Equal Access Act

If a District secondary school receives federal financial assistance and has a limited open forum, as defined below, it shall not deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings. *20 U.S.C. 4071(a)*

Limited Open Forum in Secondary Schools

A District secondary school has a limited open forum for purposes of the Equal Access Act whenever the school grants an offering to or an opportunity for one or more noncurriculum-related student groups to meet on school premises during noninstructional time. *20 U.S.C. 4071(b)*

"Secondary school" means a public school that provides secondary education as determined by state law.

"Meeting" includes those activities of student groups that are permitted under a school's limited open forum and that are not directly related to the school curriculum.

"Noninstructional time" means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends.

20 U.S.C. 4072(1), (3)–(4)

"Noncurriculum-related student group" means any student group that does not directly relate to the body of courses offered by the school. A student group directly relates to the school's curriculum if it meets any of the following criteria:

1. The subject matter of the group is actually taught or will soon be taught in a regularly offered course.
2. The subject matter of the group concerns the body of courses as a whole.
3. Participation in the group is required for a particular course.
4. Participation in the group results in academic credit.

Westside Cmty. Sch. v. Mergens, 496 U.S. 226 (1990)

If a school has a limited open forum, it shall be deemed to offer a fair opportunity for students to conduct meetings within its forum if it uniformly provides that:

1. The meeting is voluntary and student-initiated.
2. There is no sponsorship of the meeting by the school or any government or its agents or employees.

"Sponsorship" includes the act of promoting, leading, and participating in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes does not constitute sponsorship of the meeting.

3. School employees are present at religious meetings only in a nonparticipatory capacity.

4. The meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school.

5. Nonschool persons shall not direct, conduct, control, or regularly attend activities of student groups.

20 U.S.C. 4071(c), 4072(2)

The establishment of a limited open forum shall not authorize a school or the District to:

1. Influence the form or content of any prayer or other religious activity.

2. Require any person to participate in prayer or other religious activity.

3. Expend public funds beyond the incidental cost of providing the space for student-initiated meetings.

4. Compel any school agent or employee to attend a meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee.

5. Sanction meetings that are otherwise unlawful.

6. Limit the rights of groups of students that are not of a specified numerical size.

7. Abridge the constitutional rights of any person.

20 U.S.C. 4071(d)

Maintain Order

The establishment of a limited open forum shall not limit the authority of a school, the District, its agents, or its employees to maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary. *20 U.S.C. 4071(f)*

Religious Groups and Activities

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 must 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 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 prayer or religious speech.

Education Code 25.154

[For information on student expression of religious viewpoints, see FNA]