

POLICY: STUDENT SPEAKERS AT SCHOOL SPONSORED EVENTS

I. INTRODUCTION:

There are occasions when students publicly speak at school sponsored events. The _____ School District (“District”) seeks to enact a policy concerning student speech on such occasions. In so doing, the District commits to comply fully with the U.S. Supreme Court decision of *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (“*Santa Fe*”) and hereby rescinds any and all policies, practices, and customs inconsistent with the holding, and affirms that the District shall not affirmatively sponsor, require, or instigate prayer or other religious expression by students.

Nothing in *Santa Fe*, however, abrogates the legal duties placed upon the District under applicable U. S. Supreme Court precedent requiring the District to maintain neutrality and not suppress, forbid, interfere with, discourage, or disparage voluntary prayer or other voluntary religious expression by students. *Good News Club v. Milford Central School*, 121 S. Ct. 2093, 2102 (2001) (“speech discussing otherwise permissible subjects cannot be excluded from a limited public forum on the grounds that the subject is discussed from a religious viewpoint”); *Santa Fe*, 530 U.S. at 313 (“nothing in the Constitution as interpreted by this Court prohibits any public school student from voluntarily praying at any time before, during, or after the schoolday”); *Lamb’s Chapel v. Center Moriches Union Free Sch. Dist.*, 508 U.S. 384 (1993); *Board of Educ. of Westside Community Schools v. Mergens*, 496 U.S. 226 (1990); *Lynch v. Donnelly*, 465 U.S. 668 (1984); see also *Zelman v. Simmons-Harris*, 122 S. Ct. 2460, 2467-68 (2002) (“we have never found a program of true private choice to offend the Establishment Clause. We believe that the program challenged here is a program of true private choice...neutral in all respects toward religion.... [N]o reasonable observer would think a neutral program of private choice...carries with it the imprimatur of government endorsement”). Additionally, the No Child Left Behind Act includes Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools (attached hereto) with which this District is required to comply as a condition of receiving ESEA federal funds.

Due to the legal duties placed upon the District requiring governmental neutrality in matters of students’ faith-based viewpoints and prohibiting either hostility or favoritism regarding voluntary prayer and other voluntary religious expression by students, the District is enacting this policy to comply with existing legal decisions and U.S. Department of Education Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools; provide a method for marking the opening of school events that provides student participation and involvement; provide a method of bringing the audience to order; focus the audience on the purpose of the event; present educational opportunities for students in the areas of speech, English, grammar, and civics; give students experience with speaking in public, organizing their thoughts, and making a concise oral presentation before an audience; give students a greater sense of ownership in their school’s activities/events through student involvement; and promote a continuation of student maturity, growth, and education by placing additional responsibilities upon older students in the final phase of their formal required education.

II. STUDENT SPEAKERS AT SCHOOL-SPONSORED (NON-GRADUATION) EVENTS:

The District hereby creates a limited public forum consisting of an opportunity for a Senior student to speak for a maximum of ___ minutes to introduce school-sponsored events/programs, including the following events/programs:

1. sports events,
2. assemblies,
3. opening announcements/beginning of the school-day,
4. pep-rallies,
5. concerts, and
6. such other events/programs as are designated by the Administration.
7. [Note: a district may choose a shorter or longer list of events].

The designated forum shall be limited in the following manner:

1. Only Senior students of the high school shall be eligible to use the limited public forum [Note: a district may choose to include middle schools and create a separate forum for them]; and
2. The topic of the introductions must be related to the purpose of the event and to the purpose of marking the opening 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. For example, but without limitation, the following types of expression, or combinations thereof, would serve the purpose of the forum if selected by a student:

Words of welcome; a patriotic message; reciting a famous quotation; a "thought for the day;" leading the singing of the National Anthem and/or school song; leading the Pledge of Allegiance; giving a short tribute to the occasion or to those in attendance; a non-verbal expression of a moment of silence; or a verbal expression to honor the occasion.

VIEWPOINT NEUTRALITY OF DISTRICT:

Although a topic has been designated for the forum and a student is required to stay on the designated topic, the District shall not engage in viewpoint discrimination. Whether a student expresses a faith-based viewpoint or a secular-based viewpoint on a topic is left wholly to the choice of the student without any governmental interference or influence. In the event a student expresses a faith-based viewpoint in the form of a prayer or other remarks, so long as the expression is genuinely voluntary and student-initiated it shall be treated by the District the same as secular student speech on a similar topic/subject. All staff members of the District are to refrain from any interaction with student speakers regarding viewpoint. [Note: A pre-screening review of the content of each student's introduction is probably unnecessary because if a student does not stay on topic, goes too long, or violates a provision of the section of this policy entitled "Restrictions to Student Speech and Actions," the speaker can be corrected by the District since the speaker is an ongoing student. Any pre-screening review runs the risk of inviting a constitutional challenge that the review is for purposes of faith-based or anti-faith-based

viewpoint discrimination or promotion. It is constitutionally safer to forego the review, and, instead, thoroughly go over this written policy with all student speakers to assure their understanding of these provisions regarding topics, time allotments, and restrictions to student speech and actions. If there is to be no pre-review of content, then state so under this section: “The content of the student introductions shall not be pre-reviewed by school personnel”].

