

KNOW YOUR RIGHTS

Teachers' Rights and Responsibilities

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For 75 years, Americans United for Separation of Church and State has represented Americans of all faiths and no religion unifying for the fundamental freedom to live and believe as we choose. This guide was created to help teachers Know Your Rights about religious freedom in public schools. We can help you defend those rights: report a violation at <https://www.au.org/report-a-violation/> and we'll be in touch!

★ COERCION

Coercion is when a person in authority places pressure on someone to engage in worship or a religious activity. As a teacher, administrator, or other staff member in a public school, you have the right to be free from religious coercion yourself, but you are not allowed to coerce students or other staff. Coercion may be direct, like benching a football player for not participating in a team prayer, or indirect, like opening a graduation ceremony with prayer, requiring teachers to attend, and making students either listen to the prayer or miss graduation. We often hear school officials say things like “nobody is forcing you to pray or listen to the prayer,” as if that makes it okay. It doesn't. Coercion of either kind violates the separation of church and state.

Remember also that schools are inherently coercive places for students. The law requires them to attend, and they know that teachers have the authority to punish them for breaking the rules. It is easy for a teacher to give students the impression that submitting to an unwanted religious exercise is required, expected, or preferred, even if you don't mean to do that. Students have an absolute right to be free from that pressure. Similarly, you as a public-school teacher are a government employee. Teachers have the absolute right not to be pressured to participate in religious activities or exercises, whether or not students are present.

★ TEACHER RELIGIOUS EXPRESSION

You are a government employee and, as noted above, that gives you a great deal of authority. It also means that you are required by law to remain neutral with regard to religion when on the job and to respect the separation of church and state. That, in turn, means that there are times when you may want to engage in religious activity but cannot because of the requirements of the law. The remainder of this document will describe these situations.

There are, however, times when it is okay for you to engage in religious activity. When on break and not in view of students, you may pray, read the Bible, and the like. (Also, outside instructional time – if you are free to attend to personal matters instead of performing employment duties, and students are occupied with other matters and are not a captive audience – you may engage in brief, quiet, personal, private prayer even if some students might be able to see you.) You may keep personal religious items as well, again as long as they are not visible to students. (It may additionally be permissible for you to wear in view of students small religious jewelry or other specialized items required by your faith.

¹ All of this material applies equally to public-school run remote-learning situations.

Contact the professionals at Americans United if you have questions about whether something is allowed.) At no time is it permissible to encourage students to join you in prayer or any other religious activity when you are at school or a school-sponsored event as an employee.

★ PRAYER IN SCHOOL

Public schools cannot conduct, sponsor, or promote prayer. That is true during morning announcements, classes, assemblies, graduations, sporting events, banquets, awards ceremonies, and all other official school activities. School employees cannot lead the prayers themselves; they can't invite a parent or clergyman to do so; and they can't appoint or encourage students to pray or lead prayers.



Students are allowed to pray during the school day pretty much any time that it would not interfere with classes or the smooth running of the school. Silent prayer during class (even during a test!) is allowed, for example, but interrupting the teacher or disrupting the class with loud prayers is not. Students also don't have the right to harass other students with unwanted religious proselytizing – such as having unwanted religious discussions with them, badgering them to engage in religious activity, or pressing religious materials on them.²

★ RELIGIOUS CONTENT DIRECTED AT FACULTY OR STAFF

School officials must not include religious content, like prayers or proselytizing speeches, in official school activities. This includes events like faculty meetings, in-service trainings, or convocations where the prayers would be directed only at faculty and staff, as well as times when students are present.

★ STUDENT RELIGIOUS EXPRESSION

Students are allowed to express religious views and ideas during school, as mentioned in the prayer section, but there are some areas where the school can limit that expression. For example, it is fine for students to inject religious ideas into a classroom assignment as long as they are following the instructions of the assignment. But if they do not follow the instructions of the assignment, then you are fully justified in giving them a low grade.

★ RELIGIOUS CONTENT IN THE CURRICULUM

Schools may teach factual information about religion, such as including in a history class the role of religion in the settlement of the American colonies or teaching in a geography or social-studies class the religious makeup of countries. It is generally not impermissible coercion to have students learn facts about religion. You can even use some religious materials, like the Bible, as part of literary and historic instruction, if you present the material objectively and do not attempt to introduce religious

² The same basic structure generally applies to most student speech. For instance, students may engage in protests or political speech so long as they don't disrupt the school's activities and aren't harassing other students.

teachings. For example, it would be okay to use the Bible to help explain certain biblical allegories in English class, or as a text to compare with others in an ancient-history class.

