

Texas School Prayer Primer

**Religious Freedom in Public Schools:
Statements of Faith, Statutes & Case Law**

Texas Law

Texas law specifically affirms the right of public school students to pray in public schools, as long as participation in that prayer is voluntary.

The Texas Education Code, § 25.901 reads:

“A public school student has an absolute right to individually, voluntarily, and silently pray or meditate in school in a manner that does not disrupt the instructional or other activities of the school. A person may not require, encourage, or coerce a student to engage in or refrain from such prayer or meditation during any school activity.”

The Texas Education Code (TEC) also establishes a school district’s ability to institute a “period of silence.”

TEC, §15.082 states:

“A school district may provide for a period of silence at the beginning of the first class of each school day during which a student may reflect or meditate.”

Federal Law and Regulations

The federal government has established parameters – through statute and administrative regulations – to guarantee students’ right to engage in religious expression in public schools and their right to be free from religious coercion.

1984: The Federal Equal Access Act was passed, requiring that voluntary, student-run religious clubs be granted the same access to public school facilities as other clubs during after-school hours. The Act applies to all public secondary schools that receive federal funds.

1995: The U.S. Department of Education issued federal guidelines stating:

- “Students can read religious books, say a prayer before meals and pray before tests, etc. to the same extent that they may engage in comparable secular non-disruptive activities.
- “In informal settings (cafeterias, hallways, etc.), students may pray and may discuss religious topics with other students, just as they may talk about other subjects.
- “Students can proselytize with other students, however they cannot engage in religiously motivated harassment.
- “No student can be coerced into participating in any religious activity.
- “Teachers and administrators cannot discourage or promote religious activity because of its religious content; this applies to anti-religious activity as well.
- “Schools can teach about religion and its role in society; they can teach about the Bible as literature. But they cannot provide religious instruction.
- “Students can distribute religious literature in the same way that they are permitted to distribute non-religious literature.
- “Students may be released to attend religious classes at other locations; teachers and administrators cannot encourage or discourage students from taking advantage of such classes.
- “Schools can teach about common civic values, but they must be neutral with respect to religion.”¹

1998: The U.S. Department of Education slightly revised and re-issued its 1995 guidelines to reflect recent U.S. Supreme Court rulings.^{2,3} Then-Secretary Richard Riley made the following three additional recommendations to local school boards and teachers:

- School districts should use the Department of Education guidelines to revise or develop their own district-wide policy regarding religious expression.
- School districts should ensure that teachers are informed about the guidelines for religious expression in public schools.
- Schools should actively take steps to inform parents and students about the guidelines for religious expression in public schools.⁴

Court Case Law

As interpreted by the U.S. Supreme Court, the Constitution's First Amendment requires that public school teachers, principals, and school boards be religiously neutral. Generally, public schools *may not*:

- Promote a particular religion as being superior to any other.
- Promote religion in general as superior to a secular approach to life.
- Promote secularism in general as superior to a religious approach to life.
- Be antagonistic to a particular religious belief or to religion in general.
- Be antagonistic to secularism.
- Advance - or inhibit - religion.⁵

Decades of rulings by the U.S. Supreme Court have clarified students' rights regarding religious freedom in public schools.^{6,7,8}

Students' Rights

- Students have a right to free expression inside public schools – as long as it does not interfere with school activities, thus allowing students to pass out fliers about religious events, wear religious symbols and pray in groups outside of class. (*Tinker v. Des Moines Independent School District*, 1969)

Moment of Silence

- Public schools cannot offer a moment of silence for the purpose of prayer. This ruling found that an Alabama law requiring each school day to begin with a one-minute period of “silent meditation or voluntary prayer” was unconstitutional. However, the ruling does not bar schools from suggesting a moment of silence, as long as it is held at a neutral time that allows students to decide how to use it. (*Wallace v. Jaffree*, 1985)

Limitations for school officials

- Public school officials cannot require students to recite a state-composed prayer at the beginning of each school day. (*Engel v. Vitale*, 1962)
- Public school officials cannot lead students in reciting Bible verses or the Lord's Prayer. (*Abington Township School District v. Schempp*, 1963)
- Public school officials cannot inquire whether any student wished to offer a prayer at the beginning of each school day or, if no student volunteered, lead a prayer themselves. (*Karen B. v. Treen*, 1982)
- Public schools cannot allow clergy-led prayers at graduation ceremonies. (*Lee v. Weisman*, 1992)

