

## **WARNING TO SCHOOL DISTRICTS: ABOUT ADOPTING THE TASB ALTERNATIVE POLICY**

A safe harbor model policy (Sec. 25.156) for schools to include in their local policies is a part of the new Schoolchildren's Religious Liberties Act (also named the Religious Liberties Antidiscrimination Act). The model policy has the approval of the Texas Legislature as the recommended policy for school districts to adopt to comply with the new law.

If a school district adopts and follows the suggested model policy that is part of the new Act, the district is automatically assured of being in compliance with the Act regarding all matters covered in the model policy.

Not only was the Act's model policy drafted and reviewed by numerous constitutional attorneys across the country, the policy was field-tested in a number of public school districts for up to 6 years from Texas to Illinois. Superintendents from two such school districts testified in the House and Senate that no student had abused or exploited any speaking opportunity, embarrassed the school district, or caused any lawsuit or complaint under the policy. Before being included in the Act, the language of the model policy went through rigorous hearings before the Texas House of Representatives State Affairs Committee and the Texas Senate Education Committee.

Adopting the Act's recommended model policy is the safest route for school districts and assures the school district of help from the Texas Attorney General in the event of a facial challenge since the model policy is part of the Act. While a school is free to have TASB or others draft a policy, a school will be on its own to legally defend that policy against any legal challenges.

Why would any district take the unnecessary risk when a viable, tested, and approved policy is already part of the new law? As a part of the new Act, the model policy has the imprimatur of the Texas legislature, and thus of the citizens of Texas who elected such officials.

Bewilderingly, an untested and unapproved alternative policy has been submitted to schools by TASB which significantly deviates from the Act's model policy. TASB has even added its own definitions having no cogent basis under the Act or in law. The manufactured definitions that TASB has added are an apparent attempt to narrow the application of the law and to thwart the clear language, spirit and legislative intent of the Act.

**It is the author's opinion that adoption of the TASB alternative policy will put a school in violation of the Act and open that school to legal claims.**

[Coghlan is a Houston constitutional trial attorney and author of *Those Dangerous Student Prayers*. He has represented 159 students and parents as *amici curiae* before the U.S. Supreme Court on faith-based issues, obtained the first federal injunction preventing censorship of a student's voluntary public prayer in *Ward v. Santa Fe I.S.D.*, and is the legal author of the Religious Viewpoints Antidiscrimination Act. Website

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