

TEXAS SCHOOL FOR THE DEAF

STUDENT RIGHTS AND RESPONSIBILITIES:
STUDENT EXPRESSION

FNA

FIRST AMENDMENT

The School shall take no action respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition a board for a redress of grievances. *U.S. Const. Amend. I*

FREEDOM OF SPEECH

Students do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. At school and school events, students have First Amendment rights, applied in light of the special characteristics of the school environment.

Student expression that is protected by the First Amendment may not be prohibited absent a showing that the expression will materially and substantially interfere with the operation of the school or the rights of others.

Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503 (1969) [See also FNCI]

The special characteristics of the school environment and the governmental interest in stopping student drug abuse allow the School to restrict student expression that it reasonably regards as promoting illegal drug use. *Morse v. Frederick*, 551 U.S. 393 (2007)

When a student threatens violence against a student body, such specific threatening speech to a school or its population is unprotected by the First Amendment: school officials may punish such speech without first collecting evidence sufficient to prove a reasonable belief that disruption would occur as a result of the speech. *Ponce v. Socorro Indep. Sch. Dist.*, 508 F.3d 765 (5th Cir. 2007)

The inculcation of fundamental values necessary to the maintenance of a democratic society is part of the work of the school. The First Amendment does not prevent school officials from determining that particular student expression is vulgar and lewd, and therefore contrary to the school's basic educational mission. *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675 (1986)

PRAYER AT SCHOOL
ACTIVITIES

A TSD student has an absolute right to individually, voluntarily, and silently pray or meditate in school in a manner that does not disrupt the instructional or other activities of the school. A student shall not be required, encouraged, or coerced to engage in or refrain from such prayer or meditation during any school activity. *Education Code 25.901*

Nothing in the Constitution as interpreted by the U.S. Supreme Court prohibits any TSD student from voluntarily praying at any time before, during, or after the school day. But the religious liberty protected by the Constitution is abridged when a district affirmatively sponsors the particular religious practice of prayer.

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The School shall not adopt a policy that establishes an improper majoritarian election on religion and has the purpose and creates the perception of encouraging the delivery of prayer at a series of important school events.

Santa Fe Indep. Sch. Dist. v. Doe, 530 U.S. 290 (2000) (addressing school-sponsored, student-led prayer delivered over the public address system at high school football games)

FEDERAL FUNDS

As a condition of receiving certain federal funds, the School shall certify in writing to TEA that no policy of the School prevents, or otherwise denies participation in, constitutionally protected prayer in public schools, as detailed in the guidance from the United States Secretary of Education regarding constitutionally protected prayer. The certification shall be provided by October 1 of each year.

By November 1 of each year, TEA shall report to the Secretary of Education a list of districts that have not filed the certification or against which complaints have been made to TEA that the School is not in compliance with the paragraph above. The Secretary of Education may issue and secure compliance with rules or orders with respect to a district that fails to certify, or is found to have certified in bad faith, that no policy of the School/ prevents, or otherwise denies participation in, constitutionally protected prayer in public schools.

No Child Left Behind Act of 2001, 20 U.S.C. 7904

**STUDENT EXPRESSION OF
RELIGIOUS VIEWPOINTS**

The School shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the School treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and shall not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

**STUDENT SPEAKERS AT
NONGRADUATION EVENTS**

The School hereby creates a limited public forum for student speakers at school events at which a student is to publicly speak. For each speaker, the School shall set a maximum time limit reasonable and appropriate to the occasion.

For purposes of this policy, a "school event" is a school-sponsored event or activity that does not constitute part of the required instruction for a segment of the school's curriculum, regardless of whether the event takes place during or after the school day.

For purposes of this policy, "to publicly speak," means to address an audience at a school event using the student's own words. A student is not using his or her own words when the student is reading or performing from an approved script, is delivering a message that has been approved in advance or otherwise supervised by school officials, or is making brief introductions or announcements.

**INTRODUCTORY
SPEAKERS**

Student speakers shall be given a limited public forum to introduce:

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1. All level student assemblies, pep rallies, sports events

The forum shall be limited in the manner provided by this section on nongraduation events.

**ELIGIBILITY AND
SELECTION**

Students are eligible to use the limited public forum if they:

1. Are requested by a school administrator
2. Volunteer, and
3. Are not in a disciplinary placement at the time of the speaking event.

Eligible students who wish to volunteer shall submit their names to the Director of Academic Affairs during the first full week of instruction each semester. Students are not eligible to volunteer if they are in a disciplinary placement during any part of the first full week of instruction. If there are no student volunteers, the School shall seek volunteers again at the beginning of the next semester.

The names of the students who volunteer to speak shall be matched to the appropriate event until all names have been selected.

**ASSIGNMENT OF
INTRODUCTORY
SPEAKERS**

Each selected student shall be matched chronologically to the single event for which the student shall give the introduction. The list of student speakers shall be chronologically repeated as needed, in the same order. If no students volunteer or if the selected speaker declines or becomes ineligible, no student introduction will be made at the event.

The School shall repeat the selection process at the beginning of each semester.

**CONTENT OF
STUDENT
INTRODUCTIONS**

The subject of the student introductions shall relate to the purpose of introducing the designated event. The student must stay on the subject. The student may not engage in speech that:

- Is obscene, vulgar, offensively lewd, or indecent;
- Creates reasonable cause to believe that the speech would result in material and substantial interference with school activities or the rights of others;
- Promotes illegal drug use;
- Violates the intellectual property rights, privacy rights, or other rights of another person;
- Contains defamatory statements about public figures or others; or
- Advocates imminent lawless action and is likely to incite or produce such action.

