Department of Education

Guidance on Constitutionally Protected Prayer & Religious Expression

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Agenda

- Guidance Overview
- Recommended and Required Next Steps
- Resources & Contacts

Guidance Overview

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What is in the Guidance?

- On Feb. 5, 2026, the U.S. Department of Education (ED) released Guidance on Constitutionally Protected Prayer and Religious Expression.

- The guidance:
  - Reaffirmed protections for both students and employees
  - Clarified when audible prayer is permitted
  - Provided clearer expectations for visible employee prayer
  - Described documentation and reporting steps
  - Is divided into four parts

Part I: Certification and Enforcement Process

- Part I provides an overview of the certification process.
- Local educational agencies (LEAs) must certify in writing to the state that no policy of the LEA prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary and secondary schools.
- An LEA must provide this certification to the state by **October 1** of each year.

Part I: Certification and Enforcement Process

- By November 1 of each year, each state must send ED a list of those LEAs that have:
  - not filed the required certification or
  - that have been the subject of a complaint to the SEA alleging that the LEA has a policy that prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary and secondary schools.

Part II: Core Principals

- Part II provides an overview of the law governing prayer in public schools.
- Under current law, all members of the public school community may engage in religious expression, including prayer, provided that no individual is compelled to participate and such expression does not occur as part of the school's official activities.

Part III: Specific Scenarios

This section provides a series of scenarios that school officials might encounter.

- Private religious expression by students
  - Students may pray or express their religious beliefs individually or with peers, if it is non-disruptive and not coerced.
- Religious expression in student groups
  - Student groups may engage in religious expression and must be treated the same as comparable secular groups.
- Religious expression at school events
  - Schools may not sponsor or require prayer, but individuals may engage in personal religious expression that does not represent the school or pressure others.

Part III: Specific Scenarios

- Religious expression in assignments
  - Students may reference religious beliefs in schoolwork, which must be evaluated by ordinary academic standards.
- Religious expression by public school employees
  - Employees may engage in personal religious expression when not acting in an official capacity or coercing students.
- Discipline and harassment
  - Schools may enforce discipline and must prevent harassment; protected religious expression must be distinguished from targeted or threatening conduct.

Summary of Federal Expectations

- Permit religious expression when it is non-coercive and non-disruptive.
- Uphold neutrality and provide equal accommodation for all faiths and non-faith perspectives.

Next Steps

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Recommended Next Step: Policy Review

- Work with the LEA's board attorney to review applicable policies for compliance:
  - Student speech and dress codes
  - Staff conduct policies
  - Event and graduation protocols
  - Curriculum and assignment evaluation
  - Complaint and investigation procedures
  - Other applicable policies

Recommended Next Step: Staff Training

- Remind staff about:
  - Student rights
  - Employee rights
  - Neutrality requirements
  - Protected expression vs. harassment
  - Event protocols
  - Complaint documentation and reporting

Required Next Step: Annual LEA Certification

- Prayer certification is due in ePlan on **October 1, 2026**.
  - ePlan > Data and Information > FY27 Prayer Certification
  - Prayer Certification ePlan Instructions are available
- LEAs must certify they have no policy that prevents or denies participation in constitutionally protected prayer.

Resources and Contacts

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Resources & Contacts

Resources:

- Prayer Certification ePlan Instructions
- Guidance on Constitutionally Protected Prayer And Religious Expression in Public Elementary and Secondary Schools

Contacts:

- ESEA Divisional Coordinators

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