

KNOW YOUR RIGHTS

How can students personally express their faith on campus?

Students are allowed to talk about their faith, pass out religious literature, and even discuss their faith as part of a school assignment IF the student does not interfere with the operation of the school or infringe upon the rights of other students. The religious conversations must be during non-institutional times, voluntary, student-initiated, and not disruptive. Students are allowed to pray at school as long as it does not appear that the school endorsed it, the prayer occurs during non-instructional time, and the prayer is not disruptive. A school may not prohibit a student's faith expression or restrict the distribution of religious literature as long as these rules are followed. For example, students are allowed to pass out Christmas gift bags with Bible verses, hang posters advertising religious events, or invitations to religious events. An institution may not bar students from expressing their faith simply because they find it offensive or disagree with the student's views.

How can students corporately express their faith on campus?

Religious student-led clubs are protected by the First Amendment and the Equal Access Act passed by Congress in 1984. The EA Act gives faith-based student clubs the same rights and protections and access as other student clubs that meet on a public-school campus as long as they are student initiated, student led, and don't interfere with "the orderly conduct of educational activities within the school."¹ Once a school allows access to any student club, school officials cannot deny recognition or benefits to other clubs based on a student's desire to exercise their religious freedom.² The Act states that special interest clubs, such as religious clubs, poetry clubs, and Bible clubs, may meet on campus during non-instructional times. Attendance to these clubs cannot be mandatory and students in attendance must voluntarily choose to attend these clubs. If a school hosts non-instructional time during the day and

students can choose from a variety of activities (club participation, free time, or seeking assistance from a teacher) during a student activity period or lunch period, this is not considered instructional time, religious clubs are allowed to meet, and students may voluntarily attend.

Every club that meets the Act's requirements and is recognized as a student club is allowed the same access to the school's facilities as every other recognized club. This includes access to public address systems bulletin boards, the school newspaper, and any other avenue that schools allow students to use to advertise meetings and other events. ³ Schools cannot censure the speech of student groups simply because the speech is religious. Schools can only regulate speech that disrupts or prohibits a safe, non-disruptive educational environment. But prohibitions against certain words or prohibiting students wearing items of religious significance are viewpoint-based and considered discriminatory under the First Amendment.⁴ In summary, schools cannot prohibit religious clubs from using religious words or symbols on their advertisement and other documents distributed to students, unless the speech causes a disruption of normal school functions.

How can teachers and volunteers express their faith on campus?

Outside speakers and guests are permissible at religious club meetings and they may speak on any topic. Students inviting outside speakers must adhere to school policies related to recognized student clubs use of school facilities and guests/volunteers must adhere to visitation policies set in place by the school.

Generally, teachers are free to talk about religion in an objective manner. However, when they are acting in their capacity as a school employee, they must be more careful when engaging in a discussion of their own religious beliefs with students, whether or not that is part of a club meeting. Teachers must ensure that it does not appear that the school endorses the teacher's religious views and it must be ensured that a teacher's religious views do not impact or have a coercive effect on students'

performance, or evaluation. While school employees may serve as advisors to a religious club or gather with students outside of their school responsibilities to discuss their personal views, they must ensure that their support of a religious club does not give the appearance of favoritism towards participating students. School employees may not lead prayer at religious clubs while they are acting in their capacity as school employees, the teacher's role must be seen as "nonparticipatory" in the club in accordance with the Equal Access Act. 5 The teacher or school employee is only in attendance at a religious club to supervise. In summary, a teacher, coach, or school employee may be required to be in attendance at a religious club but they may not be a participant in the club. They are acting in their capacity as a school employee and are only there in a supervisory role and to act as a liaison between the club and the school in regards to official requests and to comply with the school's rules requiring teacher sponsorship of any student-led club.

- 1.) 20 U.S.C. § 4071(c)(4)' cf. *Tinker*, 393 U.S. at 509; *Mergens*, 496 U.S. at 241
- 2.) *Id.* at 1091; see also *Good News Club*, 533 U.S. at 112; *Widmar v. Vincent*, 454 U.S. 263, 269 (1981).
- 3.) *Mergens*, 496 U.S. at 247; *Prince*, 303 F.3d at 1086-87, 109
- 4.) *Chalifoux*, 976 F. Supp at 670. 66.
- 5.) 20 U.S.C. § 4071(c)(3).