Guidelines for student-initiated prayer

- Student-led prayers cannot be led over the public address system at football games and assemblies sanctioned by a public school. (*Santa Fe Independent School District v. Doe*, 2000)

Public schools may prohibit overtly sectarian or proselytizing student speeches at graduation ceremonies because of the reasonable impression that the religious message was supported by the school. The U.S. Supreme Court let stand this lower court ruling. (*Cole v. Oroville Union High School* (1999))

Preferential treatment for religious affiliation:

- Public schools cannot let students out of classes or adjust class schedules for *on-campus* religious instruction during the school day while holding non-participants in class or study hall. Thus, religious education may not take place in public school classrooms during the school day. (McCollum v. Board of Education, 1948)

On School Grounds

- Public schools cannot post the Ten Commandments in classrooms. (Stone v. Graham, 1980)
- Public schools can adjust class schedules to release students for *off-site* religious instruction. (Zorach v. Clauson, 1952)
- Public schools generally must allow student prayer groups to meet and worship on campus if other student clubs are permitted. (Westside Board of Education v. Mergens, 1990)
- Local religious groups must be allowed the same access to public school buildings after school hours as the school grants to other community groups. (Lamb's Chapel v. Center Moriches Union Free School District, 1993)
- After-school religious clubs can offer Bible instruction to elementary school children in public school buildings on the same terms as other after-school clubs. Thus, religious clubs must be granted the same access to public school grounds as other school-affiliated clubs. (Good News Club v. Milford Central School, 2001)

Statements of Faith

Committed to guaranteeing students' rights both to freely practice their faith in public schools and to be free from religious coercion, diverse religious groups and denominations have weighed in on the important issue of prayer in public schools.

American Baptist Churches in the U.S.A.

"[American Baptist Churches in the U.S.A.] Reaffirms our historic Baptist belief that religion should not be mandated and that prayers and religious practices should not be established or prescribed by law or by public policy or officials;

"...We declare our explicit opposition to any attempt through legislation or other means to require or permit mandated prayers or mandated participation in religious practices in public institutions..."⁹

American Jewish Congress

"Since the point is so often obscured, it bears at present - right now - students are free to pray by themselves, to say grace before or after meals, and to read the Bible or say the Rosary, so long as they do not disrupt the school. School officials are forbidden to interfere with those voluntary religious acts."¹⁰

Anti-Defamation League

"Under current law, schoolchildren already have the right to engage in voluntary, individual prayer, and many do. Children can seek inspiration or divine guidance in school as long as they do so in a way that is not coercive to others, and does not convey any message of endorsement by school officials or faculty."¹¹

Baptist Joint Committee on Public Affairs[♦]

"Whereas, the proper place of religion in public schools continues to be the subject of confusion among the U.S. citizens, including our own Baptist people; and

"Whereas Congress continues to be pressured to act favorably on a proposed constitutional amendment calling for prayer in public schools; and

"Whereas Congress is likewise under severe pressure to pass bills seeking to remove challenges to state laws or local regulations returning prayer to public schools from the jurisdiction of federal courts; and

"Whereas, the Baptist Joint Committee on Public Affairs has consistently supported the U.S. Supreme Court's historic 1962 and 1963 decisions striking down state-mandated prayer and Bible reading in public schools;

[♦] The Baptist Joint Committee represents the Alliance of Baptists, the American Baptist Churches in the U.S.A., the Baptist General Conference, the Cooperative Baptist Fellowship, the National Baptist Convention of America, the National Baptist Convention U.S.A. Inc., the National Missionary Baptist Convention, the North American Baptist Conference, the Progressive National Baptist Convention, Inc., the Religious Liberty Council, the Seventh Day Baptist General Conference, and hundreds of Southern Baptist state conventions and churches.

