HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1001 By: Reynolds, Cockroft and Kern

COMMITTEE SUBSTITUTE

An Act relating to schools; creating the Religious Viewpoints Antidiscrimination Act; requiring school districts to treat student expression in certain manner; authorizing school districts to adopt a limited public forum for student speakers policy; stating purpose of the policy; listing certain provisions; requiring school district disclaimers to be provided at certain events; prohibiting the exclusion of student expression of religious viewpoints on an otherwise permissible subject from the limited public forum; providing for equal treatment of student expression in class assignments; specifying standards for judging homework and classroom assignments; allowing students to organize religious groups and activities; specifying treatment of religious groups; allowing school districts to disclaim school sponsorship of student groups; authorizing school districts to adopt and implement the model policy; specifying that school districts adopting the model policy are compliant with the act; defining term; providing for equal treatment of student expression; providing for student speakers at nongraduation events; establishing public forum limits; providing for notification of eligible students; specifying subject limitations; requiring distribution of a school district disclaimer; allowing certain student speakers based on special positions of honor; providing for student speakers at graduation ceremonies; establishing limited public forum; specifying student eligibility criteria;

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specifying topic limitations; allowing certain student speakers based on special positions of honor; specifying subject matter; requiring a written disclaimer on graduation programs; providing for equal treatment of student expression in class assignments; requiring homework and classroom work to be judged on certain standard; providing for equal treatment for organizing religious groups and activities; specifying treatment of religious groups; allowing school districts to disclaim sponsorship of groups and events; requiring enforcement by the Attorney General; allowing a civil cause of action for certain violations against certain entities and persons; providing for remedies and costs; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-101 of Title 70, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Religious Viewpoints Antidiscrimination Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-102 of Title 70, unless there is created a duplication in numbering, reads as follows:

A school district shall treat the voluntary expression by a student of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats the

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voluntary expression by a student 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.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-103 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. To ensure that a school district does not discriminate against the publicly stated voluntary expression by a student of a religious viewpoint, if any, and to eliminate any actual or perceived affirmative school sponsorship or attribution to the district of the expression by a student of a religious viewpoint, if any, each school district in the state may adopt a policy, which shall include the establishment of a limited public forum for student speakers at all school events at which a student is to publicly speak. The policy regarding the limited public forum shall also require the school district to:

1. Provide the forum in a manner that does not discriminate against the voluntary expression by a student 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;

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3. Ensure that a student speaker does not engage in obscene, vulgar, lewd, or indecent speech or speech promoting illegal drug use or other illegal activity; and

4. State, in writing, orally, or both, that the speech of a student does not reflect the endorsement, sponsorship, position, or expression of the district.

B. The school district disclaimer required by paragraph 4 of subsection A of this section shall be provided at all graduation ceremonies. The school district shall also continue to provide the disclaimer at any other event in which a student speaks publicly for as long as a need exists to dispel confusion over the nonsponsorship of the student speech by the district.

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

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-104 of Title 70, unless there is created a duplication in numbering, reads as follows:

Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of their submissions. Homework and classroom assignments shall be judged by ordinary academic standards of substance and relevance and against other

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legitimate pedagogical concerns identified by the school district. Students shall not be penalized or rewarded on account of the religious content of their work.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-105 of Title 70, unless there is created a duplication in numbering, reads as follows:

Students may organize prayer 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 the groups, the school district shall not discriminate against groups that meet for prayer or other religious speech. A school district may disclaim school sponsorship of noncurricular groups and events in a manner that neither favors nor disfavors groups that meet to engage in prayer or religious speech.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-106 of Title 70, unless there is created a duplication in numbering, reads as follows:

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Each school district in the state may adopt and implement the model policy as set forth in Section 7 of this act. When a school district adopts, implements and follows the model policy as provided in Section 7 of this act, the district shall be deemed in compliance with the provisions of the Religious Viewpoints Antidiscrimination Act covered by the model policy.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-107 of Title 70, unless there is created a duplication in numbering, reads as follows:

As used in the Religious Viewpoints Antidiscrimination Act, "model policy" means a local policy adopted by a school district in the state that is substantially identical to the following:

MODEL RELIGIOUS VIEWPOINTS ANTIDISCRIMINATION POLICY

ARTICLE I. STUDENT EXPRESSION OF RELIGIOUS VIEWPOINTS

The school district shall treat the voluntary expression by a student of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats the voluntary expression by a student 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.

