

## ABOUT THE MODEL POLICY

In 2003, the U.S. Department of Education issued “Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools” (“Prayer Guidance”). As a condition to obtaining federal funds, each school district in America must annually certify that it “has no policy [that] prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary and secondary schools *as set forth in this guidance.*”

The Prayer Guidance makes it clear that voluntary prayer and other faith-based expression publicly stated by students over school microphones is allowable at student assemblies, extracurricular events and graduations if an appropriate student speaker policy has been enacted by the school district.

So why haven’t school districts rushed to adopt an appropriate policy? Primarily because most school’s lawyers are not constitutional specialists and do not have a clue as to how to draft such a policy.

Recognizing this vacuum, some of the constitutional attorneys who helped the U.S. Department of Education formulate the Prayer Guidance drafted a model policy (“model policy”) that translates the Prayer Guidance into a workable local policy for school districts to adopt. A number of school districts, from Texas to Illinois, have now had a 3-4 year history under the model policy. This is what is being said:

*“Our District adopted the model student speaker policy and has had it in place for over 4 years. The policy allows our District to be neutral in matters of religion by neither promoting nor prohibiting the voluntary expression of students’ faith-based and prayerful viewpoints. Although many students have elected to publicly pray and express their faith at graduations and other events, we have had no problems, abuses, or complaints regarding the policy.”* Curt Parsons, Superintendent, Hamlin Independent School District, Hamlin, Texas.

*“Our School District adopted the model student speaker policy over three years ago. Although the ACLU is very active in our community and once successfully sued our district, the ACLU has expressed no objection to the model policy or to the students’ voluntary expressions of faith under the policy. After more than three years of experience, we have had no problems*

*concerning the policy. The model policy translates the U.S. Department of Education's 'Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools' into practical terms that can be adopted as a local policy for school districts. With no prompting from the school, our experience has been that once students knew that they would not be punished for expressing a faith-based viewpoint, many students elected to voluntarily pray, read a religious quote, and express faith at graduations, opening of morning announcements, and other school events. Illinois isn't exactly the Bible Belt, so this was somewhat surprising. We have never had a student abuse the privilege or embarrass the school district. We believe that allowing students to publicly speak is an educational growth experience for them."* Lee Edwards, Superintendent, Washington Community High School District, Washington, Illinois.

*"The policy Coghlan suggests appears to be constitutional on its face."* Schwartz & Eichelbaum, P.C., law firm.

*"I see nothing [in the model student speaker policy] that bothers me in any constitutionally-interested sense."* Mark Weldon Whitten, President of the Greater Houston Area Chapter of Americans United for Separation of Church and State.

*"I've been the attorney for many of the major school districts in Texas (including Houston I.S.D., Spring Branch, Austin, Aldine, Alvin, A&M Consolidated, Cleveland, Conroe, Cy-Fair, Dickinson, Friendswood, Georgetown, Hearne, Henderson, Lubbock, Madisonville, Montgomery, Nacogdoches, Northwest Houston, Sulphur Springs, Warren, Wichita Falls) as well as school districts in Florida and Georgia). I have carefully analyzed the model student speaker policy, and in my opinion it follows the law and faithfully translates the Department of Education's 'Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools.' I can recommend the model policy for adoption by school districts."* Joe Reynolds, American College of Trial Lawyers, named partner of Bracewell, Reynolds & Patterson (successor is Bracewell & Giuliani), founder of Reynolds, White, Allen & Cook, Houston, Texas, former Assistant Attorney General of Texas.

*"I see no problem with these policies."* Edward Piña, President of the San Antonio Chapter of the ACLU and Vice President of Legal Affairs for the ACLU of Texas.

*“This is as close as I’ve seen anything yet to a solution....”* Shellie Hoffman, Director of Legal Services, Texas Association of School Boards, Texas Education News, Vol. 3, Issue 31.

*“Perhaps if our school district had had these student speaker policies in 1997 and students knew that they were permitted to publicly pray for their school and classmates during the year, and had done so, the atmosphere would have been different and we wouldn’t have had 9 students shot by 11<sup>th</sup> grader Luke Woodham setting off an unprecedented 18 month avalanche of massacres in America’s public schools leaving 101 gun-downed by students. When you make schools religion-free zones, other things take its place.”* Dr. William Dodson, Superintendent, Pearl Public School District, Pearl, Mississippi.

*“The First Amendment...does not convert our schools into religion-free zones...[and] does not require students to leave their religion at the schoolhouse door.”* United States President William J. Clinton, speech at James Madison High School, Vienna, Virginia.