

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1940

 By: Bennett, Fisher, Reynolds,
 Russ, Blackwell and Roberts
 (Sean)

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9 COMMITTEE SUBSTITUTE

10 An Act relating to schools; creating the Religious
11 Viewpoints Antidiscrimination Act; requiring school
12 districts to treat student expression in certain
13 manner; stating purpose; requiring school districts
14 to adopt a limited public forum policy; specifying
15 contents of the policy; requiring certain disclaimer
16 to be provided at graduation ceremonies and other
17 events; prohibiting the exclusion of religious
18 expression from the limited public forum; allowing
19 student religious expression in class assignments;
20 specifying standards for judging homework and
21 classroom assignments; allowing students to organize
22 religious groups and activities; specifying treatment
23 of religious groups; allowing school districts to
24 disclaim school sponsorship of student groups;
 requiring school districts to adopt and implement a
 limited public forum and voluntary student expression
 of religious viewpoints policy; specifying that
 school districts adopting the model policy are
 compliant with the act; setting forth the Model
 Religious Viewpoints Antidiscrimination Policy;
 defining term; providing for student expression of
 religious viewpoints; providing for student speakers
 at nongraduation events; requiring a limited public
 forum; listing events; listing eligible student
 speakers; providing for notification and selection of
 student speakers; specifying subject of the speech of
 the student; requiring a disclaimer; allowing certain

1 students with special positions to be speakers;
2 providing for student speakers at graduation
ceremonies; providing for the establishment of a
3 limited public forum at graduation ceremonies;
4 specifying students eligible to speak; providing for
topic of speech; allowing certain students with
5 special positions to be speakers; providing for
6 designation of the subject; requiring a written
disclaimer; providing for religious expression in
7 class assignments; requiring homework and classroom
work to be judged on certain standard; providing for
8 the freedom to organize religious groups and
activities; specifying treatment of religious groups;
9 allowing school districts to disclaim sponsorship of
groups and events; providing for codification;
providing an effective date; and declaring an
emergency.

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

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

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

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

21 A school district shall treat the voluntary expression of a
22 student of a religious viewpoint, if any, on an otherwise
23 permissible subject in the same manner the district treats the
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1 voluntary expression by a student of a secular or other viewpoint on
2 an otherwise permissible subject and may not discriminate against
3 the student based on a religious viewpoint, if any, expressed by the
4 student on an otherwise permissible subject.

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

8 A. To ensure that the school district does not discriminate
9 against a publicly stated voluntary expression of a religious
10 viewpoint by a student, if any, and to eliminate any actual or
11 perceived affirmative school sponsorship or attribution to the
12 district of the expression of a religious viewpoint by a student, if
13 any, a school district shall adopt a policy, which shall include the
14 establishment of a limited public forum for student speakers at all
15 school events at which a student is to publicly speak. The policy
16 regarding the limited public forum shall also require the school
17 district to:

18 1. Provide the forum in a manner that does not discriminate
19 against the voluntary expression of a religious viewpoint by a
20 student, if any, on an otherwise permissible subject;

21 2. Provide a method, based on neutral criteria, for the
22 selection of student speakers at school events and graduation
23 ceremonies;

1 3. Ensure that a student speaker does not engage in obscene
2 speech, vulgar speech, offensively lewd speech, indecent speech or
3 speech that promotes illegal drug use; and

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

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

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

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

19 Students may express their beliefs about religion in homework,
20 artwork, and other written and oral assignments free from
21 discrimination based on the religious content of their submissions.
22 Homework and classroom assignments shall be judged by ordinary
23 academic standards of substance and relevance and against other
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1 legitimate pedagogical concerns identified by the school district.
2 Students shall not be penalized or rewarded on account of the
3 religious content of their work.

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

7 Students may organize prayer groups, religious clubs, "see you
8 at the pole" gatherings or other religious gatherings before, during
9 and after school to the same extent that students are permitted to
10 organize other noncurricular student activities and groups.

11 Religious groups shall be given the same access to school facilities
12 for assembling as is given to other noncurricular groups without
13 discrimination based on the religious content of the student
14 expression. If student groups that meet for nonreligious activities
15 are permitted to advertise or announce meetings of the groups, the
16 school district shall not discriminate against groups that meet for
17 prayer or other religious speech. A school district may disclaim
18 school sponsorship of noncurricular groups and events in a manner
19 that neither favors nor disfavors groups that meet to engage in
20 prayer or religious speech.

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

1 Each school district in the state shall adopt and implement the
2 model policy. If a school district voluntarily adopts and follows
3 the model policy governing voluntary religious expression in public
4 schools as provided by Section 7 of this act, the district shall be
5 in compliance with the provisions of the Religious Viewpoints
6 Antidiscrimination Act covered by the model policy.