SELECTION OF SPEAKERS:

Any Senior student holding a position of honor based wholly on neutral criteria shall be eligible if he/she is a:

1. Student Council officer;
2. Senior class officer;
3. Captain of the football team;
4. Captain of the cheerleaders;
5. Band officer;
6. Choral officer;
7. Ranked in the top five academically of the Senior class.
8. [Note: a school district may expand or contract its list of eligible speakers as long as the list continues to be compiled of students selected wholly on neutral criteria].

Any of the above listed Senior students holding one of these positions who wishes to participate as a speaker under this policy shall submit his/her name to the school’s Student Council during an announced three-day period near the beginning of the school year [Note: or, if the district prefers, at the end of the school year preceding the students’ Senior year so that speakers are already in place for the beginning of the next year]. After the three-day period, the names of all such volunteering students shall be randomly drawn by the President of the Student Council until all names have been selected. The students' names shall be listed in the order drawn. This process shall be witnessed by at least one other student and one school official (who shall be present only to assure the fairness of the drawing and the accurate listing of the names drawn).

Each student will be matched chronologically to the event/program for which they will be giving the introduction. [Note: a district may choose to have each student speak for one week at a time (i.e., “Each student shall speak for one week at a time doing the introductions for all the occasions of that week”) or have each student do only a single introduction (i.e., “Each student shall speak for a single event/program”)].

If there are more speaking occasions than there are volunteers, once each volunteering student has been matched to a speaking occasion, the same list of students, in the same order, shall be repeated as many times as necessary to fill all occasions as they arise.

[Note: a district may want to do this process separately for each of the two semesters. If so, add to the policy the following: “A second drawing will be held at the end of the first semester to determine speakers for the second semester, pursuant to the same procedure”].

DISCLAIMERS:

At each event/program in which a student will deliver an opening introduction, a disclaimer shall be included in one of the following forms:

1. Printed in the program for the event, stating: "The student giving the introduction for this event is a volunteering student selected at random to introduce the event. The content of the introduction is the private expression of the student and does not reflect any endorsement, sponsorship, position, or expression of the District." Or,
2. Stated by a school official prior to the student's introduction. Or,
3. Stated by the student speaker prior to giving his/her introduction, stating: "This is _____ [name of student], and I am a volunteer student selected at random to introduce today's [or tonight's] _____ [name of event/program]. The introduction is my own private expression and does not reflect any endorsement, sponsorship, position, or expression of the District."

OTHER STUDENT SPEAKERS:

Certain students who hold or have attained special positions of honor within the school structure have traditionally addressed school audiences from time to time, but only as a tangential component of their achieved positions of honor (such as the Captain of the football team, captains of other various sports teams, Student Council officers, Class officers, Homecoming kings and queens, Prom kings and queens, and the like). Students who hold such positions of achievement and honor are selected to these positions based upon neutral criteria wholly unrelated to what the students might say at some future school function. Thus, nothing in this policy is intended to eliminate the continuation of the practice of having such students address school audiences in the normal course of their respective positions of honor, and such students shall be permitted to do so without District viewpoint discrimination.

RESTRICTIONS TO STUDENT SPEECH AND ACTIONS:

Nothing in this policy abrogates the District's prohibition against students' obscene speech, which is not protected by the First Amendment [*Ginsberg v. New York*, 390 U.S. 629, 635 (1968)], the use of "vulgar speech" and "offensively lewd and indecent speech" [*Bethel Sch. Dist. v. Fraser*, 478 U.S. 675, 685 (1986)], slanderous (defamatory) speech, and "students' activities [that] would materially and substantially disrupt the work and discipline of the school." [*Tinker v. Des Moines Indep. Comm. Sch. Dist.*, 393 U.S. 503, 513 (1969)]. These forms of expression are strictly prohibited.

III. STUDENT SPEAKERS AT GRADUATION CEREMONIES:

OPENNING/CLOSING OF GRADUATION CEREMONIES—SENIOR SPEAKERS:

The District hereby creates a limited public forum consisting of an opportunity for a student to speak for a maximum of ___ minutes to begin high school graduation ceremonies and another student to speak for a maximum of ___ minutes to end high school graduation ceremonies [districts may choose to also include middle school graduation ceremonies and create a separate forum for them].

The designated forum shall be limited in the following manner:

1. Only students who are graduating Seniors who hold honored student positions and whose selection is based upon neutral criteria, which shall include students who are Student Council officers, Senior class officers, and the top three academically ranked Seniors [Note: a district may expand or contract this list] shall be eligible to use this limited public forum. Any student, however, who will otherwise have a speaking role in the graduation ceremonies is ineligible to volunteer to give the opening and closing. The names of the eligible volunteering students will be randomly drawn. The first name drawn will present the opening, and the second name drawn will present the closing.
2. The topic of the opening and closing must be related to the purpose of the graduation ceremonies 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..

