



Dear Superintendent:

As your school system and students prepare for graduation and prom, ACLU-TN writes to share our constitutionally-sound guidelines to ensure that this year's festivities are welcoming for all students, their families and their friends.

Our experience is that many educators and administrators are unfamiliar with how the constitutional guarantees of religious freedom and free speech apply to prayer at graduation or to the rights of lesbian, gay, bisexual or transgender students at prom. This letter and the accompanying flyer is intended to help you understand what federal law does and does not permit with respect to religious activities and proms in public schools.

School-sponsored graduation prayers violate the principle of separation of church and state and jeopardize religious freedom for all students. In 1992, the Supreme Court held in Lee v. Weisman, 505 U. S. 577 (1992) that prayer – even nonsectarian or nonproselytizing prayer – at public school graduation ceremonies violates the Establishment Clause of the First Amendment.

The absence of prayer from a public school's official graduation ceremony does not prohibit students from affirming their religious beliefs before or after the ceremony. For example, like-minded students can organize a privately-sponsored baccalaureate service – provided that it is held separately from the school's graduation program, is entirely voluntary, and is neither sponsored nor supervised by school officials.

Prom attendance cannot be restricted to only heterosexual couples; students have a right to bring same-sex dates. A federal court has found that any policy excluding same-sex couples from proms or school dances violates the right to free expression guaranteed by the First Amendment. The possibility that others might disapprove of such expression is not sufficient grounds to stifle it. In addition, the U.S. Supreme Court has ruled that any policy of a public entity (like a public school) that is based on animosity or prejudice towards gay people violates equality rights guaranteed by the Fourteenth Amendment.

In addition, female students have a right to wear tuxedos to prom. A requirement that all girls wear traditional female attire constitutes gender discrimination. Federal courts have ruled that acting against a person for not conforming to traditional gender norms amounts to illegal sex stereotyping, prohibited by civil rights laws. In addition, the First Amendment guarantees freedom of expression and the Fourteenth Amendment guarantees equal treatment regardless of gender.

Each spring, ACLU-TN is contacted by parents across the state who report that their children's public schools are promoting and conducting religious activities or that their children were denied equal access to the prom. We share the enclosed information with you so that you can ensure that all students in your school system enjoy the festivities that accompany their high school graduation. Please contact me if you have any questions and feel free to reproduce and share the accompanying materials with your school staff and students.

With best wishes,
Hedy Weinberg
Executive Director

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