities of public schools across the nation include Mind Up, Mind Yeti, Inner Explorer, Head Space, and Calm Classroom. While many mindfulness proponents and founders of mindfulness programs deny any link to Buddhism, the direct connection many of these programs have to eastern religion is well-documented.⁵ In fact, while representing to mainstream America that mindfulness is purely secular, several mindfulness proponents have admitted in Buddhist circles that it is, instead, a Buddhist “Trojan Horse,” or “Stealth Buddhism.”⁶ Mindfulness proponents boast that these Buddhist teachings transform students “whether they want it or not.”⁷ During a presentation at a conference in 2013, at The Dalai Lama Center for Peace-Education, Goldie Hawn – founder of the popular public school mindfulness program, Mind Up – instructed her audience that “we have to be able to bring contemplative practice into the classroom under a different name because obviously people that say ‘meditation’ they think of this as ‘Buddhist.’”⁸ Thus, Hawn’s Foundation uses the terms “core practice” and “brain breaks” in the MindUp curriculum.⁹ Similarly, the developer of Calm Classroom (another public school mindfulness program) admits that they’ve attempted to “strip out the chanting of OM and mantras and the use of Sanskrit¹⁰” and remove other overtly religious references to Buddhism in order to make it more palatable for the public school system.¹¹ What exactly does this mean? Nothing more than “a simple change of vocabulary. Promoters drop the terms ‘Buddhism’ and ‘meditation’ and add the terms ‘neuroscience’ and ‘scientific research.’”¹² Overtly religious principles of Buddhism nonetheless remain and are woven throughout the materials and audio recordings played in the classrooms on a daily basis for students as young as 5 years old.¹³

⁵ In addition to the numerous sources cited herein, also see Candy Gunther Brown, *Debating Yoga and Mindfulness in Public Schools* (2019) and Jeff Wilson, *Mindful America: The Mutual Transformation of Buddhist Meditation and American Culture* (2014).

⁶ Candy Gunther Brown, *Mindfulness Meditation in Public Schools: Side-Stepping Supreme Court Religion Rulings*, HUFFINGTON POST (December 6, 2017), https://www.huffingtonpost.com/candy-gunther-brown-phd/mindfulness-meditation-in_b_6276968.html. See also Brown, *supra* note 5, at 161.

⁷ *Id.*

⁸ YouTube, “Heart-Mind 2013: Goldie Hawn - How Mindfulness Helps Children Thrive”, <https://www.youtube.com/watch?v=7pLhwGLYvJU>.

⁹ *Id.*

¹⁰ Sanskrit is an ancient Indo-European language of India, in which the Hindu scriptures and classical Indian epic poems are written and from which many northern Indian (Indic) languages are derived.

¹¹ Interview with Jai Luster by *Natesware, Making A Life By Teaching Yoga*, INTEGRAL TEACHERS YOGA ASS’N. NEWSLETTER (Feb. 2008), at 5.

¹² *Id.*

¹³ As the Buddhist Centre explains,

Buddhism sees life as a process of constant change, and its practices aim to take advantage of this fact. It means that one can change for the better. The decisive factor in changing oneself is the mind, and Buddhism has developed many methods for working on the mind. Most importantly, Buddhists practise [sic] meditation, which is a way of developing more positive states of mind that are characterised [sic] by calm, concentration, awareness, and emotions such as friendliness. Using the awareness developed in meditation it is possible to have a fuller understanding of oneself, other people, and of life itself.

The Buddhist Centre, <https://thebuddhistcentre.com/text/what-does-buddhism-teach> (last visited Dec. 17, 2018).

