

THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

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Dear Chief State School Officers and District and School Leaders

Since the nation's founding, our country has recognized the importance of religious freedom including the freedom of individuals to pray. The First Amendment to our Constitution protects free speech and religious liberty, including by prohibiting any governmental establishment of religion and protecting the free exercise of faith. The Biden-Harris Administration takes seriously the leadership role it must play within this latest chapter of our nation's history to protect these rights. As President Biden has said, "We must continue our work to ensure that people of all faiths—or none—are treated as full participants in society, equal in rights and dignity. We can only fully realize the freedom we wish for ourselves by helping to ensure liberty for all."

Guaranteeing religious freedom in and outside public schools has been and continues to be vital to the strength of our country and democracy. The U.S. Department of Education (the Department) believes that every student, teacher, and school employee must be guaranteed the fullest protections afforded by the Constitution.

I am writing to you today to provide updated guidance regarding constitutionally protected prayer and religious expression in public elementary and secondary schools. Prayer and other forms of religious exercise and expression continue to be practices of deep significance considered the

fundamental First Amendment protections and addressed their application in public schools. In particular, the Supreme Court's decision in *Kennedy v. Bremerton School District*¹ has resulted in increased discussion nationwide about prayer and religious expression in public schools. The Kennedy decision involved a public high school football coach who was suspended for having offered a brief personal prayer on the field after games on three occasions. The Supreme Court held that such prayer was private speech and that the school had not offered a sufficient justification for restricting it.

Given recent developments, it is important that school districts and the public have an accurate understanding of the current state of the law and the scope of public schools' authority to regulate the way in which teachers, coaches, and other school employees may engage in religious expression in the presence of the students under their care. For instance, the guidance continues to recognize the important legal principle that school employees may take part in protected religious expression such as prayer, even during their workday, at a time when it is permissible to engage in other private conduct. School employees may not, however, pressure students to join in that personal religious expression.

The Department is providing this revised guidance as required by section 8524(a) of the Elementary and Secondary Education Act of 1965 (ESEA), codified at 20 U.S.C. § 7904(a). This updated guidance is similar to guidance that the Department promulgated in 2003 and in 2020, and that President Clinton issued in 1995. The prior guidance discussed how constitutional

¹ 142 S. Ct. 2137 (2022).

