



Guidance on Constitutionally Protected Prayer & Religious Expression

DISCLAIMER

Generative AI Tools

The **State of Tennessee does not currently permit the use of Generative AI tools**, such as Otter, in meetings hosted on state resources. Meetings with contractors, vendors, and subrecipients are not public meetings and may involve discussion of protected information.

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While the State supports your desire to maintain documentation of the meeting and what you learn, **please respect our decision to safeguard information** and do not attempt to use tools such as Otter to access protected information. If you choose to use a tool such as this, the State will block the tool from the meeting.

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Agenda

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

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Guidance Overview

What is in the Guidance?

- On Feb. 5, 2026, the U.S. Department of Education (ED) released [Guidance on Constitutionally Protected Prayer](#).
- [Religious Expression](#).
- The guidance:
 - Reaffirmed protections for both students and employees
 - Clarified when audible prayer is permitted
 - Provided clearer expectations for visible employees
 - Described documentation and reporting steps
 - Is divided into four parts

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Part I: Certification and Enforcement Process

- Part I provides an overview of the certification process.
- Local educational agencies (LEAs) must certify writing to the state that no policy of the LEA 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.

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Part I: Certification and Enforcement Process

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

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Part II: Core Principals

- Part II provides an overview of the law governing public schools.
- Under current law, all members of the public school board may engage in religious expression, including prayer, 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 if it must be treated the same as comparable secular groups.
- Religious expression at school events
 - Schools may not sponsor or require prayer, but they 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 others
- Discipline and harassment
 - Schools may enforce discipline and must prevent harassment; protected religious expression must be distinguished from targeted or threatening conduct

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Summary of Federal Expectations

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



Next Steps



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, 2023**
 - ePlan > Data and Information > FY27 Prayer Cer
 - [Prayer Certification ePlan Instructions](#) are available
- LEAs must certify they have no policy that prevents or discourages participation in constitutionally protected prayer.

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Resources and Contacts



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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Please Share your Feedback:

You may access the PD Survey by navigating here:

<https://forms.office.com/r/evtWEAZ9XZ>



Thank you!

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