But the public schools and their teachers must not teach that a particular religion is true (or not true) or that religious doctrines or beliefs are factual. Nor may they encourage students to practice a particular religion or reward or punish them for doing so. For instance, a school could not legally tell students that God helped Moses part the Red Sea, that Jesus was resurrected, or that Mohammed was visited by an angel. And public schools are not allowed to teach creationism or intelligent design, because those ideas are fundamentally religious explanations for the beginning of life.

The same rules apply to other school events and activities, such as assemblies, school plays, and field trips.



Music classes generally also follow the same rules. Religious songs may be used in a school choir program, for example, but only if (i) they have pedagogical value for musical instruction, (ii) the performance as a whole is not dominated by religious songs, and (iii) students are allowed to opt out of singing religious songs without penalty.

★ RELIGIOUS CLUBS

The school cannot run a religious club or include religious content in an official club. If, however, the school allows students to start and run their own clubs, then students must be allowed to form religious clubs. If the school requires teacher sponsors for student clubs, then you may be a “sponsor” for a student-run religious club, but you must not run, direct, or participate in any religious activities of the club. You may attend club events solely to ensure student safety, good order, and protection of school property, but you must not police student participation in religious activities.

★ RELIGIOUS DISPLAYS

Neither the school nor its employees are allowed to put up religious displays, like crosses, Bible verses, the Ten Commandments, or pictures of religious figures. This includes in your classroom. Remember that you are a government employee, and the things that you choose to display represent information that the government wants students to learn. The displays are not your private speech, even when they are on your desk or the walls or bulletin board of your classroom.

The only time when a religious display may be permissible is if you have created a place where students can display their work. If you treat all students’ work equally and some of the students’ work contains religious content, then you ordinarily would not be violating the separation of church and state by permitting display of the work. But take care not to treat students’ religious work or expression more favorably than other types of speech, as that can get you in trouble.

★ USE OF HOUSES OF WORSHIP FOR SCHOOL ACTIVITIES

Public schools should not use houses of worship for school events, activities, or classes, whether for students or solely for faculty and staff. It might be okay for schools to do so if any religious displays or messages are covered, but most of the time that does not happen. If you are at a school activity at a house of worship and you can see religious displays, then the school has violated the separation of church and state.

★ ACCESS TO SCHOOL PROPERTY

The school cannot allow people to come onto school property during the school day – or even after school if it is during a school activity, like a football practice – to communicate religious messages to students. It is shocking how often schools allow youth ministers to wander around campus or go into locker rooms and preach. This is not okay! The same rules extend to people involved in volunteering for the school, like mentors, tutors, grief counselors, and the like.

When school is not in session, the administration may choose to open the building for use by community groups. If it does, religious groups engaging in religious activities are allowed on the same terms as other groups, but they must not be given special access or special treatment. Teachers probably should not participate in the activities of these groups on school grounds, but the law on this varies by jurisdiction.

★ SCHOOL EVENTS WITH RELIGIOUS ACTIVITIES OR RELIGIOUS GROUPS

When a public school hosts an assembly, it is responsible for the content of the presentation. A religious assembly – or an assembly that is expected to be secular but ends up having religious content – is therefore unconstitutional. This is also true of any other school event where the school invites a speaker or is involved with the planning or execution of an event. An example would be baccalaureates, which are religious ceremonies for graduating classes, often run by local churches. Schools that help plan, advertise, or run these ceremonies violate the Constitution.

Similarly, schools must not provide funding or advertising³ for religious events or religious activities, even if the school is not directly involved with those events or activities. Put another way, a school district may not turn its resources toward helping religious groups spread their views, whether to students directly or to the world at large.

★ DISTRIBUTION OF RELIGIOUS MATERIALS

Teachers and other school officials are generally not allowed to give students religious materials at school. You are also not allowed to let outside groups come into the school to give students religious materials. Schools can sometimes include advertisements or fliers from outside groups for religious events in packages of materials from outside groups to send home to students' parents, but only under a system where any outside group is allowed to put fliers into those materials.

