

Administrative Regulations Regarding Religious Expression and Teaching about Religion



**Model Regulations Aligning with the U.S. Department
of Education’s Guidance on Constitutionally
Protected Prayer and Religious Expression in Public
Elementary and Secondary Schools**

These sample Administrative Regulations
are meant to serve as a model for your school board to adopt

Provided by Gateways to Better Education

Administrative Regulations Regarding Religious Expression and Teaching about Religion

The Board of Education recognizes that students' education would be incomplete without an understanding of the role of religion in society. It also recognizes that students and staff have freedom of religious expression. These administrative regulations align with the U.S. Department of Education's guidance and clarify how those academic and religious freedoms apply to our schools. (See Board Policy _____)

Teachers, Administrators, and Other School Employees

When acting in their official capacities as representatives of the State, teachers, school administrators, and other school employees are prohibited by the First Amendment from encouraging or discouraging prayer, and from actively participating in such activity with students. Teachers, however, may take part in religious activities where the overall context makes clear that they are not participating in their official capacities.

Teachers also may take part in religious activities such as prayer even during their workday at a time when it is permissible to engage in other private conduct such as making a personal telephone call. Before school or during lunch, for example, teachers may meet with other teachers for prayer or Bible study to the same extent that they may engage in other conversation or nonreligious activities. Similarly, teachers may participate in their personal capacities in privately sponsored baccalaureate ceremonies or similar events.

Academic Freedom -- Teaching about Religion

School staff may not provide religious instruction, but they may teach about religion. For example, philosophical questions concerning religion, the history of religion, comparative religion, the Bible (or other religious teachings) as literature, and the role of religion in the history of the United States and other countries all are permissible public school subjects. Similarly, it is permissible to consider religious influences on philosophy, art, music, literature, and social studies.

Academic Freedom -- Teaching about Religious Holidays

Although school staff may teach about religious holidays, including their religious aspects, and may celebrate the secular aspects of holidays, schools may not observe holidays as religious events or promote such observance by students.

Academic Freedom -- Teaching Values

Though school staff must be neutral with respect to religion, they should teach civic values. The fact that some of these values are also held by religions does not make it unlawful to teach them in school. Furthermore, staff can acknowledge that students' may have religious beliefs that relate to civic values and should create a respectful and inclusive classroom environment for their beliefs to be expressed.

Academic Freedom -- Holiday Displays

Schools may display religious symbols such as nativity scenes and menorahs on a temporary basis if they are combined with examples of the practice of other religions relevant to the time of year or for some other education purpose. The United States Supreme Court has ruled that decorations such as Christmas trees and Santa Claus have attained a secular status in society and can be displayed.

Religious Expression in Class Assignments

Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious perspective of their submissions. Such home and classroom work should be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school. Thus, if a teacher's assignment involves writing a poem, the work of a student who submits a poem in the form of a prayer (for example, a psalm) should be judged

on the basis of academic standards (such as literary quality) and neither penalized nor rewarded on account of its religious perspective.

Religious Activity During Non-instructional Time

Students may pray when not engaged in school activities or instruction, subject to the same rules designed to prevent material disruption of the educational program that are applied to other privately initiated expressive activities.

Among other things, students may read their Bibles, Torahs, Korans, or other scriptures; say grace before meals; and pray or study religious materials with fellow students during recess, the lunch hour, or other non-instructional time to the same extent that they may engage in nonreligious activities.

While school authorities may impose rules of order and pedagogical restrictions on student activities, they may not discriminate against student prayer or religious perspectives in applying such rules and restrictions.

Distribution of Religious Literature

Students have a right to distribute religious literature to their schoolmates on the same terms as they are permitted to distribute other literature that is unrelated to school curriculum or activities. Schools may impose the same reasonable time, place, and manner or other constitutional restrictions on distribution of religious literature as they do on non-school literature generally, but they may not single out religious literature for special regulation.

Moments of Silence [If applicable to your state]

If a school has a “moment of silence” or other quiet periods during the school day, students are free to pray silently, or not to pray, during these periods of time. Teachers and other school employees may neither require, encourage, nor discourage students from praying during such time periods.

Accommodation of Prayer During Instructional Time

Schools have the discretion to dismiss students to off-premises religious instruction, provided that school staff do not encourage or discourage participation in such instruction or penalize students for attending or not attending.

Similarly, school staff may excuse students from class to remove a significant burden on their religious exercise, including prayer, where doing so would not impose material burdens on other students. For example, it would be lawful for school staff to excuse Muslim students from class to enable them to fulfill their religious obligations to pray during Ramadan.

Student Assemblies and Noncurricular Events

Student speakers at student assemblies and noncurricular activities such as sporting events may not be selected on a basis that either favors or disfavors religious perspectives. Where student speakers are selected on the basis of genuinely content-neutral, evenhanded criteria and retain primary control over the content of their expression, that expression is not attributable to the school and therefore may not be restricted because of its religious (or anti-religious) content and may include prayer.

By contrast, where school officials determine or substantially control the content of what is expressed, such speech is attributable to the school and may not include prayer or other specifically religious (or anti-religious) content.

To avoid any mistaken perception that a school endorses student speech that is not in fact attributable to the school, school officials may make appropriate, neutral disclaimers to clarify that such speech (whether religious or nonreligious) is the speaker's and not the school's speech.

Prayer at Graduation

School officials may not mandate or organize prayer at graduation or select speakers for such events in a manner that favors religious speech such as prayer. Where students or other private graduation speakers are

selected on the basis of genuinely content-neutral, evenhanded criteria and retain primary control over the content of their expression, however, that expression is not attributable to the school and therefore may not be restricted because of its religious (or anti-religious) content and may include prayer.

