



ADMINISTRATIVE MEMORANDUM

PRAYER IN SCHOOLS | 8002.2

The No Child Left Behind Act (“NCLB”) requires school districts to certify their compliance with the U.S. Department of Education’s Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools (published on February 7, 2003). In order to receive funding under NCLB, the District was required to certify to the Delaware Department of Education its compliance with the guidelines by March 15, 2003. Below is a summary of the guidance document, which provides important guidelines and rules that the District requires all principals and teachers to follow.

Overview

The First Amendment of the United States Constitution governs the relationship between religion and the government. The First Amendment prevents public schools from establishing religion and protects privately initiated religious expression and activities from public school interference and discrimination. The basic premise of the guidance comes from United States Supreme Court decisions, which have repeatedly held that the First Amendment requires public school officials to be neutral in their treatment of religion by not showing favoritism toward, or hostility against, any religious expression.

Prayer during Non-Instructional Time

Students may pray when they are not participating or engaged in school activities or instruction, subject to the same rules that apply to other privately initiated activities. For example, students, may to the same extent that they may engage in other non-religious activities, read their own Bible, Torah, Koran, or other scriptures; say grace or a prayer before meals; and pray and study religious materials with fellow students during recess, the lunch hour, or other non-instructional time. A school may apply rules or regulations on the time and place of such activities, but it may not discriminate against student prayer in applying such rules or regulations.

Teachers, Administrators, and Other School Employees

When acting in their official capacities for the State, teachers, administrators, and other school employees are prohibited from encouraging or discouraging prayer, and from actively participating in such activity with students. Teachers may take part in religious activities before and after school hours and during lunch to the same extent that they may meet and engage in other non-religious conversations and activities.

Moments of Silence

During any “moment of silence,” “minute of silence,” or other quiet period during the school day, students are free to pray silently or to not pray. Teachers and other school employees may neither encourage nor discourage students from praying during these times.



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Organized Prayer Groups and Activities/Participation in Before- and After-School Events with Religious Content

Students must be free to organize prayer groups, religious clubs, and gatherings before school to the same extent that students are permitted to organize other extra-curricular student group activities. These groups must be provided with the same access to school facilities for meetings or gatherings as are provided to other non-religious extra-curricular groups. Schools must also provide religious groups or prayer groups with access to the use of school media (for the purposes of making announcements, using student newspaper, advertising, or posting bulletins) that are provided to non-religious groups. A school may apply to religious groups any rules that it applies to non-religious groups to limit or prevent the use of school media.

Religion in Curriculum and Instruction

Teachers and other public school officials may not lead their classes in prayer or in devotional readings of the Bible, Torah, Koran, or other scriptures. The study of the Bible or other religious material, when presented objectively as part of a secular program of education, is permitted. However, school officials may not attempt to persuade or compel students to participate in prayer or other religious activities.

Expression of Religious Beliefs by Students in Homework, Artwork, and Other Assignments

Students are free to express their beliefs about religion in homework, artwork, and any other written or oral assignments free from discrimination based on the religious content of their work. Such work should be judged or graded by ordinary academic standards of substance and relevance, and against other legitimate pedagogical concerns identified by the school.

Distribution of Religious Literature

As stated above, schools have discretion concerning whether to permit the use of school media such as advertising in a student newspaper, making announcements, or posting on a student activity bulletin board. Just as the school is not allowed to discriminate against religious groups in the use of its media, the District may not discriminate against students who hand out or distribute religious literature or leaflets. However, the school may disclaim sponsorship of such activity as long as it makes such a disclaimer in a neutral fashion neither favoring nor disfavoring the group, the student, or the activity.

Release Time for Students Who Desire to Attend Religious Events or Activities

Students may be excused from class to accommodate their religious beliefs and religious instruction when doing so would not impose a material burden on other students. The school may not encourage or discourage participation in such religious exercise nor penalize the student for participating or not participating in such activity. (Examples include allowing a Muslim student to briefly leave class to enable him/her to fulfill his/her religious obligations during Ramadan.)



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Student Assemblies and Extracurricular Events

Student speakers may not be selected on a basis that either favors or disfavors religious speech. When student speakers are selected on neutral criteria and retain primary control over the content of their speech or other expression, and their speech or other expression is not attributable to the school, the school may not restrict its religious or non-religious content. The school may review the content of a student's speech for vulgarity, lewdness, or sexually explicit language, but it may not censor the speech on the grounds that it is too religious. If, however, the school determines or substantially controls the content of such speech or expression, the speech or expression may not include religious or anti-religious content. The school may disclaim in a neutral manner that it is not endorsing a speech and that the content is that of the speaker and not the school.

Similarly, school officials may not mandate prayer at graduation or select speakers for such events in a manner that favors or disfavors religious speech. Likewise, schools may not mandate or organize religious ceremonies. However, if the school makes its premises available to other private groups, it must make its premises available on the same terms to organizers of privately sponsored religious baccalaureate ceremonies.

Student Attire

Schools should maintain the same neutrality regarding students wearing of religious attire, neither encouraging nor discouraging it. When a student's attire is disruptive or raises issues of safety, a school still maintains discretion to impose rules of order.

Conclusion

Schools must strive to ensure neutrality when it comes to religious activities, and to neither encourage nor discourage participation in such activities. Furthermore, this administrative memorandum is not an endorsement for or against the religious beliefs or practices of any individual teacher, administrator, or other school employee.

Questions about the information contained in this administrative memorandum should be directed to the Superintendent.