



Student Rights

INTRODUCTION

When people hear about DOLLS and the purpose of the ministry, one of the most familiar responses received is "Is that allowed in the schools?" This response represents a common misconception about the rights that students have on public school campuses. Even school administrators are often misinformed about the freedoms students have and they tend to run their campuses with what they consider to be "politically correct approach" and in doing so they effectively censor the freedoms of the students in such a way that is a direct violation of their federally protected rights. Our advisors must be ready to advocate for these rights on behalf of the students.

THE LAWS

In 1984 Congress passed a legislative act called "The Equal Access Act" ("the Act") with the purpose of protecting students' First Amendment rights and ensuring that religious clubs received the same kind of liberties and privileges to utilize the facilities of secondary school campuses as other recognized student clubs enjoy. The Act provides that if a school campus grants approval for any non-curricular club to meet, the campus has instantly created what is known as a "limited open forum" entitling all qualified student clubs, like DOLLS, to the same access and benefits granted to the first club.¹ A club is considered non-curricular if it "does not directly relate to the body of courses offered by the school."²

ADVISOR LIMITATIONS

A stipulation of the Act is that the club must be student initiated and student led. Faculty can only be involved to supervise, monitor, and facilitate. It is common, for liability purposes, or because of state law or local school policy, that a teacher(s) or another school employee(s) is asked to be present during student activities. Districts may require that one or more of their hired campus personnel act as a monitor, or "Advisor," to DOLLS. Such custodial supervision does not represent endorsement of the group by the school or by the teacher. If a sponsor begins operating in a capacity outside of the roles associated with advising, a chapter is at risk of losing its constitutional right to assemble. Advisors must always be prepared to prove that **the students** are the driving force behind the perpetuation of their DOLLS chapter.

GUEST SPEAKERS

Chapters are welcomed to invite guest speakers to visit periodically for chapter meetings or during events. These guest speakers are permitted to speak on any topic. "Promotion of the event must make it clear that attendance is purely voluntary and that the speaker is hosted and endorsed by the student club, not the school."¹ Many districts will require that guest speakers register as a volunteer and sign-in upon each visit at the security desk in the front office. Please note that federal law maintains that non-school persons, such as parents, pastors, former students, and even DOLLS Headquarters are prohibited from regularly attending and directing religious meetings. If non-school persons become too actively involved with the operations of the club, the chapter is at risk of losing its constitutional right to assemble.

TOPICS OF CONVERSATION

During DOLLS meetings and events students are free to discuss any subject matter they desire. School districts have absolutely NO authority to regulate the content of the club's discussion. This includes even if the content includes such hot topics as sexuality, purity, and Hell. An attempt on the part of the school to limit or regulate the content spoken during a DOLLS meeting is a direct violation of the Equal Access Act. The school is obligated under the Act to provide equal access to all recognized student clubs, regardless of the content of their meetings, unless the content "materially and substantially" disrupts the educational process.¹ Because DOLLS meetings take place during "no instructional time" before or after school hours there is little-to-no risk that the content of chapter's conversation would substantially and materially disrupt the educational process. The students may engage in any religious speech so desired and the club need not seek the approval of campus administration to do so.

ADVERTISING

Per the First Amendment and the Equal Access Act, every student club, whether religious or not, that meets "the Acts" requirements must be granted the same access to promotional avenues on campus that every other recognized club receive. This includes access to public address systems, bulletin boards, school newspapers, and other avenues that schools allow student-groups to use to advertise their meetings and events (*i.e. distribution of flyers, posters in hallways, etc.*)⁴. Likewise, clubs like DOLLS should also receive acknowledgement in the school yearbook annually if such recognition is granted to other non-curricular clubs.