“Therefore be it resolved, that the Baptist Joint Committee reaffirm its support of the Supreme Court’s decisions;

“Be it further resolved, that the Baptist Joint Committee reassert its opposition to any and all proposed constitutional amendments which, under the guise of fostering ‘voluntary’ prayer in public schools, would in fact undermine those decisions.”¹²

B’nai B’rith

“[B’nai B’rith] condemn[s] the suggestion... that organized prayer be permitted in public schools in the absence of ‘coercion.’ Both the Free Exercise and the Establishment Clauses are essential to religious freedom. A strong wall of separation between church and state enhances that free exercise. We reject efforts to reinject prayers into United States public schools and will remain alert to reject new efforts in that direction.”¹³

Christian Church (Disciples of Christ)

“Whereas the Supreme Court of the United States ruled in its June 25, 1962 decision on *Engel vs. Vitale* that ‘in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by the government’ and ‘It is neither sacrilegious nor anti-religious to say that each separate government in this country should stay out of the business of writing or sanctioning official prayers and leave that purely religious function to the people themselves and to those the people choose to look to for religious guidance,’ and;

“Whereas the ruling is criticized by people who misunderstood it as an attack on religion, or by others who are not committed to the principle of separation of church and state, or who wish to discredit the court because of its stand on other issues, therefore be it;

“Resolved, that this Convention approve the action of the Supreme Court on *Engel vs. Vitale*, that we commend the court’s defense of the rightful role of the church from encroachment by the state and call upon our people to study this decision prayerfully and to defend the specific ruling vigorously.”¹⁴

Church of the Brethren

“...[W]e do not want to find ourselves today using the coercive power of the state and the public schools to pressure anyone into participating in any religious activity. Although we may now regard ourselves as part of the American majority, we must remain zealous in protecting the rights of all minorities.

“Prayers or Bible reading, when prescribed by school authorities, are also government-supervised expressions of religion, mild though they may be. Because what is prescribed in these cases may happen to please us, we should not ignore the possibility that it may displease those of other faiths or none.... The Supreme Court has not ruled religion out of our schools. Faith is more likely to be transmitted from a dedicated teacher to his students by contagion and example than by formal exercises. Further, completely voluntary religious expressions when not offensive to anyone’s conscience, are permissible.”¹⁵

The Episcopal Church

“...Whereas, we believe that worship and religious education are the responsibility of Church and home, and not of the public schools or governmental institutions..., therefore be it

“Resolved, that the National Council of the Protestant Episcopal Church record its considered opinion that amendments to the Constitution of the United States of America which seek to permit devotional exercises in our public schools should be opposed.”¹⁶

Evangelical Lutheran Church in America

“We...recognize that in the end religion suffers and religious liberty in its fullness is threatened when government uses the power of its laws and the public school program to prescribe an official faith...

“Parents, churches and school authorities would be better advised to direct their efforts to programs of... religion and the Bible in the public schools...rather than to seek constitutional sanctions for devotional exercises in public school that have at most a minimal religious value, which invite the intrusion of sectarian influences into the public school system, risk the violation of the rights of religious freedom and are a potential source of conflict in the community.”¹⁷

The First Church of Christ, Scientist

“...For truly voluntary prayer, no law needs to be passed to call for volunteers. Such prayer is between the individual and God; this is the fundamental religious relationship which must be kept free at every stage where the separation of church and state is threatened.”¹⁸

Friends Committee on National Legislation (Quakers)

“We support the vigorous and diligent protection of all the rights and freedoms guaranteed by the U.S. Constitution, including those of...religion...

“We further recommend maintaining the constitutional separation of church and state to ensure...that the restrictions continue against government-imposed prayers and religious exercises in the public schools. These restrictions do not prohibit truly voluntary prayers in the schools or teaching about the religious aspects of our pluralistic cultural heritage or discussion of ethical principles.”¹⁹

General Conference of Seventh-day Adventists

“Deeply committed to the defense of religious liberty, the Seventh-day Adventist church [supports] the U.S. Supreme Court’s finding that ‘mandatory’ and ‘voluntary’ prayers in public school...violate the no-establishment clause of the First Amendment. To erode this important clause would be to endanger the religious liberty that it fosters.

“However, we do not plea for a secular school system, much less a secular America. Opponents of a school prayer amendment are not antireligious. Indeed, our concern is precisely that already existing open doors for religion in public schools be noticed and utilized-for example, the right of individuals to pray privately at any time, or the right of student groups to engage in prayer under certain circumstances; or the right of anyone to receive non-devotional instruction about religion and its indispensable role in American life.”²⁰

Mennonite Central Committee, U.S.A.

