

Religious Expression in Public Schools

Excerpts from the U.S. Department of Education's *Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools* (2023)

STUDENTS

1 You can express your faith in your class work and homework.

"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, relevance, and other legitimate pedagogical objectives. 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 be neither penalized nor rewarded on account of its religious perspective."

2 You can pray, read your Bible or other religious texts, and talk about your faith.

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. Students also may read from religious materials; say a prayer or blessing before meals; and engage in worship or study religious materials with fellow students during non-instructional time (such as recess or the lunch hour) to the same extent that they may engage in nonreligious activities.

"[S]tudents may pray with fellow students during the school day on the same terms and conditions that they may engage in other comparable conversations or activities. Students may also speak to, and attempt to persuade, their peers about religious matters just as they may do with regard to, for example, political matters."

3 You can pass out religious literature.

"Public school students have a right to distribute religious literature to their schoolmates on the same terms as they are permitted to distribute other literature that is unrelated to school curricula or activities.

"Schools may impose the same reasonable time, place, or manner restrictions on distribution of religious literature as they do on non-school literature generally, but they may not target religious literature for more permissive or more restrictive regulation."

4 You can wear clothing with religious messages.

"Public schools generally may adopt policies relating to student dress and school uniforms to the extent consistent with constitutional and statutory civil rights protections. Schools may not, however, target religious attire in general, or the attire of a particular religion, for prohibition or regulation.

"If a school makes exceptions to a dress code to accommodate nonreligious student needs, it ordinarily must also make comparable exceptions for religious needs.

"Students may display religious messages on items of clothing to the same extent and pursuant to the same conditions that they are permitted to display nonreligious messages."

5 You can organize prayer groups and religious clubs, and announce your meetings.

"Students may organize prayer groups and religious clubs to the same extent that students are permitted to organize other noncurricular student activity 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 groups' religious character or perspective. School officials should neither encourage nor discourage participation in student-run activities based upon the activities' religious character or perspective.

"School authorities possess substantial discretion concerning whether to permit the use of school media for student advertising or announcements regarding noncurricular 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 that meet to engage in religious expression such as prayer."

6 You can be excused from school for religious reasons.

"Where school officials have a practice of excusing students from class on the basis of requests for accommodation of nonreligious needs, religiously motivated requests for excusal may not be accorded less favorable treatment. In some circumstances, Federal or State law may require schools to make accommodations that relieve substantial burdens on students' religious exercise. School officials may wish to consult with their attorneys regarding such obligations."

7 You may be able to attend off-site religious instruction and have your religious exercise accommodated during the school day.

“Public schools have discretion to permit students to attend 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 burden on their religious exercise, including prayer or fasting, at least where doing so would not impose material burdens on other students. For example, it would be constitutional for schools to excuse students from class to enable them to fulfill their religious obligations regarding prayer, religious holidays, or other observances.”

8 You can express your faith at school events and graduations.

“Where a student speaker is selected on the basis of genuinely content-neutral, evenhanded criteria, and the school does not determine or have control over the content of the student's speech, the expression is not reasonably attributed to the school and therefore may not be restricted because of its religious content (or content opposing religion) and may include prayer.

“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 schools do not determine or have control over their speech, however, that expression is not attributable to the school and therefore may not be restricted because of its religious content (or content opposing religion) and may include prayer. In these circumstances, school officials may choose to make appropriate, neutral disclaimers to clarify that such speech (whether religious or nonreligious) is the speaker's and not the school's speech.”

EDUCATORS

1 You can pray at school.

“Teachers, school administrators, and other school employees may not encourage or discourage private prayer or other religious activity.

“The Constitution does not, however, prohibit school employees themselves from engaging in private prayer during the workday where they are not acting in their official capacities and where their prayer does not result in any coercion of students. Before school or during breaks, for instance, teachers may meet with other teachers for prayer

or religious study to the same extent that they may engage in other conversation or nonreligious activities.

“School employees may also engage in private religious expression or brief personal religious observance during such times, subject to the same neutral rules the school applies to other private conduct by its employees. Employees engaging in such expression or observance may not, however, compel, coerce, persuade, or encourage students to join in the employee's prayer or other religious activity, and a school may take reasonable measures to ensure that students are not pressured or encouraged to join in the private prayer of their teachers or coaches.

“[N]ot everything that a public school teacher, coach, or other official says in the workplace constitutes governmental speech, and schools have less leeway to regulate employees' genuinely private expression....In contexts where a school permits teachers, coaches, and other employees to engage in personal speech, however, it may not prohibit those employees from engaging in prayer merely because it is religious or because some observers, including students, might misperceive the school as endorsing that expression.”

“School employees may participate in their personal capacities in privately sponsored baccalaureate ceremonies or similar events.”

2 You can teach about religion.

“Public schools may not provide religious instruction, but they may teach about religion and promote religious liberty and respect for the religious views (or lack thereof) of all. For example, philosophical questions concerning religion, the history of religion, comparative religion, religious texts as literature, and the role of religion in the history of the United States and other countries are all permissible public school subjects.

“Similarly, it is permissible to study religious influences on philosophy, art, music, literature, and social studies. For example, public schools generally may allow student choirs to perform music inspired by or based on religious themes or texts as part of school-sponsored activities and events, provided that the music is not performed as a religious exercise and is not used to promote or favor religion generally, a particular religion, or a religious belief.

“Although public schools may teach about religious holidays, including their religious aspects, and may celebrate the secular aspects of holidays, schools may not observe holidays as religious events, nor may schools promote or disparage such observance by students.”

This contains quotes from the U.S. Department of Education's *Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools* (2023).

To read the entire document, visit [Ed.gov](https://www.ed.gov) or scan this QR code with your phone:



Scan this QR code with your phone to watch two, short videos about the federal *Guidance* on the website of the Orange County Department of

