

Pennsylvania Public Schools' Responsibility to Protect Religious Freedom of Students

In the United States there are over 2000 different religions and religious denominations. These religions profess various beliefs about such matters as diverse as the nature of a supreme being, the existence of a soul, the origin of the earth, and what foods may be consumed.

Differences among religions can be profound and irreconcilable. At times, these differences have degenerated into war, particularly when one religious group gains control of the government with its police power. The United States has avoided the worst manifestations of religious conflict by separating the state from the church in the First Amendment of our Constitution. Public schools are part of local government, governed by elected school directors, and supported by taxes. Courts have long held that public schools are subject to the First Amendment.¹ The Pennsylvania Constitution also protects religious freedom.²

In 1995, the U.S. Department of Education issued guidelines clarifying constitutional activities in schools. These are helpful, but some areas of ambiguity remain. Moreover, some sectarian forces are attempting to circumvent or overturn the constitutional protection of religious liberty.

From time to time, public schools arrange for presenters from outside of the school to offer programs such as those designed to promote safety, discourage drug and alcohol use, consider career choices, or resist negative peer pressure. Presenters need to be aware that the diverse audience in a public school setting is entitled to the protections of the First Amendment, requiring that all students' individual religious choices are respected without proselytizing. We have designed the attached agreement as a tool to help school personnel inform participants in school-sponsored programs of the importance of these protections for students in a public school and to secure their agreement to respect those protections.

¹ United States Supreme Court and lower federal court decisions which have upheld the concept of 'separation of church and state' in their interpretations of the Establishment Clause of the First Amendment include: • *Illinois ex rel. McCollum v. Board of Education*, 333 U.S. 203 (1948) (preventing religious instruction on school property during school day); *Engel v. Vitale*, 370 U.S. 421 (1962) (proscribing nonsectarian prayer at beginning of school day); • *Abington School District v. Schempp*, 374 U.S. 203 (1963) (enjoining Bible reading before class); • *Epperson v. Arkansas*, 393 U.S. 97 (1968) (invalidating statute prohibiting the teaching of evolution); • *Stone v. Graham*, 449 U.S. 39 (1980) (prohibiting posting copy of Ten Commandments on classroom wall); • *Wallace v. Jaffree*, 472 U.S. 38 (1985) (enjoining daily moment of silence for public school classrooms); • *Edwards v. Aguillard*, 482 U.S. 578 (1987) (invalidating requirement to teach creationism); *Lee v. Weisman*, 505 U.S. 577 (1992) (striking down prayer at public school graduations ceremonies); • *Santa Fe Independent School District v. Doe*, 530 U.S. 290 (2000) (striking down school policy allowing student-led prayer at start of school football games); • *Roberts v. Madigan*, 921 F.2d 1047 (10th Cir. 1990) (prohibiting religiously oriented books placed in classroom library and teacher silently reading Bible during classroom hours); • *Doe v. Duncanville Independent School District*, 986 F.2d 953 (5th Cir. 1993) (prohibiting basketball coach from sponsoring prayer at games and practices); • *Berger v. Rensselaer Central School Corporation*, 982 F.2d 1160 (7th Cir. 1993) (enjoining religious organizations distributing Bibles in classrooms).

² Pennsylvania Constitution, Article I, Section 3. ... no man can of right be compelled to attend, erect or support any place of worship or to maintain any ministry against his consent; no human authority can, in any case whatever, control or interfere with the rights of conscience, and no preference shall ever be given by law to any religious establishments or modes of worship.

Endorsing organizations: Pennsylvania Alliance for Democracy (PAD) • American Civil Liberties Union of Pennsylvania (ACLU of PA) • Pennsylvania State Education Association (PSEA) • Pennsylvania NOW (National Organization for Women) • Bradford County Alliance for Democracy • Americans United for Separation of Church and State • Interfaith Working Group • Northwest PA Chapter of Americans United for Separation of Church and State • Northwestern Chapter of ACLU of PA • Freedom to Learn Network

AGREEMENT OF COMPLIANCE
RESPECTING THE FIRST AMENDMENT RIGHTS OF PUBLIC SCHOOL STUDENTS

In order to ensure that the religious rights of all children in our public schools are protected as guaranteed by the First Amendment of the Constitution of the United States, I agree that in being a participant¹ in any school-sponsored program² in this school, whether paid or volunteer, I will not engage in or promote any religious activities,³ or promote or denigrate any religion⁴ or religion in general. I understand that the above footnoted terms are defined as follows for the purpose of this agreement.

¹ “Participant” means any person who acts as a speaker, presenter, or other performer, including both persons from outside the school and all school administrators, teachers, teachers’ aides, coaches and other school employees.

² “School-sponsored program” means any activity conducted on school property during regular school hours or any activity, whether or not it is held on school property, which is managed or supervised by school personnel in their role as employees of the school or by any person who has been approved by the school as a volunteer for school-run activities or programs. Examples of school-sponsored programs include but are not limited to school classes, tutoring, sports activities, assemblies, class trips, graduations, and baccalaureate programs. “School-sponsored programs” do not include meetings of students’ noncurricular clubs during noninstructional time.

³ “Engage in or promote any religious activities” means to give religious instruction; lead a religious ceremony or service; make personal religious witness; pray aloud or join in or lead a prayer; or read religious literature aloud or distribute religious literature, except as part of secular academic instruction; advertise religious events or programs even if such events are or will be held off school property; or otherwise encourage or solicit student religious activity.

⁴ “Religion” means (a) belief in and reverence for a supernatural power or powers regarded as creator and/or governor of the universe; (b) expression of such belief in conduct and ritual; or (c) a set of beliefs, values, and practices based on the teachings of a spiritual leader.

Signature: _____ / _____
Participant *Date*

Signature: _____ / _____
Superintendent or other School Administrator *Date*

_____ School District, _____
City/State