“The government, whether at the federal level or through the state houses or state boards of education, would need to author or at least approve the ‘nondenominational’ prayers to be said in the classroom. With this realization, the extent of government intrusion in matters of theology and religious faith becomes readily apparent. We have never believed that government was competent to pass judgment in matters of religious faith, a function that properly belongs to the church and the home.”²¹

National Council of the Churches of Christ in the USA

“The Governing Board of the National Council of the Churches of Christ in the U.S.A.:

“Reaffirms its belief, as set forth in this policy that ‘Christian nurture and the development and practice of Christian worship are unescapable obligations of the family; and

“Reaffirms its support of the Supreme Court language describing the First Amendment as providing no role for government in prescribing or providing for prayer in public schools.”²²

North American Council for Muslim Women

“The North American Council for Muslim Women, while supporting in general the right of every person to freedom of religion and freedom to pray, does not feel that it is necessary to create a separate Amendment to the Constitution of the United States in order to institute the practice of school prayer...[O]rganized prayer in public schools may tend to exclude certain groups from being included in what is acceptable since readings may include selections from certain holy books on a regular basis. The right to pray in public schools already exists in our country as well as the right to meet in religious clubs under the Equal Access Act. We feel that since these rights currently exist, there is no need to establish them.”²³

Presbyterian Church (U.S.A.)

“Government must be neutral in matters of religion. It may not show preference of one religion over others, for religion in general, or for religion over nonreligion. While contact and conversation between public officials and religious leaders on public issues are certainly appropriate, official institutional ties between government and religion are not...

“Government may not engage in, sponsor or lend its authority to religious expression or religious observance. We continue to oppose any constitutional amendment to permit public schools to sponsor prayer...

“Presbyterians should be particularly vigilant to protect the right to public religious expression for new and unpopular minority faiths, and be sensitive to the faith and feelings of others in their own public expressions of faith.”²⁴

Reconstructionist Rabbinical Association

“The Reconstructionist Rabbinical Association holds that the preservation of religious pluralism and freedom in America is best protected by an absolute separation of church and state in our public schools.

“We believe that the role of religious belief and its expression through prayer should be shaped in the homes and in the religious institutions of our country.”²⁵

Soka Gakkai International-USA (Buddhist)

“The Soka Gakkai International-USA, while obviously in favor of freedom of prayer and religious expression, is opposed to any form of organized prayer in public schools and to constitutional amendments that would weaken the separation of church and state. Prayer should be left to religious organizations, to families and to the students themselves.

“SGI-USA is well aware of and concerned about the importance of spirituality to the well-being of our country. At the same time, we are dedicated to the idea that all people should be free to pray when, where and in whatever form they choose, so long as it does not impose upon the rights and freedoms of others.”²⁶

Union of American Hebrew Congregations

“The Board of Trustees of the Union of American Hebrew Congregations:... Rejects any proposed school prayer legislation, including moment of silence legislation, or amendment to the Constitution as unnecessary, unjustified, and unwise, as the First Amendment already protects our children’s rights to pray in school. Truly voluntary student prayer in school is already permitted and additional legislation on the subject will likely increase uncertainty in schools and abuses of the rights of our school children-particularly those of minority religions.”²⁷

Union of Orthodox Jewish Congregations of America

“We do not believe that the Government should intervene in decisions relating to the time, place, and nature of prayer in our schools. We believe that these decisions will inevitably lead to the imposition of one religion over another in the American public schools. Americans are a religious people by personal choice not by government fiat.”²⁸

Unitarian Universalist Association of Congregations in North America

“...The 1985 General Assembly of the Unitarian Universalist Association reaffirms its commitment to religious liberty and religious pluralism; and

“...Oppose(s) all deviations from religious neutrality in public schools such as government mandated or regimented devotions;...proselytizing in public schools by either school personnel or outside adults.”²⁹

United Church of Christ

“The Executive Council of the United Church of Christ supports the Supreme Court decisions banning prescribed prayers and prescribed Bible reading in the public schools...

“Strongly supports efforts of schools to increase and improve the teaching of moral values and the appreciation of the role of religion in the development of our heritage.