Principals may decide to limit the advertising of non-curricular clubs on their campus to a "content neutral time, place, and manner"⁵. For example, a principal may designate a certain place in the school as the "community bulletin board" and permit clubs to hang posters/flyers to this area only. If DOLLS is being restricted to advertising in these areas only, and there is no evidence of another non-curricular club receiving the extra advantage of advertising elsewhere in the building, this sort of restriction is not a violation of the students' rights. Principals may prohibit the distribution of flyers during the regular school day, and so long as this is the standard imposed on all non-curricular groups, this is not a violation of the students' rights. If the campus principal allows a club such as the Chess Club, community service organizations, or other social clubs to access the school's public information system for announcements about their meetings or events, he/she must also permit clubs like DOLLS to do the same.

The distinction between non-curricular clubs and curricular clubs should be noted so there is no confusion when attempting to evaluate a perceived inequality. Curricular clubs, such as the French Club or Drama club, that directly relate to curriculum taught in the school, might receive greater leverage for advertising on campus than non-curricular clubs. When attempting to determine if a school is unfairly biased against your club, make certain that you are comparing apples-to-apples; Non-Curricular Clubs to Non-Curricular Clubs.

DISTRIBUTION OF MATERIALS

Schools may not censor the distribution of literature by non-curricular clubs. "Students have a right to distribute religious or other written communications while at school as long as such distribution does not materially and substantially interfere with the educational process, i.e. the student should pass out the material during non-instructional time, and as long as the material is not lewd, obscene or vulgar."⁶ Concern of a potential disruption would not be enough to warrant a ban on the material's distribution. Students have the right to distribute Bibles, religious tracks, note pages, Bible studies, without the prior consent or approval of campus administration.

CENSORSHIP

Students have the right to use religious words and symbols on all club related material including advertisements, websites, and t-shirts. Schools may only attempt to censor a club's speech content if the regulation is necessary to ensure a safe, non-disruptive educational environment. "Prohibitions against using certain words or wearing items that have religious significance are viewpoint based and considered discriminatory under First Amendment free speech protection."¹

FOR MORE INFORMATION

If you would like more information about the rights and privileges owed to students, we invite you to check out a handbook, written by the Alliance Defense Fund (ADF), entitled "Knowing Your Rights: A Guide for Christian Students". ADF is a legal alliance defending the right to hear and speak the Truth by helping groups, like DOLLS, defend our First Liberty—Religious Freedom. The purpose of their handbook is to inform students, teachers, and parents about their constitutional rights.

ARE THE STUDENTS' RIGHTS BEING HONORED?

If, after reviewing this document or the ADF Handbook, you understand that the rights of your students are being infringed upon, whether intentionally or unintentionally, we encourage sponsors or students leaders to meet with their campus principals to discuss the matter and work towards a resolution. DOLLS Headquarters and ADF can provide you with documentation that will help you explain the law to the administration.

Principals may mistakenly place boundaries around the operations of non-curricular religious clubs in an effort to minimize potential apprehension from the community towards the club's existence in the school. The principal has the responsibility of remaining neutral and should remember that by limiting the rights of religious groups they are not exercising neutrality, and effectively open themselves up to plausible litigation.

If school officials still refuse to adjust their policy or practice, ADF can write a letter on your behalf to ask that the school officials correct their actions. If necessary, ADF will collaborate with the student officers to look into the possibility of litigation in court if the school persists in its unlawful conduct.

¹ Alliance Defense Fund. *Knowing Your Rights: A Guide for Christian Students*. Scottsdale: Alliance Defense Fund, [2011?]. Print.

² *Pope by Pope v. East Brunswick Bd. of Educ.*, 12 F.3d 1244, 1251 (3d Cir. 1993) (citing *Mergens*, 496 U.S. at 239).

³ § 4071(c)(4); cf. *Tinker v. Des Moines Indep. Sch. Dist.*, 393 U.S. 503, 509 (1969); *Mergens*, 496 U.S. at 241.

⁴ *Mergens*, 496 U.S. at 247; *Prince*, 303 F.3d at 1086-87, 1092.

⁵ See *Thompson v. Waynesboro Area Sch. Dist.*, 673 F.Supp. 1379, 1393 (M.D.Pa. 1987)

⁶ Sasser, Hiram S. "Religious Speech and Equal Access in Public Schools." Liberty Legal Institute, [2011?]. Print.