The School shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the School treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and shall not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

DISCLAIMER

For as long as there is a need to dispel confusion over the fact that the School does not sponsor the student's speech, at each event in which a student shall deliver an introduction, a disclaimer shall be stated in written or oral form, or

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both, such as, "The student giving the introduction for this event is a volunteering student selected on neutral criteria to introduce the event. The content of the introduction is the private expression of the student and does not reflect the endorsement, sponsorship, position, or expression of the School."

**OTHER STUDENT
SPEAKERS**

Certain students who have attained special positions of honor in the school have traditionally addressed school audiences from time to time as a tangential component of their achieved positions of honor, such as the captains of various sports teams, student council officers, class officers, homecoming kings and queens, prom kings and queens, and the like, and have attained their positions based on neutral criteria. Nothing in this policy eliminates the continuation of the practice of having these students, regardless of grade level, address school audiences in the normal course of their respective positions. The School shall create a limited public forum for the speakers and shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the School treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and shall not discriminate against a student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

**STUDENT SPEAKERS AT
GRADUATION
CEREMONIES**

The School hereby creates a limited public forum consisting of an opportunity for a student to speak to begin graduation ceremonies and another student to speak to end graduation ceremonies. For each speaker, the School shall set a maximum time limit reasonable and appropriate to the occasion.

**OPENING AND
CLOSING REMARKS**

The forum shall be limited in the manner provided by this section on student speakers at graduation.

ELIGIBILITY

Only students who are graduating and who hold one of the following positions of honor based on neutral criteria shall be eligible to use the limited public forum: Students in the top 10% of the graduating class, senior class officers, Junior National Association of the Deaf or Student Body Government officers. A student who shall otherwise have a speaking role in the graduation ceremonies is ineligible to give the opening and closing remarks. Students who are eligible shall be notified and given an opportunity to volunteer. Students are not eligible to volunteer if they were in a disciplinary placement during any part of the spring semester.

The names of the eligible students who volunteer shall be randomly drawn. The student whose name is drawn first shall give the opening and the student whose name is drawn second shall give the closing.

**CONTENT OF OPENING
AND CLOSING
REMARKS**

The topic of the opening and closing remarks shall be related to the purpose of the graduation ceremony and to the purpose of marking the opening and closing of the event; honoring the occasion, the participants, and those in attendance; bringing the audience to order; and focusing the audience on the purpose of the event.

**OTHER STUDENT
SPEAKERS**

In addition to the students giving the opening and closing remarks, the valedictorian and salutatorian may have speaking roles at graduation ceremonies. For each speaker, the School shall set a maximum time limit reasonable and appropriate to the occasion and to the position held by the speaker. For this purpose, the School creates a limited public forum for these students to deliver the addresses. The subject of the addresses shall be related to the purpose of the graduation ceremony, marking and honoring the

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occasion, honoring the participants and those in attendance, and the student's perspective on purpose, achievement, life, school, graduation, and looking forward to the future.

The student shall stay on the subject, and the student shall not engage in speech that:

- Is obscene, vulgar, offensively lewd, or indecent;
- Creates reasonable cause to believe that the speech would result in material and substantial interference with school activities or the rights of others;
- Promotes illegal drug use;
- Violates the intellectual property rights, privacy rights, or other rights of another person;
- Contains defamatory statements about public figures or others; or
- Advocates imminent lawless action and is likely to incite or produce such action.

The School shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the School treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and shall not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

DISCLAIMER

A written disclaimer shall be printed in the graduation program that states, "The students who shall be speaking at the graduation ceremony were selected based on neutral criteria to deliver messages of the students' own choices. The content of each student speaker's message is the private expression of the individual student and does not reflect the endorsement, sponsorship, position, or expression of the School."

WINTER CELEBRATIONS

The School may educate students about the history of traditional winter celebrations, and allow students and staff to offer traditional greetings regarding the celebrations, including:

1. "Merry Christmas";
2. "Happy Hanukkah";
3. "Happy Kwanza";
4. "Happy Holidays." and
5. other similar or analogous greetings.

The School may display on school property scenes or symbols associated with traditional winter celebrations, including a menorah or a Christmas image such as a nativity scene or Christmas, if the display includes a scene or symbol of more than one religion or one religion at least one secular scene or symbol.

A display relating to a traditional winter celebration may not include a message that encourages adherence to a particular religious belief.

Education Code 29.920

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RELIGIOUS EXPRESSION IN
CLASS ASSIGNMENTS

A student may express his or her beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of the student's submission. Homework and classroom work shall be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school. A student shall not be penalized or rewarded because of religious content. 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, including literary quality, and not penalized or rewarded because of its religious content.

FREEDOM TO ORGANIZE
RELIGIOUS GROUPS AND
ACTIVITIES

Students may organize prayer groups, religious clubs, "see you at the pole" gatherings, and other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Religious groups shall be given the same access to school facilities for assembling as is given to other noncurricular groups, without discrimination based on the religious content of the group's expression. If student groups that meet for nonreligious activities are permitted to advertise or announce the groups' meetings, for example, by advertising in a student newspaper, putting up posters, making announcements on a student activities bulletin board or public address system, or handing out leaflets, school authorities shall not discriminate against groups that meet for prayer or other religious speech. School authorities may disclaim sponsorship of noncurricular groups and events, provided the disclaimer is administered in a manner that does not favor or disfavor groups that meet to engage in prayer or other religious speech.

PATRIOTIC OBSERVANCES

The School may officially encourage students to express love for the United States by reciting historical documents or singing official anthems that contain religious references; such patriotic or ceremonial occasions do not constitute a school-sponsored religious exercise. *Engel v. Vitale*, 370 U.S. 421 (1962)

The School shall not, however, compel students to participate in patriotic observances. *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943) (*holding unconstitutional a requirement that students salute the United States flag and recite the Pledge of Allegiance*)

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