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

10 This section sets forth the provisions of the Model Religious
11 Viewpoints Antidiscrimination Policy. As used in the Religious
12 Viewpoints Antidiscrimination Act, "model policy" means a local
13 policy adopted by a school district that is substantially similar to
14 the following:

15 ARTICLE I. STUDENT EXPRESSION OF RELIGIOUS VIEWPOINTS

16 The school district shall treat the voluntary expression by a
17 student of a religious viewpoint, if any, on an otherwise
18 permissible subject in the same manner the district treats the
19 voluntary expression by a student of a secular or other viewpoint on
20 an otherwise permissible subject and may not discriminate against
21 the student based on a religious viewpoint, if any, expressed by the
22 student on an otherwise permissible subject.

23 ARTICLE II. STUDENT SPEAKERS AT NONGRADUATION EVENTS
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1 A. The state and its school districts believe there are
2 numerous education benefits that students gain from public speaking.
3 The school district hereby creates a limited public forum for
4 student speakers at all school events at which a student is to
5 publicly speak, as designated below. For each speaker, the district
6 shall set a maximum time limit reasonable and appropriate to the
7 occasion. Student speakers shall introduce:

8 1. Varsity football games played within the school district as
9 well as those, if any, played at state and regional play-offs;

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

11 3. Any additional school functions as designated by the school
12 district, which may include, without limitation, assemblies, pep
13 rallies, school programs open to the public and other athletic
14 events in addition to football games.

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

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

20 1. President of the student council;

21 2. Class President of the senior class, or if the school does
22 not have a senior class, then the class president of the highest
23 grade level of the school; and

1 3. The captain or captains of the varsity football team.

2 D. The school district may, in its discretion, add to this list
3 other students who are presidents of specific school organizations
4 as the school district may designate. No student shall be compelled
5 to accept a speaking position.

6 E. An eligible student shall be notified of the eligibility of
7 the student, and a student who wishes to participate as an
8 introducing speaker shall submit a request to the student council or
9 other designated body during an announced period of not less than
10 three (3) days. The announced period may be at the beginning of the
11 school year, at the end of the preceding school year so student
12 speakers are in place for the new year, or, if the selection process
13 will be repeated each semester, at the beginning of each semester or
14 at the end of the preceding semester so speakers are in place for
15 the next semester. The names of the volunteering student speakers
16 shall be randomly drawn until all names have been selected, and the
17 names shall be listed in the order drawn. Each selected student
18 will be matched chronologically to the event for which the student
19 will be giving the introduction. Each student may speak for one (1)
20 week at a time for all introductions of events that week, or rotate
21 after each speaking event, or otherwise as determined by the
22 district. The list of student speakers shall be chronologically
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1 repeated as needed, in the same order. The district may repeat the
2 selection process each semester rather than once a year.

3 F. The subject of the student introductions shall be related to
4 the purpose of the event and to the purpose of marking the opening
5 of the event; honoring the occasion, the participants and those in
6 attendance; bringing the audience to order; and focusing the
7 audience on the purpose of the event. The subject shall be
8 designated; a student shall stay on the subject and the student may
9 not engage in obscene speech, vulgar speech, offensively lewd
10 speech, indecent speech or speech that promotes illegal drug use.
11 The school district shall treat the voluntary expression of a
12 religious viewpoint by the student, if any, on an otherwise
13 permissible subject in the same manner the district treats the
14 voluntary expression of a secular or other viewpoint by a student on
15 an otherwise permissible subject and may not discriminate against
16 the student based on a religious viewpoint expressed by the student
17 on an otherwise permissible subject.

18 G. For as long as there is a need to dispel confusion over the
19 nonsponsorship of the speech of a student at each event in which a
20 student will deliver an introduction, a disclaimer shall be stated
21 in written or oral form, or both, such as "The student giving the
22 introduction for this event is a volunteering student selected on
23 neutral criteria to introduce the event. The content of the
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1 introduction is the private expression of the student and does not
2 reflect the endorsement, sponsorship, position or expression of the
3 school district."

