



April 3, 2014

The Honorable Bill Haslam
Governor of Tennessee
Office of Governor Bill Haslam
1st Floor, State Capitol
Nashville, TN 37243

Dear Governor Haslam,

On behalf of thousands of American Civil Liberties Union supporters statewide, I write to urge you to veto the "Religious Viewpoints Anti-Discrimination Act," which would not only invite public school-sponsored religious speech, resulting in religious coercion in a limitless range of school settings, but would jeopardize religious freedom for all Tennessee students and their families.

The first part of the pending legislation says that students in public schools may engage in religious expression to the same extent that they engage in non-religious expression and that they may form religious clubs to the same extent that they may form non-religious clubs. The First Amendment to the United States Constitution, the Tennessee Constitution, and federal and state laws already protect student religious expression in all of the ways contemplated by the bill.

The U.S. Supreme Court has held that schools may not limit student speech based on its content or viewpoint, absent a likelihood of disruption. This principle applies to religious as well as nonreligious speech. The federal Equal Access Act prohibits public high schools that allow student clubs from discriminating against organizations "on the basis of the religious, political, philosophical, or other content of the speech at such meetings." Courts have interpreted the Equal Access Act to require schools to give religious clubs equal access to school public address systems, bulletin boards, and yearbooks. In addition, Tennessee Code already says that students in the public schools may voluntarily engage in student-initiated prayer.

While the first part of SB 1793/HB1547 is simply unnecessary and confusing, the second part actually invites schools to violate students' right to be free from coerced participation in religious activity. The bill would require schools to allow student prayer at official school events such as graduations, assemblies, and sporting events, where students are a captive audience. When a prayer is delivered as part of an official school event, the unmistakable implication is that the school approves of the religious message of the prayer, even if the prayer is delivered by a student. That is why in Santa Fe

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Independent School District v. Doe, the Supreme Court held that prayers delivered by a student at a football game are unconstitutional, even when the speaker was selected by the student body.

This legislation attempts to skirt Supreme Court precedents by requiring schools to create a “limited public forum” at every school event that has a student speaker. But it makes no sense to apply the notion of “limited public forum” to graduations, assemblies, and other school events.

The “limited public forum” requirement conflates two constitutional theories and is confusing and impractical. In order to create a true “limited public forum” for every event at which a student speaks, the school would have to (1) define a broad class of students, based on neutral criteria, who are permitted to speak; (2) allow every member of the class to speak at the event; and (3) refrain from exercising any control over the content of the students’ speech. This would transform graduations, assemblies, and other events into free-for-alls for student expression, and would impose an administrative nightmare on schools every time they hold such an event.

Please know that ACLU, like you, wants to preserve the sanctity of everyone’s religious freedom, including Tennesseans’ ability to decide when, if, how, and to whom to pray. We have repeatedly supported students’ religious speech, including their right to read their Bibles during their free time, organize non-curricular religious clubs during designated club time, and pray with a group of students at lunchtime.

For many Tennesseans, the freedom to exercise our faith free from government intrusion is and always has been central to our daily lives. Please support this guiding principle and veto “the Religious Viewpoints Anti-Discrimination Act.”

Thank you for your support of religious freedom for all Tennesseans.

With best wishes,


Hedy Weinberg
Executive Director