

RESOLUTION

WHEREAS the United States Supreme Court decision in *Santa Fe Independent School District v. Doe*, 530 U.S. ___ (2000) ("*Doe*"), provides significant new illumination for the formulation of constitutional student speaker policies; and

WHEREAS in *Doe*, the Supreme Court had before it an October 1995 Santa Fe Independent School District pre-game policy that it found to be an unconstitutional pro-prayer policy for several specific reasons peculiar to the text and history of the particular 1995 policy ("the narrow question before us," as the Supreme Court expressed); and

WHEREAS the Supreme Court did not rule that public/vocal "student-led, student-initiated prayer" is unconstitutional, but, instead, the Court concluded that the particular Santa Fe policy did not provide for genuinely voluntary, student-led, student-initiated expression, but, rather, for government-initiated, government-encouraged prayer; and

WHEREAS the Supreme Court did not hold that *all* policies permitting students to speak over school microphones would be unconstitutional, nor did the Supreme Court hold that a school district may constitutionally prevent a student from, or punish a student for, engaging in voluntary prayerful or religious speech when similar secular speech is permitted; and

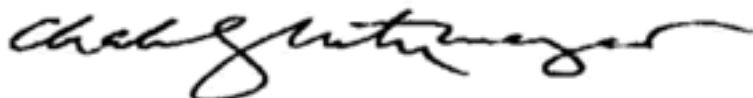
WHEREAS the Supreme Court observed broadly that all voluntary student prayer is protected, without differentiation between public/vocal and personal/silent prayers, thus, "nothing in the Constitution as interpreted by this Court prohibits any public school student from voluntarily praying at any time before, during, or after the schoolday." *Doe*, slip op. at 21. The Constitution continues to require strict school district neutrality that neither "proscribe[s]" nor "prescribe[s]" "religious beliefs and religious expression" by students. *Lee v. Weisman*, 505 U.S. 577, 589 (1992); and

WHEREAS each Texas school district should review all present policies (written or practiced) allowing for student speakers at school sponsored activities, and bring those policies into compliance with *Doe*; and

WHEREAS the attached policies are based largely upon concepts raised by Supreme Court Justices during oral argument in *Doe* and appear to be in compliance with the rulings and holdings of *Doe*, now, therefore, be it

RESOLVED, That the State Board of Education recommends that each Texas school district review all student speaker policies/practices and adopt written policies that comply with *Doe*. To this end, the attached model policies are offered as aids for each school district's consideration. The Board directs that a copy of this Resolution and attachments be mailed to each Texas school district.

WITNESS our signatures this fifteenth day of September, two thousand, in Austin, Texas.



Chase Untermeyer, Chair



Rosie Collins Sorrells, Ed. D., Secretary