Notably, mindfulness proponents who have nothing to hide regarding the implementation of the practice in the public school system openly admit that mindfulness programs are “very Buddhist” and are “morally substantive as a consequence of the fact that they tell people, at least implicitly, stories about what they ought to be thinking, feeling or doing.”¹⁴ One mindfulness teacher, Jenny Wilks, admits that “key Dharma teachings and practices are implicit . . . even if not explicit” in mindfulness based programs – making it “highly accessible Dharma.”¹⁵ Mindfulness cannot be reduced to “bare attention training,” as many school programs would have us believe. At the very least, mindfulness “indicates a particular stance of how one should pay attention – nonjudgmentally, with kindness and curiosity – and this ethical stance comes from a Buddhist ‘way of seeing the world.’”¹⁶

One might ask, why the deception by mindfulness proponents regarding its religious origins and content? The author of *Mindful America* explains,

As we’ve seen, religion and values are downplayed by mindfulness authors to garner large audiences—but in many cases, the reason they want an audience in the first place is because they are convinced that mindfulness and other elements derived from Buddhism have a real ability to alleviate suffering (the goal of religious Buddhism)...Mindfulness is connected to a whole set of self-disciplinary and lifestyle practices that are given moral weight by their promoters. Even if we accept the protestations of many advocates that mindfulness is not a religion per se, it is nonetheless doing the work of religions.”¹⁷

Some examples of common practices and themes contained in mindfulness programs that are specifically Buddhist and contrary to other religions, including Christianity, are as follows: (1) the regular practice of acknowledging all thoughts and feelings and instruction to let feelings pass without judging them – *i.e.* passivity, non-judgment,¹⁸ (2) the belief that compassion and loving kindness can relieve one’s own suffering and promote one’s own happiness; (3) the belief that human nature is intrinsically good and that we are all magnificent;¹⁹ and (4) the idea that we are all connected through the universe.²⁰ In sum, mindfulness is a focus entirely on one’s self and seeks to instill attitudes of self-acceptance, non-judgment and compassion, rather than reliance

¹⁴ Brown, *supra* note 1, at 49.

¹⁵ *Id.*

¹⁶ Candy Gunther Brown, *Debating Yoga and Mindfulness in Public Schools, Reforming Secular Education or Reestablishing Religion* 167 (2019).

¹⁷ Jeff Wilson, *Mindful America: The Mutual Transformation of Buddhist Meditation and American Culture* 161 (2014).

¹⁸ Mindfulness programs commonly used by public schools include instruction to children to acknowledge their thoughts and watch each one float away on a cloud, or to let thoughts pass and to “disconnect from your thinking mind.”

¹⁹ Mindfulness recordings will instruct children to think upon their own “goodness” or “magnificence.”

²⁰ Mindfulness recordings tell children that “we’re all connected through nature. And we’re all connected through the universe,” and that through that connection, “there’s a feeling of love” and “a happy place,” and that the “universe is sending out feelings of love and feelings of happiness.”

upon God, absolute truth and grace. Mindfulness also teaches that man is inherently good (as opposed to the Bible which teaches that man is sinful and in need of Jesus) and that happiness is found in connecting with the universe (as opposed to real relationship with God). Christians meditate on scripture, not their own magnificence and key attitudes encouraged by scripture include trust in God, confession, surrender and grace. For a Christian, the purpose in life is relationship with God. For a Buddhist, it is self-cultivation and realization.

The Research Regarding Mindfulness

Mindfulness programs also claim that research shows that “the impact is real” and that there are “positive outcomes across education.”²¹ The mere fact that there may be secular benefits to mindfulness does not make it any less religious. As Dr. Brown explains, there is “abundant scientific research [that] demonstrates that religion and spirituality promote physical and mental health and learning. Studies of prayer, for example, report benefits similar to those of mindfulness. But we wouldn’t integrate prayer into a public school curriculum. In the end, appeals to science can’t simply speak religion away.”²²

Further, the research on the effects of meditation and mindfulness practices is widely inconsistent²³ and includes disturbing reports of adverse or negative effects. Another study published in *Psychological Science* found that “after just one 15 minute mindfulness induction involving a guided breathing exercise, participants were more likely to form false memories compared to control participants who engaged in mind-wandering.”²⁴

Mindfulness proponents admit “the science of meditation is in its infancy,” and that “we need decades more study.”²⁵ Dr. Miguel Farias, author of the *Buddha Pill* identifies the concerns regarding the lack of research into the adverse effects of mindfulness coined as the “dark side” of mindfulness.²⁶ Farias reports that “[i]t’s difficult to tell how common [negative] experiences are, because mindfulness researchers have failed to measure them, and may even have discouraged participants from reporting them by attributing the blame to them.”²⁷ Another expert – and committed mindfulness practitioner for more than twenty years – reported her findings:

²¹ Calm Classroom, <https://calmclassroom.com/pages/research>.

²² Candy Gunther Brown, Ph.D., *Does Mindfulness Belong in Public Schools?*, TRICYCLE (Spring 2016), available at <https://tricycle.org/magazine/does-mindfulness-belong-public-schools/>.

²³ Catherin Wilkolm, *Seven Common Myths About Meditation*, THE GUARDIAN (May 22, 2015), <https://www.theguardian.com/commentisfree/2015/may/22/seven-myths-about-meditation>.

²⁴ Utpal Dhoklakia, *The Little-Known Downsides of Mindfulness Practice*, PSYCHOLOGY TODAY (Apr. 27, 2016), <https://www.psychologytoday.com/gb/blog/the-science-behind-behavior/201604/the-little-known-downsides-mindfulness-practice>

²⁵ Robert Booth, *Master of Mindfulness: Jon Kabat-Zinn* (Oct. 22, 2017), THE GUARDIAN, <https://www.theguardian.com/lifeandstyle/2017/oct/22/mindfulness-jon-kabat-zinn-depression-trump-grenfell>.

²⁶ Wilkolm, *supra* note 22.

²⁷ Dawn Foster, *Is Mindfulness Making Us Ill?*, THE GUARDIAN (Mar. 23, 2016), <https://www.theguardian.com/lifeandstyle/2016/jan/23/is-mindfulness-making-us-ill>.

[I]n a study I'm doing on the 'Varieties of Contemplative Experience,' people are having all kinds of unexpected meditation effects, and it's scaring the hell out of them. Many of the meditators in my studies in clinical settings are reporting classic meditation side effects like depersonalization. De-repression of traumatic memories is another really common one. . . . Some of the people I've seen in my study come from a health and medicine framework and are not Buddhist, and yet they are reporting meditation effects that are well documented in Buddhist texts. But these are not well documented in the scientific literature because nobody is asking about them. . . . **I'm seeing people who came to meditation through MBSR [mindfulness based stress reduction] or who are not Buddhist but are meditating 'to be happy.' They are following their breath or doing a mantra.** And then they eradicate their sense of self. They freak out. That is a pretty common experience in my study.²⁸

The negative effects of mindfulness based programs have been documented across multiple studies. An article in the *International Journal of Psychotherapy*, reviewing 75 scientifically selected articles in the field of meditation side effects, observed the following negative effects: "relaxation-induced anxiety and panic; paradoxical increases in tension; less motivation in life; boredom; pain; impaired reality testing; confusion and disorientation; feeling 'spaced out'; depression; increased negativity; being more judgmental; feeling addicted to meditation; uncomfortable kinesthetic sensations; mild dissociation; feelings of guilt; psychosis-like symptoms; grandiosity; elation; destructive behavior; suicidal feelings; defenselessness; fear; anger; apprehension; and despair."²⁹ Researchers Mark D. Epstein and Jonathan D. Lieff, after studying "hundreds of meditators over the past ten years," describe "Psychiatric Complications of Meditation Practice." These commonly include: depersonalization, derealization, panic attacks, anxiety, tension, agitation, restlessness, depressive affect, attempted suicide, extreme euphoria, unbearable dysphoria, grandiose fantasies, "religious delusions with messianic content," psychotic episodes, agitation, and paranoia. The authors note that even the "early stages of meditation practice" can produce "explosive experiences" that are "pathological."³⁰

