

STUDENT EQUAL ACCESS (Limited Public Forum)

I. PURPOSE

To establish guidelines for the provision of student equal access in a limited public forum.

II. SCOPE

This policy applies to all students and schools within Shelby County Schools.

III. DEFINITIONS

Limited public forum means public property that the district provides for students as a place for expressive activity which may impose reasonable, content-neutral time, place and manner restrictions on certain groups or topics of speech; provided that the restriction is necessary and narrowly tailored to serve a compelling state interest⁴. (Definition as used in state law, TCA 49-6-1801)

IV. POLICY STATEMENT

It is the policy of Shelby County Schools to establish a limited public forum. In doing so, guidelines are set forth below: 1) for the provision of student equal access in a limited public forum; 2) to prevent discrimination against a student's voluntary expression of a faith based viewpoint, if any; and 3) to eliminate any actual or perceived affirmative school sponsorship or attribution to the district of a student's expression of a religious viewpoint, if any.

A. Noncurriculum-related Student Meetings (Religious, Political, Philosophical, or Other Content)

Before the beginning and after the end of a school day, Shelby County schools students in grades 9 through 12 may initiate noncurriculum-related meetings regardless of the political, philosophical, or other content of the speech at the meeting¹. Additionally, before the beginning and after the end of a school day, all students may initiate noncurriculum-related meetings regardless of the religious content of the speech at the meeting^{1,4}. The use of school media, such as the public announcement system, the

school paper, and the school bulletin board used to announce meetings must be applied to all noncurriculum-related groups in a non-discriminatory manner.

No student may be compelled to attend or participate in a meeting under this policy.

A student or a group of students who wish to conduct a meeting under this policy must file an application with the principal at least three (3) days prior to the proposed date.

The principal shall approve the meeting if from the application he/she determines that¹:

1. The meeting is voluntary and student-initiated;
2. There is no sponsorship of the meeting or its content by the school, the government or its agents or employees;
3. The meeting will not materially and substantially interfere with the orderly conduct of the school's educational activities or conflict with other previously scheduled meetings;
4. Employees of the district are to be present in a non-participatory monitoring capacity; however, no employee shall be required to attend in this capacity if the content of the meeting is contrary to the beliefs of the employee; and
5. Nonschool persons will not direct, control or regularly attend. (A nonschool person is a person not: (1) employed by the district (e.g., school/district staff) or (2) acting on behalf of the district (e.g., official SCS volunteers, partners, vendors, etc.)

Additionally, while the district shall not discriminate on the basis of its viewpoints when making facilities available for student use, the Board shall (1) adhere to applicable federal/state laws and local ordinances and regulations; and (2) reserve the right to impose reasonable, content-neutral restrictions on the time (i.e., specific time and/or day), place (i.e., location), and manner (i.e., activities) of use of district facilities.

The following are parameters for the time, place, and manner of activities:

- The activity does not unduly disrupt traffic, either vehicular or pedestrian.
- The activity does not create unreasonable safety risks.
- The activity does not use unauthorized sound amplification equipment or create unreasonable noise disruption.
- No event may exceed 8 hours in length in a 24 hour period.
- The location will be left in its original condition at the conclusion of the event, and reasonable charges or deposits may be imposed to enforce this requirement.
- Expression that is obscene, defamatory, or consists of fighting words, threats of physical harm, insightful of imminent lawless action or otherwise not entitled to protection as expression is not permitted.

B. Student Expression of Religious Viewpoints

The district shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner, as provided pursuant to this policy, in which it treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint, if any, expressed by the student on an otherwise permissible subject.

Student Speeches

When the district determines that it is appropriate to allow a student speaker to publicly speak at a school event, the district shall:

- (1) Provide the forum in a manner that does not discriminate against a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject;
- (2) Provide a method, based on neutral criteria, for the selection of student speakers at school events and graduation ceremonies;
- (3) Ensure that a student speaker does not engage in speech that is obscene, vulgar, offensively lewd, indecent or promotes illegal drug use; and
- (4) State, in writing, orally, or both, that the student's speech does not reflect the endorsement, sponsorship, position, or expression of the district. (This disclaimer shall be provided at all applicable circumstances at school events and shall also be provided for any communications in which a student makes a public expression, for as long as a need exists to dispel confusion over the district's nonsponsorship of the student's communications.)

Student expression on an otherwise permissible subject may not be excluded from the limited public forum because the subject is expressed from a religious viewpoint.

Student Work

Students may express their written beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of the student's submissions. Homework and classroom assignments shall be judged by ordinary academic standards of substance and relevance and against other legitimate academic concerns identified by the district. Students may not be penalized or rewarded based on the religious content of the student's work.

Student Groups

Students may organize religious student groups, religious clubs, "see you at the pole" gatherings, or other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Religious groups shall be given the same access to school facilities for assembling as is given to other noncurricular groups without discrimination based on the religious content of the students' expression. If student groups that meet for nonreligious activities are permitted to advertise or announce meetings of their groups, then the district may not discriminate against groups that meet for prayer or other religious speech. The district may disclaim school sponsorship of noncurricular groups and events in a manner that neither favors nor disfavors groups that meet to engage in expressions of faith or religious speech. (Religious student groups, religious clubs, "see you at the pole" gatherings, or other religious gatherings shall adhere to the guidelines for Noncurriculum-related Student Meetings (Religious, Political, Philosophical, or Other Content) as set forth above).

V. RESPONSIBILITY

- A. The principal is responsible for ensuring that this policy is administered at his/her school.
- B. The Superintendent is responsible for ensuring that this policy is followed.

Legal References:

1. 20 U.S.C.A §4071
2. *Westside Community Schools v. Mergens*,
496 U.S. 226 (1990)
3. TCA 49-6-2904
4. TCA 49-6-1801-1805

Cross References: