



California Three Rs Advisory Committee

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California Three Rs

Rights, Responsibility, and Respect

*A Project of the California County Superintendents Educational
Services Association and The First Amendment Center*

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Student Religious Expression in Pubic Schools Adapted from U.S. Department of Education Guidelines

"It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. This has been the unmistakable holding of the Court for almost 50 years."

Justice Abe Fortus, 1969

Though there have been countless Court rulings and forests sacrificed to provide written clarification of their meaning, confusion still runs deep among many educators in determining their appropriate role in monitoring and managing religious expression in public schools. In 2003, the U.S. Department of Education issued a summary of federal law and guidelines to assist school districts in making sense of the above quote by Abe Fortus. As part of NCLB, each year district officials sign off that they are following the guidelines. Though not exhaustive, these guidelines provide some clarity and are worth review and discussion at faculty and Parent Teacher Association meetings so that everyone becomes familiar with them.

Prayer During Non-Instructional Time

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. Among other things, students may read their Bibles or other scriptures, say grace before meals, and pray or study religious materials with fellow students during recess, the lunch hour, or other non-instructional time to the same extent that they may engage in nonreligious activities. While school authorities may impose rules of order and pedagogical restrictions on student activities, they may not discriminate against student prayer or religious speech in applying such rules and restrictions.

Organized Prayer Groups and Activities

Students may organize prayer groups, religious clubs, and "see you at the pole" gatherings before school to the same extent that students are permitted to organize other non-curricular student activities groups. Such groups must be given the same access to school facilities for assembling as is given to other non-curricular groups, without discrimination because of the religious content of their expression. School authorities possess substantial discretion concerning whether to permit the use of school media for student advertising or announcements regarding non-curricular 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 who meet to pray. School authorities may disclaim sponsorship of non-curricular groups and events, provided they administer such disclaimers in a manner that neither favors nor disfavors groups that meet to engage in prayer or religious speech.

Teachers, Administrators, and other School Employees

When acting in their official capacities as representatives of the state, teachers, school administrators, and other school employees are prohibited by the Establishment Clause from encouraging or discouraging prayer, and from actively participating in such activity with students. Teachers may, however, take part in religious activities where the overall context makes clear that they are not participating in their official capacities. Before school or during lunch, for example, teachers may meet with other teachers for prayer or Bible study to the same extent that they may engage in other conversation or nonreligious activities. Similarly, teachers may participate in their personal capacities in privately sponsored baccalaureate ceremonies.

Moments of Silence

If a school has a “minute of silence” or other quiet periods during the school day, students are free to pray silently, or not to pray, during these periods of time. Teachers and other school employees may neither encourage nor discourage students from praying during such time periods.

Accommodation of Prayer During Instructional Time

It has long been established that schools have the discretion to dismiss students to 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 significant burden on their religious exercise, where doing so would not impose material burdens on other students. For example, it would be lawful for schools to excuse Muslim students briefly from class to enable them to fulfill their religious obligations to pray during Ramadan.

Where school officials have a practice of excusing students from class on the basis of parents’ requests for accommodation of nonreligious needs, religiously motivated requests for excusal may not be accorded less favorable treatment. In addition, in some circumstances, based on federal or state constitutional law or pursuant to state statutes, schools may be required to make accommodations that relieve substantial burdens on students’ religious exercise. Schools officials are therefore encouraged to consult with their attorneys regarding such obligations.

Religious Expression and Prayer in Class Assignments

Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of their submissions. Such home and classroom work should be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school. 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 neither penalized nor rewarded on account of its religious content.

Student Assemblies and Extracurricular Events

Student speakers at student assemblies and extracurricular activities such as sporting events may not be selected on a basis that either favors or disfavors religious speech. Where student speakers are selected on the basis of genuinely neutral, evenhanded criteria and retain primary control over the content of their expression, that expression is not attributable to the school and therefore may not be restricted because of its religious (or anti-religious) content. By contrast, where school officials determine or substantially control the content of what is expressed, such speech is attributable to the school and may not include prayer or other specifically religious (or anti-religious) content. To avoid any mistaken perception that a school endorses student speech that is not in fact attributable to the school, school officials may make appropriate, neutral disclaimers to clarify that such speech (whether religious or nonreligious) is the speaker’s and not the school’s.

For further information and an expanded version of the U.S. Department of Education document, see **Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools**
http://www.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html?exp=0

Los Angeles County Office of Education
Division of Curriculum and Instructional Services
in collaboration with
The California Three Rs Project
UCLA International Institute: Middle East, Latin America,
Southeast Asia, Europe, and Africa Studies Centers, and
Los Angeles Center for International Studies
invites teachers, administrators, and curriculum specialists to

Teaching About World Religions in Public Schools: A Two-Day Symposium for Educators

February 27-28, 2007

8:30 a.m. – 3:30 p.m.

Los Angeles County Office of Education
12830 Clark Avenue, Room 606A
Downey, CA 90242

Some of the most challenging California History-Social Science Content Standards for educators and communities relate to the extensive coverage of world religions and the impact of religious ideas and practices on the story of human history. This two-day symposium will feature scholar sessions on the major world religions included in the standards and teacher discussions on how to address religious content in the classroom in a culturally sensitive and constitutionally permissible manner.

<p><i>Topics of study will include:</i></p> <ul style="list-style-type: none">• California Three Rs Overview of the importance of teaching students about religion without violating the Establishment Clause of the First Amendment that guarantees separation of church and state• Thematic approaches to the academic study of religions: scriptures, traditions and reforms, and cultural practices• Common roots but varying beliefs and practices: Hinduism and Buddhism; Judaism, Christianity, and Islam• Panel: Religious traditions in our communities today and their influence on schools	<p><i>Participants will receive:</i></p> <ul style="list-style-type: none">• Guidelines for the academic study of religion• Information and perspectives from university scholars• Packet of reviewed lesson plans• Strategies for dealing with sensitive topics from teacher leaders• Copy of <i>Finding Common Ground, A Guide to Religious Liberty in Public Schools</i> from the First Amendment Center• Continental breakfast and lunch each day• Free parking• Continuing education credit available at additional cost
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TEACHING ABOUT WORLD RELIGIONS IN PUBLIC SCHOOLS REGISTRATION FORM

Name: _____ Title: _____

School: _____ District: _____

Address: _____

Phone: _____ Fax: _____ Email: _____

REGISTRATION DEADLINE: Friday, February 9, 2007

Please submit registration with check or purchase order for \$250 payable to
Los Angeles County Office of Education, 9300 Imperial Highway, Div. CIS, ECC 236,
Downey, CA 90242, Attention: Karen Lefler

FAX: (562) 401-5405

Questions? Michelle Herczog, Consultant, History-Social Science,
Los Angeles County Office of Education, (562) 922-6908 or Herczog_Michelle@lacoed.edu

California Three Rs Project Resources:

Finding Common Ground: A Guide to Religious Liberty in Public Schools by Charles C. Haynes and Oliver Thomas. First Amendment Center, 2001.

This book has guidelines on how to handle a wide range of issues related to religious liberty and public schools.

First Amendment Center: Religious Liberty http://www.firstamendmentcenter.org/rel_liberty/index.aspx

This is an up-to-the-minute resource with current issues and court cases. A PDF version of *Finding Common Ground* is available here.

California Three Rs Project Website: http://score.rims.k12.ca.us/score_lessons/3rs/

For California Three Rs program information, contact...

Dr. Margaret Hill, California 3Rs Project Lead, %San Bernardino County Superintendent of Schools, 601 N. E St., San Bernardino, CA 92410, (909) 946-9035, peg_hill@sbcss.k12.ca.us

For First Amendment religious liberty information, contact...

Charles C. Haynes, First Amendment Center Senior Scholar, First Amendment Center/Arlington 1101 Wilson Blvd., Arlington, VA 22209 Tel: 703/528-0800 Fax: 703/284-3519 chaynes@freedomforum.org

For information on teaching about world religions, contact...

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