ARTICLE II. STUDENT SPEAKERS AT NONGRADUATION EVENTS

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A. The State of Oklahoma and the school districts in the state believe that students gain numerous education benefits from public speaking. The school district hereby creates a limited public forum for student speakers at all school events at which a student is to publicly speak. For each speaker, the district shall set a maximum time limit, reasonable and appropriate to the occasion. Student speakers shall introduce:

1. Varsity football games including games played at regional and state playoffs;

2. Opening announcements and greetings for the school day; and

3. Any additional school functions designated by the district, which may include, without limitation, assemblies and pep rallies, school programs open to the public, and any other athletic events designated by the district.

B. The forum shall be limited in the manner provided for in this Article.

C. Only those students in the highest two grade levels of the school and who hold one of the following positions of honor based on neutral criteria are eligible to use the limited public forum:

1. President of the student council;

2. Class President of the senior class or the highest grade level in the school;

3. Captains of the varsity football team; and

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4. Any other students the school district may designate who are presidents of specific school organizations.

D. Eligible students shall be notified of their eligibility, and a student who wishes to participate as an introducing speaker shall submit their name to the student council or other designated body during an announced period of not less than three (3) days. No student shall be compelled to accept a speaking position. The announced period may be at the beginning of the school year, at the end of the preceding school year so student speakers are in place for the new year, or, if the selection process will be repeated each semester, at the beginning of each semester or at the end of the preceding semester so speakers are in place for the next semester. The names of the volunteering student speakers shall be randomly drawn until all names have been selected, and the names shall be listed in the order drawn. Each selected student will be matched chronologically to the event for which the student will be giving the introduction. Each student may speak for one (1) week at a time for all introductions of events that week, or rotate after each speaking event, or otherwise as determined by the district. The list of student speakers shall be chronologically repeated as needed, in the same order. Student speakers may mutually agree to trade speaking engagements among themselves as circumstances arise.

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The district may repeat the selection process each semester rather than once a year.

E. The subject of the student introductions shall be related to the purpose of the event and to the purpose of marking the opening of the event, honoring the occasion, the participants, and those in attendance, bringing the audience to order, and focusing the audience on the purpose of the event. The subject shall be designated, a student shall stay on the subject, and the student shall not engage in obscene, vulgar, offensively lewd, or indecent speech or speech promoting illegal drug use. The school district shall treat the voluntary expression by a student of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats the voluntary expression by a student of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

F. For as long as there is a need to dispel confusion over the nonsponsorship of the student speech, at each event in which a student will deliver an introduction, a disclaimer shall be stated in written or oral form, or both, such as: "The student giving the introduction for this event is a volunteering student selected on neutral criteria to introduce the event. The content of the

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introduction is the private expression of the student and does not reflect the endorsement, sponsorship, position, or expression of the school district."

G. Certain students who have attained special positions of honor in the school have traditionally addressed school audiences from time to time as a tangential component of their achieved positions of honor, such as the captains of various sports teams, student council officers, class officers, homecoming kings and queens, prom kings and queens, and the like, and have attained their positions based on neutral criteria. Nothing in this policy eliminates the continuation of the practice of having these students, irrespective of grade level, address school audiences in the normal course of their respective positions. Similarly, certain students who have attained special positions of honor within a school club or organization have addressed their members and guests at meetings, banquets, and other events from time to time as a tangential component of their achieved position of honor within the school club or organization. Nothing in this policy eliminates the continuation of the practice of having those students, irrespective of grade level, address those audiences in the normal course of their respective positions at such school club or organization meetings, banquets, and events. The eligible speakers and selection process stated in this article shall not apply to those school club

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and organization meetings, banquets, and events. The school district shall create a limited public forum for the speakers and shall treat the voluntary expression by a student of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats the voluntary expression by a student of a secular or other viewpoint on an otherwise permissible subject and shall not discriminate against the student based on a religious viewpoint, if any, expressed by the student on an otherwise permissible subject.