²⁸ Willoughby Britton, *Meditation Nation*, Interview by Linda Heuman, TRICYCLE (April 25, 2014), <http://www.tricycle.com/blog/meditation-nation> (emphasis added). See also, Tomas Rocco, *The Dark Night of the Souls*, THE ATLANTIC (June 25, 2014), available at <http://www.theatlantic.com/health/archive/2014/06/the-dark-knight-of-the-souls/372766/>. In this article, Britton and other experts go on to describe disturbing instances at meditation retreats where students became psychologically disturbed. One meditator interviewed by Britton described a meditation-induced "psychological hell" of "confusion and tons of terror," including "a vision of death with a scythe and a hood, and the thought 'Kill yourself' over and over again." *Id.* Britton writes, "[t]here are parts of me that just want meditation to be all good. I find myself in denial sometimes, where I just want to forget all that I've learned and go back to being happy about mindfulness and promoting it, but then I get another phone call and meet someone who's in distress, and I see the devastation in their eyes, and I can't deny that this is happening. As much as I want to investigate and promote contemplative practices and contribute to the well-being of humanity through that, I feel a deeper commitment to what's actually true." *Id.*

²⁹ Alberto Perez-De-Albeniz & Jeremy Holmes, *Meditation: Concepts, Effects and Uses in Therapy*, INT'L J. OF PSYCHOTHERAPY 5.1 (March 2000): 49, <http://minet.org/www.trancenet.net/research/2000perezdealbeniz.shtml>.

³⁰ Mark D. Epstein and Jonathan D. Lieff, *Psychiatric Complications of Meditation Practice*, J. TRANSPERSONAL PSYCHOLOGY 13.2 (1981): 137-38, 144, available at <http://www.atpweb.org/jtparchive/trps-13-81-02-137.pdf>. See

As of November 2015, of the 3,350 scientific articles published on mindfulness, “only 1% (n=36) focused on youth in school settings.”³¹ Notably, Dr. Kimberly Schonert-Reichl, scientific advisor for MindUp admits:

We know very little about normative cortisol regulation across the day in healthy samples of elementary schoolchildren. Thus, the nature of program effects on cortisol in this study remains ambiguous. Clearly more research is needed to shed further light on the effects of mindfulness practices on cortisol regulation in late middle childhood and early adolescence.³²

Application of Federal Law to Public School Mindfulness Programs

Almost a century ago, the United States Supreme Court affirmed in two seminal cases that, under the Fourteenth Amendment, parents have a fundamental liberty interest in the care, upbringing, control, and education of their children.³³ The Supreme Court has time and again affirmed this foundational principle.³⁴

Many of the mindfulness programs implemented in public schools go beyond the boundaries of permissible cultural education and/or acceptable and constitutionally compliant school practice. The First Amendment to the United States Constitution provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.”³⁵ As the Supreme Court of the United States noted in *Lee v. Weisman*, the First Amendment “mean[s] that religious beliefs and religious expression are too precious to be either proscribed or prescribed by the State.”³⁶ Simply put, encouraging or requiring students to engage in a religious or spiritual activity, such as meditation, violates the First Amendment.

The Supreme Court has explained that government action violates the Establishment Clause of the First Amendment if (1) it lacks a secular purpose, (2) the primary purpose or effect is to advance or inhibit religion (or a particular religious viewpoint), or (3) it creates an excessive

also P. Gregg Blanton, *The Other Mindful Practice: Centering Prayer & Psychotherapy*, PASTORAL PSYCHOLOGY 60 (2011): 143 (similarly noting “formal mindful practices can lead to some problems. People with fragile personalities can experience fragmentation of the self which can manifest itself as dissociation, grandiosity, terror, or delusion.”).

³¹ Edo Shonin and William Van Gordon, *Thupten Jingpa on Compassion and Mindfulness*, Mindfulness 7.1 (2016): 280.

³² Kimberly Schonert-Reichl KA, et al., *Enhancing Cognitive and Social-Emotional Development Through a Simple-to-Administer Mindfulness-Based School Program for Elementary School Children: A Randomized Controlled Trial*, DEVELOPMENTAL PSYCHOLOGY 51.1 (2015), 52-66, <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4323355/> (internal citation omitted).

³³ *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923); *Peirce v. Soc’y of Sisters of Holy Names of Jesus & Mary*, 268 U.S. 510, 534-35 (1925).