VALEDICTORIAN(S) AND OTHER SENIOR SPEAKERS:

In addition to the students giving the opening and closing, there are certain other students who have attained special positions of honor based upon neutral criteria who will have speaking roles at graduation ceremonies. The Valedictorian(s) and any other students who will be addressing the audience shall each be permitted to address the audience for a reasonable length of time at graduation ceremonies (not to exceed ___ minutes). For this purpose, the District creates a limited public forum for these students to deliver such addresses. The topic of the addresses must be related to the purpose of the graduation ceremonies, marking and honoring the occasion, honoring the participants and those in attendance, and the student's perspective on purpose, achievement, and future success.

DISCLAIMER:

A written disclaimer shall be printed in the graduation program that states the following:

“The students who will be speaking at the graduation ceremonies were selected based upon neutral criteria to deliver messages of their own choice. The District does not require, suggest, or endorse the content of the messages. The content of each student speaker's message is the private expression of the individual student and does not reflect any position or expression of the District, its Board of Trustees, administration, or employees, or indicate the

views of any other graduate. No person is compelled to participate in or agree with the selection of content made by the student speakers, nor should anyone feel compelled to do so. The contents of these messages were prepared by the student volunteers, and the District refrained from any interaction with student speakers regarding the student speakers' viewpoints. [Note: if the district has not reviewed the content of the messages, then the disclaimer should also state, "The contents of the student messages were not monitored or otherwise reviewed by the District, its officers, or employees"].

VIEWPOINT NEUTRALITY OF DISTRICT:

Although topics have been designated for the forums created for student graduation speakers and students must stay on the designated topics, the District shall not engage in viewpoint discrimination. Whether a student takes a faith-based viewpoint or a secular-based viewpoint of a topic is left wholly to the choice of the student without any governmental interference or influence. In the event a student expresses a faith-based viewpoint in the form of a prayer or other remarks, so long as the expression is genuinely voluntary and student-initiated it shall be treated by the District the same as secular student speech on a similar topic/subject. All staff members of the District are to refrain from any interaction with student speakers regarding viewpoint. [Note: A district must determine whether or not to review the contents of the students' graduation messages. If a district reviews any student messages, the policy must clearly state that the review shall be solely for purposes of determining that the length of the students' messages fall within the time allotment, are on topic, and do not violate a provision of the "Restrictions to Student Speech and Actions;" and that the review shall not be for purposes of viewpoint determination, promotion, or discrimination. However, any pre-screening review runs a risk of inviting a constitutional challenge that the review is for purposes of faith-based or anti-faith-based viewpoint discrimination or promotion. It is constitutionally safer to forego the review, and, instead, thoroughly go over this written policy with all student speakers to assure their understanding of these provisions regarding topics, time allotments, and restrictions to student speech and actions].

RESTRICTIONS TO STUDENT SPEECH AND ACTIONS:

Nothing in this policy abrogates the District's prohibition against students' obscene speech, which is not protected by the First Amendment [*Ginsberg v. New York*, 390 U.S. 629, 635 (1968)], the use of "vulgar speech" and "offensively lewd and indecent speech" [*Bethel Sch. Dist. v. Fraser*, 478 U.S. 675, 685 (1986)], slanderous (defamatory) speech, and "students' activities [that] would materially and substantially disrupt the work and discipline of the school." [*Tinker v. Des Moines Indep. Comm. Sch. Dist.*, 393 U.S. 503, 513 (1969)]. These forms of expression are strictly prohibited.

**IV. RELIGIOUS EXPRESSION AND PRAYER IN CLASS ASSIGNMENTS
(Verbatim from Department of Education’s “Guidance on Constitutionally
Protected Prayer in Public Elementary and Secondary Schools”):**

Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from 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. 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 content.

**V. ORGANIZED PRAYER GROUPS AND ACTIVITIES
(Verbatim from Department of Education’s “Guidance on Constitutionally
Protected Prayer in Public Elementary and Secondary Schools”):**

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 non-curricular student activities groups. Such groups must be given the same access to school facilities for assembling as is given to other non-curricular groups, without discrimination because of the religious content of their expression. School authorities possess substantial discretion concerning whether to permit the use of school media for student advertising or announcements regarding non-curricular activities. However, where student groups that meet for nonreligious activities are permitted to advertise or announce their meetings—for example, by advertising in a student newspaper, making announcements on a student activities bulletin board or public address system, or handing out leaflets—school authorities may not discriminate against groups who meet to pray. School authorities may disclaim sponsorship of non-curricular groups and events, provided they administer such disclaimers in a manner that neither favors nor disfavors groups that meet to engage in prayer or religious speech.