ARTICLE III. STUDENT SPEAKERS AT GRADUATION CEREMONIES

A. The school district hereby creates a limited public forum consisting of an opportunity for a student to speak to begin graduation ceremonies and another student to speak to end graduation ceremonies. For each speaker, the district shall set a maximum time limit reasonable and appropriate to the occasion.

B. The forum shall be limited in the manner provided by this article.

C. Only students who are graduating and who hold one of the following neutral criteria positions of honor shall be eligible to use the limited public forum:

1. President of the student council;

2. Class President of the graduating class of the highest grade level in the school; and

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3. Any other student council officers or class officers of the graduating class or the highest grade level in the school as the school district may designate.

D. A student who will otherwise have a speaking role in the graduation ceremonies is ineligible to give the opening and closing remarks. The names of the eligible volunteering students will be randomly drawn. The first name drawn will give the opening and the second name drawn will give the closing.

E. The topic of the opening and closing remarks shall be related to the purpose of the graduation ceremony and to the purpose of marking the opening and closing of the event, honoring the occasion, the participants, and those in attendance, bringing the audience to order, and focusing the audience on the purpose of the event.

F. In addition to the students giving the opening and closing remarks, certain other students who have attained special positions of honor based on neutral criteria, including, without limitation, the valedictorian, shall have speaking roles at graduation ceremonies. For each speaker, the school district shall set a maximum time limit reasonable and appropriate to the occasion and to the position held by the speaker. For this purpose, the district creates a limited public forum for these students to deliver the addresses. The subject of the addresses shall be related to the

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purpose of the graduation ceremony, marking and honoring the occasion, honoring the participants and those in attendance, and the perspective of the student on purpose, achievement, life, school, graduation, and looking forward to the future.

G. The subject shall be designated for each student speaker, the student shall stay on the subject, and the student shall not engage in obscene, vulgar, offensively lewd, or indecent speech or speech that promotes illegal drug use. The school district shall treat the voluntary expression by a student of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats the voluntary expression by a student of a secular or other viewpoint on an otherwise permissible subject and shall not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

H. A written disclaimer shall be printed in the graduation program that states: "The students who will be speaking at the graduation ceremony were selected based on neutral criteria to deliver messages of the students' own choices. The content of the message of each student speaker is the private expression of the individual student and does not reflect any position or expression of the school district, the board of education of the school district, the school district administration, employees of the

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school district, or the views of any other graduate. The contents of these messages were prepared by the student volunteers, and the district refrained from any interaction with student speakers regarding the student speakers' viewpoints on permissible subjects."

ARTICLE IV. RELIGIOUS EXPRESSION IN CLASS ASSIGNMENTS

Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of the submission by the student. Homework and classroom work shall be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school. Students shall not be penalized or rewarded on account of religious content. If the assignment given by a teacher involves writing a poem, the work of a student who submits a poem in the form of a prayer (for example, a psalm) should be judged on the basis of academic standards, including literary quality, and not penalized or rewarded on account of its religious content.

ARTICLE V. FREEDOM TO ORGANIZE RELIGIOUS GROUPS AND ACTIVITIES

Students may organize prayer groups, religious clubs, "see you at the pole" gatherings, and 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

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facilities for assembling as is given to other noncurricular groups, without discrimination based on the religious content of the expression of the group. If student groups that meet for nonreligious activities are permitted to advertise or announce the group meetings, for example, by advertising in a student newspaper, putting up posters, making announcements on a student activities bulletin board or public address system, or handing out leaflets, school authorities shall not discriminate against groups that meet for prayer or other religious speech. School authorities may disclaim sponsorship of noncurricular groups and events, provided they administer the disclaimer in a manner that does not favor or disfavor groups that meet to engage in prayer or other religious speech.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-108 of Title 70, unless there is created a duplication in numbering, reads as follows:

The Attorney General shall have the authority to enforce the Religious Viewpoints Antidiscrimination Act and to seek all remedies provided by law. Additionally, a person injured by a violation of the act may bring a cause of action for civil relief against a governmental entity or person, including an employee, servant, or agent of a governmental entity, who violated the act. Remedies available in a civil suit include equitable relief and compensatory

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damages. A plaintiff who prevails in a cause of action under this section shall be entitled to costs, including reasonable attorney fees.

SECTION 9. This act shall become effective July 1, 2011.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 03-02-2011 - DO PASS, As Amended and Coauthored.

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