³⁴ *Washington v. Glucksberg*, 521 U.S. 702 (1997); *Troxel v. Granville*, 530 U.S. 57 (2000).

³⁵ U.S. CONST., amend. 1.

³⁶ 505 U.S. 577, 589 (1992).

government entanglement with religion.³⁷ The “First Amendment does not forbid all mention of religion in public schools; *it is the advancement or inhibition of religion that is prohibited.*”³⁸ “In more recent years, [the Supreme Court has] paid particularly close attention to whether the challenged governmental practice either has the purpose of effect of ‘endorsing’ religion.”³⁹ In accordance with this principle, the government is precluded from “conveying or attempting to convey a message that religion or a particular religious belief is favored or preferred.”⁴⁰ Thus, public schools are prohibited from endorsing a religion or coercing students to participate in religious activity.

Particularly applicable is the case of *Malnak v. Yogi*, 592 F.2d 197 (3d Cir. 1979). In *Malnak*, the court held that a New Jersey public high school’s meditation (SCI/TM) class which incorporated mantras and chanting violated the Establishment Clause.⁴¹ Importantly, the court found unpersuasive testimony presented by the school and experts, alike, that meditation was not religious and that the class was an elective, rather than a curriculum requirement (or – as it is here – a part of the everyday curriculum).⁴² The *Malnak* court explained that while the meditation program implemented by New Jersey schools may not “include a complete or absolute moral code” like many religions, it nonetheless was comprehensive enough to “**avoid the suggestion of an isolated theory unconnected with any particular world view or basic belief system.**”⁴³ The court affirmed that religion – for purposes of the First Amendment – is not limited to a belief in or worship of a supreme being. It also includes any movement or practice that “concerns itself with the same search for ultimate truth as other religions and seeks to offer a comprehensive and critically important answer to the questions and doubts that haunt modern man.”⁴⁴ Notably, other federal courts employ an even broader interpretation or conception of religious belief.⁴⁵ In other words, what constitutes religion for purposes of an Establishment Clause analysis encompasses an even broader category of beliefs and conduct according to other federal courts.

Finally, the assertion that mindfulness techniques practiced in the classroom have many beneficial secular purposes, such as promoting a calm classroom, better concentration and/or a positive correction in behavior, will not save the day. Evidence that a particular religious practice is “good” for students does not create a secular purpose. As the court in *Malnak* noted, “it is quite possible that some good would come out of instruction in the Protestant, Roman Catholic, Jewish or Islamic faiths,” nonetheless, such a conviction does not make the instruction or

³⁷ *Lemon v. Kurtzman*, 403 U.S. 602, 612–13 (1971).

³⁸ *Florey v. Sioux Falls School Dist.*, 619 F.2d 1311, 1315 (8th Cir. 1980) (citing *Committee of Public Educ. v. Nyquist*, 413 U.S. 756, 788 (1973)).

³⁹ *County of Allegheny v. ACLU*, 492 U.S. 573, 592 (1989) (citing *Engel v. Vitale*, 370 U.S. 421, 436 (1962)).

⁴⁰ *Id.* at 592.

⁴¹ 592 F.2d at 200.

⁴² *Id.* at 199-200.

⁴³ *Id.* at 213 (Adams, J., concurring) (emphasis added).

⁴⁴ *Id.* at 214.

⁴⁵ *Equal Opportunity Empl. Comm'n v. United Health Programs of Am., Inc.*, 213 F. Supp. 3d 377, 396 (E.D.N.Y. 2016) (citing *Patrick v. Le Fevre*, 746 F.2d 153, 156 (2d Cir. 1984)).

religious practices permissible under the Establishment Clause.⁴⁶ The “constitutional duty to guard against state efforts to promote religion may not be set aside out of deference to the policy choices of other officials.”⁴⁷

Conclusion

We hope this information is helpful to you as you engage with your child’s school regarding your concerns and the religious nature of the mindfulness program.

⁴⁶ *Malak*, 592 F.2d at 214-215.

⁴⁷ *Id.*