

CONSTITUTIONALLY PROTECTED PRAYER IN SCHOOLS

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**1150.00: Introduction & Statement of Policy**

**.1 History:** Consistent with the commitment of the Board of Education to values of Personal Freedom and Privacy, Respect for Others, and Diversity, it has long been the goal and objective of the Board of Education to foster knowledge of and respect for the great religious traditions of world civilization; and to maintain that delicate balance under which the District, as a governmental unit neither promotes nor denigrates the practice or the denial of religious beliefs of any student or other constituent of our educational community.

It has long been the policy of the Board of Education, consistent with First Amendment jurisprudence, that school officials would be neutral in their treatment of religion, showing neither hostility nor favoritism toward religious expression, including prayer; and would not sponsor religious activity. Thus, for example, Board Policy 1500 “Public Use of School Facilities” adopted in 1998 authorizes those uses of school buildings and grounds consistent with Education Law §414, providing, however that no such use would be deemed an endorsement of the activity or purpose. In 2001, the related Community Use Regulations [specifically Regulation 1500-R, §II (B)] were amended to reflect guidance of the US Supreme Court in the Good News case. Our regulations provide that where District facilities are available to youth organizations for meeting purposes, permits may be granted to youth groups with a religious viewpoint or emphasis on the same factors and priorities applied to other groups, and will not be denied based on the religious viewpoint or activities purely incidental to the youth program. The Board of Education has also reserved its discretion, in the exercise of civic responsibility, to allow temporary use of facilities, compatible with our educational mission and State law, in order to respond to natural disaster, fire or other similar emergency pending the ability of a religious organization to repair or relocate its facilities.

**.2 Congressional Intent:** Congress, in adopting Section 9524 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 has required every school district to annually certify to the United States Department of Education, as a condition of receiving federal

funds under ESEA, that it has no policy that prevents, or otherwise denies participation in constitutionally protected prayer in public schools, as defined by federal agency guidance.

On February 7, 2003, the first such federal guidance was approved jointly by the Office of General Counsel of the US Department of Education and the Office of Legal Counsel of the US Department of Justice, and published by the US Department of Education. The guidance is now published in the Federal Register.

**.3 Board Policy:** It is the policy of the Board of Education to be and to remain in full compliance with applicable federal and State law governing participation in constitutionally protected prayer in elementary and secondary schools. It is the intention of the Board of Education to comply with the federal guidance, as it may be revised from time to time; to direct the Superintendent of Schools to promulgate and to periodically revise administrative regulations to assure compliance in all District schools with the federal guidance; and to direct the Superintendent, or an appropriate designee, to annually certify compliance to the US Department of Education and/or the New York State Department of Education.

### **1150.10: Promulgation of Administrative Regulations**

**.11 Authorization:** Consistent with the intent set forth above, the Superintendent of Schools is authorized and directed to promulgate maintain and enforce throughout the District administrative regulations which will meet the guidelines set forth in guidelines issued by the United States Department of Education and/or the New York State Department of Education governing participation in constitutionally protected prayer in the elementary and secondary schools of this District.

**.12 Amendments & Revisions:** If at any time the United States Department of Education and/or the New York State Department of Education revises or amends its guidelines; or if those guidelines are voided, suspended or modified by decision of a court of competent jurisdiction which decision is binding upon school districts in New York State, the Superintendent shall, at the earliest feasible time, review such amendments or decisions, and make such revisions to the administrative regulations as the Superintendent deems warranted to continue compliance with enforceable guidelines.

### **1150.20: Scope of Administrative Regulations**

**.21 Topics of Federal Guidelines:** Based upon the February 7, 2003 Guidance of the U.S. Department of Education, it is the expectation of the Board of Education that the administrative regulations authorized under this policy shall include the following topics: prayer during noninstructional time; accommodation of prayer during instructional time; organized prayer groups and activities; conduct of teachers, administrators and other school employees, acting in official capacities relative to the encouragement, discouragement or participation in prayer or religious activities; moments of silence; religious expression and prayer in class assignments; student assemblies and extracurricular events; prayer at graduation; and baccalaureate ceremonies. It is the intention of the Board that in the event that federal or State guidance is amended to embrace additional topics, that such additional topics will be included in amendments to the Administrative Regulations.

**.22 Resolving Incompatibility with Other Policies or Regulations:** It is the policy and intent of the Board of Education that if any Policy or administrative regulation of this District, at any time, is in whole or in part inconsistent or incompatible with this policy or with the administrative regulations authorized herein, that such inconsistent or incompatible portion or such policy or regulation shall be deemed to be suspended pending review by the Board of Education; provided, however, that to the extent that the provisions or purposes of such policy or regulation are not incompatible, or can be enforced without reference to the incompatible portion, then such provisions and purposes shall be deemed to continue in full force and effect.

**1150.30: Community Use & Disclaimer of Endorsement**

**.31 Community Use:** Nothing in this Policy shall be deemed as a limitation upon the operation of Policy 1500, “Public Use of School Facilities” or upon the administrative regulations governing permits for community use of school facilities.

**.32 Neutrality & Use of Disclaimers:** In any circumstance in which a member or member of the District’s constituencies is exercising a constitutionally protected right to pray, it is the policy of this Board that the District is and shall remain neutral—neither hostile nor endorsing — such activity. School officials are hereby authorized and directed to make appropriate neutral disclaimers to the effect that such speech is a protected right of the individual and not attributable to the District or its schools.

**1150.40: Annual Certification of Compliance**

**.41 Authorization:** The Superintendent of Schools, or an appropriate designee, is hereby authorized and directed to (a) make certifications of compliance with federal or State policy in such time and manner as required by Federal or by State law; and (b) to respond as appropriate to any inquiries or enforcement efforts commenced by federal or state officials relating to the certification or guidance referenced herein.

Cross-ref: Public Use of School Facilities (1500)  
Public Use of School Facilities Regulation (1500-R)

Ref: Education Law §414  
*No Child Left Behind Act of 2001*, §9524; 20 USC § 7904  
U.S. Department of Education, “Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools,” 85 FR 3257 (January 21, 2020).

Notes: Adopted June 12, 2003 pursuant to Resolution No. 2002-03: 857; Amended July 29, 2013 pursuant to Resolution No. 2013-14: 74; Amended September 22, 2022 pursuant to Resolution No. 2022-23: 143

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