



2022-2023 CFSGA Workshop Prayer Assurance

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Supporting Schools and Students to Achieve

SHERRI YBARRA, ED.S., SUPERINTENDENT OF PUBLIC INSTRUCTION

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Civil Rights School Prayer. SEC. 8524 (b)

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Section 8524 (a)



- Section 8524(a) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act and codified at 20 U.S.C. § 7904(a), requires the Secretary of Education to issue guidance to State educational agencies (SEAs), local educational agencies (LEAs), and the public on constitutionally protected prayer in public elementary and secondary schools.

Section 8524 (b)



- In addition, section 8524(b) requires that, as a condition of receiving ESEA funds, an LEA must certify in writing to its SEA that it has no policy that prevents, or otherwise denies participation in, constitutionally protected prayer in public schools as detailed in this updated guidance.

Assurance



- LEAs and SEAs are responsible, under section 8524(b) of the ESEA, to certify their compliance with the standards set forth in this guidance.
- Idaho LEAs meet this requirement through an assurance completed within the CSFGA application.
- The SDE satisfies this requirement with an annual letter in October to USED from the FP director certifying all LEAs' compliance status and any non-compliant complaints.

- To receive funds under the ESEA, an LEA must certify in writing to its SEA that no policy of the LEA prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary and secondary schools
- An LEA must provide this certification to the SEA by **October 1** of each year during which the LEA participates in an ESEA program.

Prayer 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.

Organized Prayer Groups and Activities



- Students may organize prayer groups, religious clubs, and "see you at the pole" gatherings before school to the same extent that students are permitted to organize other noncurricular student activities groups. Such groups must be given the same access to school facilities for assembling as is given to other noncurricular groups, without discrimination because of the religious perspective of their expression.
- School authorities may disclaim sponsorship of noncurricular groups and events, provided they administer such disclaimers in a manner that neither favors nor disfavors groups that meet to engage in prayer or express religious perspectives.

Teachers, Administrator, 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, Administrator, and Other School Employees, continued



- 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.

Moments of Silence



- 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 schools do not encourage or discourage participation in such instruction or penalize students for attending or not attending. Similarly, schools 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 schools to excuse Muslim students from class to enable them to fulfill their religious obligations to pray during Ramadan.

Prayer 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.

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.

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.

However...



- Regarding prayer at student assemblies, noncurricular events and graduation...

...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.

Religious Attire



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

Remember



- School officials may not restrict or censor prayers that they deem too religious or favor certain prayers because they are nonsectarian
- Any restrictions must be applied to all groups equally
- Prayer is constitutionally protected in public elementary and secondary schools.

References



- https://www2.ed.gov/policy/gen/guid/religiousandschools/prayer_guidance.html
- <https://www.federalregister.gov/documents/2020/01/21/2020-00876/updated-guidance-on-constitutionally-protected-prayer-and-religious-expression-in-public-elementary>

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