



Memorandum for the Secretary of Education, the Attorney General

Subject: Religious Expression in Public Schools

Religious freedom is perhaps the most precious of all American liberties—called by many our “first freedom.” Many of the first European settlers in North America sought refuge from religious persecution in their native countries. Since that time, people of faith and religious institutions have played a central role in the history of this Nation. In the First Amendment, our Bill of Rights recognizes the twin pillars of religious liberty: the constitutional protection for the free exercise of religion, and the constitutional prohibition on the establishment of religion by the state. Our Nation’s founders knew that religion helps to give our people the character without which a democracy cannot survive. Our founders also recognized the need for a space of freedom between government and the people—that the government must not be permitted to coerce the conscience of any individual or group.

In the over 200 years since the First Amendment was included in our Constitution, religion and religious institutions have thrived throughout the United States. In 1993, I was proud to reaffirm the historic place of religion when I signed the Religious Freedom Restoration Act, which restores a high legal standard to protect the exercise of religion from being inappropriately burdened by government action. In the greatest traditions of American citizenship, a broad coalition of individuals and organizations came together to support the fullest protection for religious practice and expression.

Religious Expression in Public Schools

I share the concern and frustration that many Americans feel about situations where the protections accorded by the First Amendment are not recognized or understood. This problem has manifested itself in our Nation’s public schools. It appears that some school officials, teachers and parents have assumed that religious expression of any type is either inappropriate, or forbidden altogether, in public schools.

As our courts have reaffirmed, however, nothing in the First Amendment converts our public schools into religion-free zones, or requires all religious expression to be left behind at the schoolhouse door. While the government may not use schools to coerce the consciences of our students, or to convey official endorsement of religion, the government’s schools also may not discriminate against private religious expression during the school day.

I have been advised by the Department of Justice and the Department of Education that the First Amendment permits—and protects—a greater degree of religious expression in public schools than many Americans may now understand. The Departments of Justice and Education have advised me that, while application may depend upon specific factual contexts and will require careful consideration in particular cases, the following principles are among those that apply to religious expression in our schools:

Student prayer and religious discussion:

The Establishment Clause of the First Amendment does not prohibit purely private religious speech by students. Students therefore have the same right to engage in individual or group prayer and religious discussion during the school day as they do to engage in other comparable activity. For example, students may read their Bibles or other scriptures, say grace before meals, and pray before tests to the same extent they may engage in comparable non-disruptive activities. Local school authorities possess substantial discretion to impose rules of order and other pedagogical restrictions on student activities, but they may not structure or administer such rules to discriminate against religious activity or speech.

Generally, students may pray in a non-disruptive manner when not engaged in school activities or instruction, and subject to the rules that normally pertain in the applicable setting. Specifically, students in informal settings, such as cafeterias and hallways, may pray and discuss their religious views with each other, subject to the same rules of order as apply to other student activities and speech. Students may also speak to, and attempt to persuade, their peers about religious topics just as they do with regard to political topics. School officials, however, should intercede to stop student speech that constitutes harassment aimed at a student or a group of students.

Students may also participate in before or after school events with religious content, such as “see you at the flag pole” gatherings, on the same terms as they may participate in other non-curriculum activities on school premises. School officials may neither discourage nor encourage participation in such an event.

The right to engage in voluntary prayer or religious discussion free from discrimination does not include the right to have a captive audience listen, or to compel other students to participate. Teachers and school administrators should ensure that no student is in any way coerced to participate in religious activity.

Graduation prayer and baccalaureates:

Under current Supreme Court decisions, school officials may not mandate or organize prayer at graduation, nor organize religious baccalaureate ceremonies. If a school generally opens its facilities to private groups, it must make its facilities available on the same terms to organizers of privately sponsored religious baccalaureate services. A school may not extend preferential treatment to baccalaureate ceremonies and may in some instances be obliged to disclaim official endorsement of such ceremonies.

Official neutrality regarding religious activity:

Teachers and school administrators, when acting in those capacities, are representatives of the state and are prohibited by the establishment clause from soliciting or encouraging religious activity, and from participating in such activity with students. Teachers and administrators also are prohibited from discouraging activity because of its religious content, and from soliciting or encouraging antireligious activity.

Teaching about religion:

Public schools may not provide religious instruction, but they may teach *about* religion, including the Bible or other scripture: 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 public school subjects. Similarly, it is permissible to consider religious influences on art, music, literature, and social studies.

Although public schools 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.

Student assignments:

Students may express their beliefs about religion in the form of homework, artwork, and other written and oral assignments free of discrimination based on the religious content 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.

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.

Religious excusals:

Subject to applicable State laws, schools enjoy substantial discretion to excuse individual students from lessons that are objectionable to the student or the students' parents on religious or other conscientious grounds. School officials may neither encourage nor discourage students from availing themselves of an excusal option. Under the Religious Freedom Restoration Act, if it is proved that particular lessons substantially burden a student's free exercise of religion and if the school cannot prove a compelling interest in requiring attendance, the school would be legally required to excuse the student.

Released time:

Subject to applicable State laws, schools have the discretion to dismiss students to off premises religious instruction, provided that schools do not encourage or discourage participation or penalize those who do not attend. Schools may not allow religious instruction by outsiders on school premises during the school day.

Teaching values:

Though schools must be neutral with respect to religion, they may play an active role with respect to teaching civic values and virtue, and the moral code that holds us together as a community. The fact that some of these values are held also by religions does not make it unlawful to teach them in school.

Student garb:

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. When wearing particular attire, such as yarmulkes and head scarves, during the school day is part of students' religious practice, under the Religious Freedom Restoration Act schools generally may not prohibit the wearing of such items.

I hereby direct the Secretary of Education, in consultation with the Attorney General, to use appropriate means to ensure that public school districts and school officials in the United States are informed, by the start of the coming school year, of the principles set forth above.

The Equal Access Act

The Equal Access Act is designed to ensure that, consistent with the First Amendment, student religious activities are accorded the same access to public 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 advised me of its position that the Act should be interpreted as providing, among other things, that:

General provisions:

Student religious groups at 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 school receiving Federal funds that allows one or more student non-curriculum related clubs to meet on its premises during non-instructional time may not refuse access to student religious groups.

Prayer services and worship exercises covered:

A meeting, as defined and protected by the Equal Access Act, may include a prayer service, Bible reading, or other worship exercise.

Equal access to means of publicizing meetings:

A 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 non-curriculum related student groups in a nondiscriminatory matter. Schools, however, may inform students that certain groups are not school sponsored.

Lunchtime and recess covered:

A school creates a limited open forum under the Equal Access Act, triggering 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.

I hereby direct the Secretary of Education, in consultation with the Attorney General, to use appropriate means to ensure that public school districts and school officials in the United States are informed, by the start of the coming school year, of these interpretations of the Equal Access Act.

William J. Clinton