To avoid any mistaken perception that a school endorses student or other private speech that is not in fact attributable to the school, school officials may make appropriate, neutral disclaimers to clarify that such speech (whether religious or nonreligious) is the speaker's and not the school's speech.

Baccalaureate Ceremonies

School officials may not mandate or organize religious ceremonies. However, if a school makes its facilities and related services available to other private groups, it must make its facilities and services available on the same terms to organizers of privately sponsored religious baccalaureate ceremonies. In addition, a school may disclaim official endorsement of events sponsored by private groups, provided it does so in a manner that neither favors nor disfavors groups that meet to engage in prayer or religious speech.

Student Dress Codes and Policies

Schools enjoy substantial discretion in adopting policies relating to student dress and school uniforms. Schools, however, may not single out religious attire in general, or attire of a particular religion, for prohibition or regulation. If a school makes exceptions to the dress code for nonreligious reasons, it must also make exceptions for religious reasons, absent a compelling interest.

Students may display religious messages on items of clothing to the same extent that they are permitted to display other comparable messages. Religious messages may not be singled out for suppression, but rather are subject to the same rules as generally apply to comparable messages.

Religious Excusals

Where school officials have a practice of excusing students from class on the basis of parents' requests for accommodation of nonreligious needs, religiously motivated requests for excusal may not be accorded less favorable treatment.

In addition, in some circumstances, based on Federal or State constitutional law or pursuant to State statutes, schools may be required to make accommodations that relieve substantial burdens on students' religious exercise. School officials are therefore encouraged to consult with their attorneys regarding such obligations.

Scheduling of School Events on Days Corresponding with Major Religious Holidays

Staff shall make every effort to schedule one-time events, such as examinations, school sponsored trips, special laboratories, picture-taking days, and class parties, to minimize conflicts with major religious holidays of all faiths.

Programs and Exhibits

When school programs and exhibits are in any way related to instruction about religion or religious holidays, the following guidelines shall be observed:

- The principal or designee shall ensure that school-sponsored programs are presented in an objective manner, consistent with Board policy.
- The principal or designee shall be kept informed of the program's development.
- Program or exhibit planners shall take into consideration the diverse religious faiths represented in the community, student body and staff.

Student Religious Expression Through School Productions

For both class and extracurricular purposes, students regularly produce drama and other theatrical events. Whether produced as part of a class activity (such as a drama class or as a school-sponsored club), the production is a school-sponsored event or activity over which the school retains control and responsibility.

As with instruction involving religious themes or issues, the history of religion, comparative religion, the

Bible (or other scripture)-as-literature, and the role of religion in the history of the United States and other countries all are permissible elements in theatrical production. Similarly, religious influences on art, music, literature, society, and culture are permissible elements of such a production. These criteria would apply to holiday assemblies and production containing religious art, literature, or music.

Concerts may appropriately include music related to religious themes. In concerts where religious music is included, a balance between religious and secular music should be maintained.

School Publications

Students have the right to express their individual views, including religious views, in official school publications such as a school newspaper or yearbook subject to the limitations outlined in Administrative Regulation _____.

Student Clubs

The Equal Access Act, 20 U.S.C. § 4071, is designed to ensure that student religious activities are accorded the same access to Federally funded public secondary school facilities as are student secular activities. Based on decisions of the Federal courts, as well as its interpretations of the Act, the Department of Justice has developed the following guidance for interpreting the Act's requirements:

- **General Provisions:** Student religious groups at Federally funded public secondary schools have the same right of access to school facilities as is enjoyed by other comparable student groups. Under the Equal Access Act, a public secondary school receiving Federal funds that creates a “limited open forum” may not refuse student religious groups access to that forum. A “limited open forum” exists “whenever such school grants an offering to or opportunity for one or more noncurriculum related student groups to meet on school premises during noninstructional time.” 20 U.S.C. § 4071(b).
- **Prayer Services and Worship Exercises:** A meeting, as defined and protected by the Equal Access Act, may include a prayer service, Bible reading, or other worship exercise.
- **Means of Publicizing Meetings:** A public secondary school receiving Federal funds must allow student groups meeting under the Act to use the school media—including the public address system, the school newspaper, and the school bulletin board—to announce their meetings on the same terms as other non-curriculum-related student groups are allowed to use the school media. Any policy concerning the use of school media must be applied to all noncurriculum-related student groups in a nondiscriminatory matter. Schools, however, may inform students that certain groups are not school-sponsored.
- **Lunch-time and Recess:** The Equal Access Act prohibits a Federally funded public secondary school from denying a religious student group equal access to a limited open forum. A “limited open forum” exists “whenever such school grants an offering to or opportunity for one or more noncurriculum related student groups to meet on school premises during noninstructional time.” Id. Accordingly, a Federally funded secondary school triggers equal access rights for religious groups when it allows students to meet during their lunch periods or other non-instructional time during the school day, as well as when it allows students to meet before and after the school day.
- **Leadership of Religious Student Groups:** Similar to other student groups such as political student groups, the Equal Access Act permits religious student groups to allow only members of their religion to serve in leadership positions if these leadership positions are positions that affect the religious content of the speech at the group's meetings. For example, a religious student group may require leaders such as the group's president, vice-president, and music coordinator to be a dedicated member of a particular religion if the leaders' duties consist of leading prayers, devotions, and safeguarding the spiritual content of the meetings.