“Urge the instrumentalities, conferences, and churches of the United Church of Christ to work to help the public understand both the scope and limitations of the Supreme Court decisions concerning prescribed prayers and prescribed Bible reading in the public schools.”³⁰

United Methodist Church

“Whereas, The United Methodist Church has historically supported the separation of church and state, including the free exercise of religion; and

“Whereas, The United Methodist Church has understood this to mean that government must be neutral in matters of religion and may not show preference of one religion over others, for religion in general or for religion over non-religion; and

“Whereas, The United Methodist Church has continued to affirm the position that government may not engage in, sponsor, supervise, aid or lend its authority to religious expression or religious observance;

“Therefore, be it resolved, that the 1996 General Conference, meeting in Denver, Colorado, reaffirm its historic position and oppose any government legislation or Constitutional amendment that would change our existing First Amendment rights...with regard to religious observances in public schools.”³¹

The United Synagogue of Conservative Judaism

“While we strongly support and encourage the teaching of religious values, we believe that the proper place to do this are the home, the synagogue or church, and the religious school. It is not the function of our public schools to facilitate religious exercises.

“...[U]ltimately, any effort - implicit or explicit - to encourage or recommend prayer in the public school may become a coercive activity. Children should not be placed in a position where they are forced to choose between fitting in with their peers and following their own religious conscience.”³²

TFNEF Mission

The Texas Freedom Network Education Fund (TFNEF) has compiled these laws, court cases and statements of faith in an effort to clarify existing policy on the important issue of religious freedom in our public schools.

The Texas Freedom Network supports current Texas law which guarantees students' right to engage in religious expression in public schools and their right to be free from religious coercion.

The Texas Freedom Network works to advance a mainstream agenda of religious freedom and individual liberties to counter the radical Religious Right.

References:

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- ⁹ Excerpted from position statement of the General Board of the American Baptist Churches in the USA. Adopted June 1980, modified 1992.
- ¹⁰ Excerpted from American Jewish Congress press release, Nov. 21, 1994.
- ¹¹ Excerpted from Anti-Defamation League press release, Nov. 22, 1994.
- ¹² Excerpted from position statement passed by the Baptist Joint Committee, Mar. 2, 1982.
- ¹³ Excerpted from B'Nai B'rith press release, Dec. 10, 1991.
- ¹⁴ Resolution No. 64, Approved by International Convention of Christian Churches (Disciples of Christ) in Los Angeles, CA. Sep. 30-Oct. 4, 1962.
- ¹⁵ Church of the Brethren Annual Conference Statement, 1977.
- ¹⁶ The Executive Council of the Episcopal Church, May 1964.
- ¹⁷ From Evangelical Lutheran Church in America predecessor church bodies, 1964.
- ¹⁸ *Christian Science Monitor* editorial, Mar. 1980.
- ¹⁹ Friends Committee on National Legislation statement of Legislative Policy, Nov. 14, 1987.
- ²⁰ Excerpted from General Conference of Seventh-day Adventist press release, Nov. 22, 1994.
- ²¹ Excerpted from "A Statement on Prayer in Public Schools," Mennonite Central Committee, U.S.A. Nov. 1971.
- ²² Adopted by the National Council of the Churches of Christ in the USA Governing Board, May 13, 1982.
- ²³ Excerpted from North American Council for Muslim Women statement, Nov. 22, 1994.
- ²⁴ Adopted by the 200th General Assembly of the Presbyterian Church (U.S.A.), 1998.
- ²⁵ Excerpted from Reconstructionist Rabbinical Association press release, Nov. 22, 1994.
- ²⁶ Statement of the Soka Gakkai International-USA, Jan. 2, 1995.
- ²⁷ Adopted by the UAHC Board of Trustees, Dec. 1994.
- ²⁸ Excerpted from a UOJC press release, Nov. 21, 1994.
- ²⁹ Excerpted from position statement of Unitarian Universalist Association of Congregations in North America, adopted 1985.
- ³⁰ United Church of Christ resolution on Religion in the Public Schools, Oct. 1971.
- ³¹ United Methodist General Conference resolution, adopted Apr. 1996.
- ³² Excerpted from United Synagogue of Conservative Judaism press release, Nov. 21, 1994.