4 H. Certain students who have attained special positions of
5 honor in the school have traditionally addressed school audiences
6 from time to time as a tangential component of their achieved
7 positions of honor, such as the captains of various sports teams,
8 student council officers, class officers, homecoming kings and
9 queens, prom kings and queens, and the like, and have attained their
10 positions based on neutral criteria. Nothing in this policy
11 eliminates the continuation of the practice of having these
12 students, irrespective of grade level, address school audiences in
13 the normal course of their respective positions. Similarly, certain
14 students who have attained special positions of honor within a
15 school club or organization have addressed their members and guests
16 at meetings, banquets and other events from time to time as a
17 tangential component of their achieved position of honor within
18 their school club or organization. Nothing in this policy
19 eliminates the continuation of the practice of having those
20 students, irrespective of grade level, address those audiences in
21 the normal course of their respective positions at such school club
22 or organizational meetings, banquets and events. The eligible
23 speakers and selection process stated at the beginning of this
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1 policy will not apply to such meetings, banquets and events of such
2 school clubs and organizations. The school district shall create a
3 limited public forum for the speakers and shall treat the voluntary
4 expression of a religious viewpoint by a student, if any, on an
5 otherwise permissible subject in the same manner the district treats
6 the voluntary expression of a secular or other viewpoint by a
7 student on an otherwise permissible subject and may not discriminate
8 against the student based on a religious viewpoint, if any,
9 expressed by the student on an otherwise permissible subject.

10 ARTICLE III. STUDENT SPEAKERS AT GRADUATION CEREMONIES

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

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

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

- 21 1. President of the student council; and
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1 2. Class President of the senior class, or if the school does
2 not have a senior class, the class president of the highest grade
3 level of the school.

4 D. The school district may, in its discretion, add to this list
5 other students who are officers of the student council or class
6 officers of the senior class, or if the school does not have a
7 senior class, the class officers of the highest grade level of the
8 school. A student who will otherwise have a speaking role in the
9 graduation ceremonies is ineligible to give the opening and closing.
10 The names of the eligible volunteering students will be randomly
11 drawn. The first name drawn will give the opening and the second
12 name drawn will give the closing.

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

19 F. In addition to the students giving the opening and closing
20 remarks, certain other students who have attained special positions
21 of honor based on neutral criteria, including, without limitation,
22 the valedictorian, will have speaking roles at graduation
23 ceremonies. For each speaker, the school district shall set a
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1 maximum time limit reasonable and appropriate to the occasion and to
2 the position held by the speaker. For this purpose, the district
3 creates a limited public forum for these students to deliver the
4 addresses. The subject of the addresses shall be related to the
5 purpose of the graduation ceremony; marking and honoring the
6 occasion; honoring the participants and those in attendance; and the
7 perspective of the student on purpose, achievement, life, school,
8 graduation and looking forward to the future.

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

20 H. A written disclaimer shall be printed in the graduation
21 program that states: "The students who will be speaking at the
22 graduation ceremony were selected based on neutral criteria to
23 deliver messages of the students' own choices. The content of the
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1 message of each student speaker is the private expression of the
2 individual student and does not reflect any position or expression
3 of the school district or the board of trustees, the administration
4 of the district, employees of the district or the views of any other
5 graduate. The contents of these messages were prepared by the
6 student volunteers, and the district refrained from any interaction
7 with student speakers regarding the viewpoints of the student
8 speakers on permissible subjects."

9 ARTICLE IV. RELIGIOUS EXPRESSION IN CLASS ASSIGNMENTS

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

22 ARTICLE V. FREEDOM TO ORGANIZE RELIGIOUS GROUPS AND ACTIVITIES
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1 Students may organize prayer groups, religious clubs, "see you
2 at the pole" gatherings and other religious gatherings before,
3 during, and after school to the same extent that students are
4 permitted to organize other noncurricular student activities and
5 groups. Religious groups shall be given the same access to school
6 facilities for assembling as is given to other noncurricular groups,
7 without discrimination based on the religious content of the
8 expression of the group. If student groups that meet for
9 nonreligious activities are permitted to advertise or announce the
10 groups' meetings, for example, by advertising in a student
11 newspaper, putting up posters, making announcements on a student
12 activities bulletin board or public address system or handing out
13 leaflets, school authorities shall not discriminate against groups
14 that meet for prayer or other religious speech. School authorities
15 may disclaim sponsorship of noncurricular groups and events,
16 provided they administer the disclaimer in a manner that does not
17 favor or disfavor groups that meet to engage in prayer or other
18 religious speech.

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

22 The Attorney General of the State of Oklahoma shall have the
23 authority to enforce the provisions of the Religious Viewpoints
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1 Antidiscrimination Act and to seek all remedies provided by law.
2 Additionally, a person injured by a violation of the act may bring a
3 cause of action for civil relief against a governmental entity or a
4 person, including an employee, servant or agent of a governmental
5 entity, who violates the act. Remedies available in a civil suit
6 include equitable relief and compensatory damages. A plaintiff who
7 prevails in a cause of action under this section is entitled to
8 costs, including reasonable attorney fees.

9 SECTION 9. This act shall become effective July 1, 2013.

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

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15 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 02/21/2013
16 - DO PASS, As Amended and Coauthored.

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