³ Note that this limitation relates to the school's creating its own advertising for religious events or groups; the rules may be different when religious groups seek access to, for example, a generally available advertising space, such as buying an ad in a yearbook like any other local business. If you have questions, please contact Americans United.

When not in class, students may distribute religious materials at school if they do so in a nondisruptive manner and the school similarly allows students to distribute nonreligious materials. But just like with prayer, students do not have the right to proselytize or religiously harass unwilling fellow students. If students insist on pushing unwanted religious material onto others, then you must step in and stop them.

It's rare for a school to allow any kind of distribution of outside materials – religious or not – in class, as distribution of materials is likely to be disruptive in that context. Schools can do this, but they must treat all outside materials the same. Schools may be able to place some additional restrictions on this kind of activity, like requiring disclaimers that the views expressed are not those of the school, depending on the circumstances.

★ RELIGIOUS ACCOMMODATION

Religious accommodations are exceptions to school rules that are granted to prevent a particular rule from imposing religious hardship on a student or teacher. Some examples would be giving an excused absence to a student or a day off for a teacher for a religious holiday. Schools have only limited legal duties to accommodate teachers, but there may be circumstances when they must do so, such as when required by state law or when the school grants comparable nonreligious exemptions from a school rule. If schools are required to or choose to provide religious accommodations, then they must treat teachers of all religious beliefs equally. That means, for example, treating a Wiccan or Jewish teacher's holiday requests the same way as a Christian teacher's.

With respect to students, the general rule is the same as for teachers: schools are not required to provide religious exemptions, but if they do, they must treat all religious beliefs equally when doing so. Parents, however, may have the right to opt-out their children from certain educational content in limited situations. The U.S. Supreme Court recently held that when an educational requirement or item in the curriculum would pose a real threat of “undermining” the religious beliefs and practices that a parent wishes to teach a student or would “substantially interfere with the [parent's] religious development” of the student, then the parent may have a right to opt their student out of that educational requirement or curricular item. Importantly, schools should not remove materials from the curriculum altogether merely because some students request opt-outs to those materials.

★ HOLIDAY CELEBRATIONS AND CLOSURES

Public schools may have holiday celebrations, but they cannot be religious celebrations. Only the nonreligious aspects of a holiday may be celebrated by the school. One common example is that courts generally view things like Santa Claus and his reindeer as a nonreligious element of the Christmas holiday, while Jesus, the manger, and the three wise men would be considered religious aspects of that holiday. A school may provide factual information about the religious aspects of a holiday as part of a lesson, as mentioned above in the curriculum section, but must not require or encourage teachers or students to participate in religious activities.

Schools may close for religious holidays only if they use nonreligious criteria – such as expected attendance – to select the days when school is closed. Most commonly, schools will say that they close for major religious holidays like Christmas because so many teachers and students would stay home that they cannot effectively run classes.

★ RELEASE TIME

Sometimes parents will request that their child be allowed to leave school at certain times during the school week to attend religious instruction. This is called “release time,” and it is okay for the school to allow this, as long as the school does not run the religious classes, the religious classes are not held on school property, and the school does not encourage attendance either directly or by punishing or assigning more work to students who do not choose to attend the religious classes.

In most places schools are not required to allow release-time programs even if parents request that their children be released. In some states, however, schools are required by state law to release students for religious instruction on a parent’s request. If you have a question about how release-time works where you live, we encourage you to contact Americans United.



★ LGBTQ ISSUES

Unfortunately, some of the problems that LGBTQ students face at school come about because of prejudice that is supported by certain religious beliefs. As mentioned above, religious students have the right to their beliefs, but they do not have the right to harass other students. Moreover, if the school allows student-run religious clubs, then it must allow LGBTQ-focused clubs like Gay-Straight Alliances, even if the school’s administrators or other students or parents have religious objections. Religious considerations cannot justify policies that discriminate against LGBTQ students. And, whatever your personal religious beliefs are, as a teacher you may not discriminate against LGBTQ students.

Americans United is a religious freedom advocacy organization based in Washington, D.C. Founded in 1947, the nonprofit educates Americans about the importance of church-state separation in safeguarding religious freedom. Learn more at www.au.org.

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