

## **Certification for the 2019-20 School Year Constitutionally Protected Prayer in Public Schools**

Pursuant to 20 U.S.C. 7904, this is to certify in writing that the local educational agency (LEA) does not have any policy that “prevents, or otherwise denies participation in, constitutionally protected prayer” in public schools.

The United States Supreme Court (USSC) has said that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”<sup>1</sup> Guidance from the United States Department of Education (USED) clarifies, “The First Amendment forbids religious activity that is sponsored by the government but protects religious activity that is initiated by private individuals,” which includes students.<sup>2</sup> Further, according to the guidance, “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.”<sup>3</sup>

However, the USSC has said, “There is a crucial difference between government speech endorsing religion, which the Establishment Clause forbids, and private speech endorsing religion.”<sup>4</sup> Accordingly, school officials may not “lead their classes in prayer, devotional readings from the Bible, or other religious activities.”<sup>5</sup> “Nor may school officials attempt to persuade or compel students to participate in prayer or other religious activities.”<sup>6</sup>

**Boone**

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**School District**

*Randy Poe*

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**Electronic Signature or Signed Signature of Superintendent**

**8/15/19**

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**Date Signed\***

\*This certification must be received by the KDE on or before **October 1, 2019**. By **November 1, 2019**, the KDE is required to report to the USED a list of those LEAs that have not filed the certification. The KDE must also report LEAs for which complaints have been filed with the KDE for non-compliance.

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<sup>1</sup> *Tinker v. Des Moines Indep. Community Sch. Dist.*, 393 U.S. 503, 506 (1969).

<sup>2</sup> “Guidance on Constitutionally Protected Prayer in Elementary and Secondary Schools,” U.S. Department of Education, 15 Sept. 2003, [https://www2.ed.gov/policy/gen/guid/religionandschools/prayer\\_guidance.html](https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html).

<sup>3</sup> *Id.*

<sup>4</sup> *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 302 (2000) (quoting *Board of Educ. v. Mergens*, 496 U.S. 226, 250 (1990) (plurality opinion)).

<sup>5</sup> *Engel v. Vitale*, 370 U.S. 421 (1962) (invalidating state laws directing the use of prayer in public schools); *School Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963) (invalidating state laws and policies requiring public schools to begin the school day with Bible readings and prayer); *Board of Educ. v. Mergens*, 496 U.S. 226, 252 (1990) (plurality opinion) (explaining that “a school may not itself lead or direct a religious club”). The Supreme Court has also held, however, that the study of the Bible or of religion, when presented objectively as part of a secular program of education (e.g., in history or literature classes), is consistent with the First Amendment. See *Schempp*, 374 U.S. at 225.

<sup>6</sup> *Lee v. Weisman*, 505 U.S. 577, 599 (1992); see also *Wallace v. Jaffree*, 472 U.S. 38 (1985).