



Student-Led Religious Clubs at Public Schools

General Principles

The Equal Access Act¹ provides federal protections for student-led religious clubs in secondary schools. If a public secondary school² receives federal funds and allows non-curricular clubs to meet on campus before or after classroom instruction,³ then federal law prohibits the school from discriminating against religious clubs.⁴

Non-curricular clubs are student organizations that “do[] *not* directly relate to the body of courses offered by the school.”⁵ For example, clubs like the chess club, a stamp collecting club, or a community service club are non-curricular clubs because they do not “directly relate” to the school’s curriculum.⁶ On the other hand, if the school offers a Spanish class, then the Spanish Club is a curricular club. Other examples of curricular clubs may include student government⁷ and school band.⁸

A school can legally limit its student clubs to curricular clubs (e.g. Spanish club, student government, school band). If the school allows at least one non-curricular club (e.g. stamp collecting club, chess club, community service club), however, then the school must allow religious clubs to meet.⁹

The religious club must be voluntary and student initiated,¹⁰ and the school and its employees may not sponsor the religious student club.¹¹

¹ 20 U.S.C. §§ 4071-4074.

² “The term ‘secondary school’ means a public school which provides secondary education as determined by State law.” 42 U.S.C. § 4072(1).

³ 20 U.S.C. §§ 4072(4).

⁴ *Id.* § 4071(a); *Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990); *Garnett v. Renton Sch. Dist. No. 403*, 987 F.2d 641 (9th Cir. 1993).

⁵ *Mergens*, 496 U.S. at 239-40 (emphasis added) (A “‘noncurriculum related student group’ is . . . any student group that does not directly relate to the body of courses offered by the school. . . . [A] student group directly relates to a school’s curriculum if the subject matter of the group is actually taught, or will soon be taught, in a regularly offered course; if the subject matter of the group concerns the body of courses as a whole; if participation in the group is required for a particular course; or if participation in the group results in academic credit.”).

⁶ *Mergens*, 496 U.S. at 240.

⁷ “A school’s student government would generally relate directly to the curriculum to the extent that it addresses concerns, solicits opinions, and formulates proposals pertaining to the body of courses offered by the school.” *Mergens*, 496 U.S. at 240.

⁸ “If participation in a school’s band or orchestra were required for the band or orchestra classes, or resulted in academic credit, then those groups would also directly relate to the curriculum.” *Mergens*, 496 U.S. at 240.

⁹ 20 U.S.C. § 4071.

¹⁰ *Id.* § 4071(c)(1).

¹¹ *See id.* § 4071(c)(2).

Individuals outside of the school may not “direct, conduct, control, or regularly attend activities of [religious] student groups.”¹²

Frequently Asked Questions

When may religious student groups meet on campus?

Public secondary schools that receive federal funds must allow religious student groups to meet during non-instructional times if the school allows other non-curriculum student groups to meet.¹³

For example, a religious club may meet in a classroom during lunch if the school allows non-curriculum student groups, such as the scuba diving club, to meet in classrooms during that time.¹⁴

May religious clubs use school resources (e.g. school facilities, bulletin boards, public address system) to promote or facilitate club events?

Yes, religious clubs may use school resources that are available to non-curriculum clubs.¹⁵

For example, if a school makes available resources such as classrooms, bulletin boards, the public address system, or school vehicles to non-curricular clubs, then the school cannot deny those resources to religious groups.¹⁶ Public schools must treat religious and secular non-curricular clubs the same.

May teachers or other school employees attend a religious student group’s meetings?

Yes, teachers or other school employees may attend a student-led religious meeting in a non-participatory role (i.e., supervisory role).¹⁷ For example, teachers may attend a student-led Bible Club meeting to supervise, although they may not participate in the Bible study.

May members of religious student clubs distribute flyers about meetings and events during school hours?

Yes, students may distribute religious material if the school allows students to distribute other materials. Public schools cannot prevent a student group from distributing material only because the material contains religious messages.¹⁸ The school may restrict the distribution if it will reasonably cause a substantial disruption of or material interference with school activities.¹⁹

¹² See *id.* § 4071(c)(5).

¹³ 20 U.S.C. § 4071; see also *Ceniceros v. Bd. of Tr. of the San Diego Unified Sch. Dist.*, 106 F.3d 878 (9th Cir. 1997);

¹⁴ See *Ceniceros*, 106 F.3d at 880, 882.

¹⁵ *Mergens*, 496 U.S. 226, 247 (1990); *Prince v. Jacoby*, 303 F.3d 1074, 1094 (9th Cir. 2002); see *Pope v. East Brunswick Bd. of Educ.*, 12 F.3d 1244, 1246, 1256 (3d Cir. 1993).

¹⁶ See *Prince*, 303 F.3d at 1094.

¹⁷ 20 U.S.C. § 4071(c)(3).

¹⁸ *Rivera v. East Otero Sch. Dist. R-1*, 721 F.Supp. 1189 (D. Colo. 1989).

¹⁹ *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 511 (1969).

Public schools may enact reasonable time, place, and manner restrictions as long as they treat religious flyers the same way they treat non-religious flyers.

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