



# Connecticut Association of Boards of Education

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## PRESENTS POLICY HIGHLIGHTS

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### End of Year Policy Considerations

Just as ChatGPT was getting off the ground in the Spring of 2023, I shared a story that appeared out of Grand Island, Nebraska, of a student going off script from a speech he prompted the AI tool to draft. The Grand Island Independent reported that the high school senior submitted the generated ChatGPT speech, resulting in his being selected to speak at the school's graduation ceremony. The speech was reviewed and "blindly" scored by staff, and the principal then assessed the scores and made the final call. As would typically be the case, the principal worked with the student to refine his message and ensure he felt confident and ready to deliver his speech.

As the future graduate stood at the podium and began delivering his remarks, it became clear as he moved beyond the generic opening that the student had different plans, instead using this platform to deliver remarks critical of his school. While this is not an uncommon story, and procedures for reviewing speeches have become a more common practice over the years, the introduction (and two years of advancements) of ChatGPT brings a new twist. And it certainly makes it easier for students to compose speeches, either to make it through the first round for approval, or to deliver "generic" AI-generated remarks to the community. Either way, it's one more thing for school administrators to consider as they prepare their school communities for the upcoming celebratory events.

As joyous and rewarding the end of a school year can be for so many, it can be a stressful time for administrators who are tasked with resolving a variety of end-of-the-year ethical and policy dilemmas – last minute decisions as to whether or not a student can graduate, grading and class rank disputes, and so much more.

**Graduation Issues Reviewed:** With graduation season fast approaching, it's a good time for school officials to review board policies, administrative regulations and local practices that govern graduation and commencement ceremonies. Several questions arise yearly regarding student participation in graduation, the granting of a diploma; participation in a graduation exercise, student speeches and prayer at graduation exercises emphasizing the need to implement clear school standards about graduation issues and inform students and their parents/guardians well in advance of them.

A diploma is a legal certificate indicating a student's successful completion of a prescribed course of study and requirements. Connecticut statutes establish the core requirements for a diploma (C.G.S. 10-221a).

Local districts, with sufficient notice, may add additional requirements to those specified by law. Districts are required to adopt and disseminate policy language detailing graduation requirements (C.G.S. 10-233a). Samples are available from CAGE's Policy Service ([Policy #6146](#)). Graduation is subject to successfully completing credits, with boards of education having discretion as to the manner students may earn them (C.G.S. 10-221a(f)).

Courts treat the receipt of a diploma as a constitutionally protected property interest. Court decisions generally hold that a school district cannot withhold a diploma from a student who has successfully completed the prescribed graduation requirements. The state has established a system of free public education and has made attendance mandatory, creating an expectation in students that successfully fulfilling the graduation requirements will result in the student being awarded a diploma. Therefore, once a student has fulfilled all of the graduation requirements, it is the student's right to receive the diploma. With students receiving special education services, a Planning and Placement Team (PPT) can waive some requirements. Further, students who are deaf or hearing impaired must be excused at parental request from any required world language instruction graduation requirement (C.G.S. 10-16b(b)). Also, the statutes provide for situations in which students may be excused from the physical education requirement, and such requirement can be fulfilled with an elective (10- 221a (e)).

Excusal is also permitted by statute from various subjects, including HIV instruction, family life education, gun safety instruction, sexual abuse and assault awareness, and dissections. C.G.S. 10-69 obligates school districts to provide opportunities for adults to earn an adult education diploma. Further, boards of education are authorized to grant a diploma to a veteran of World War II, Korean hostilities, or the Vietnam Era. These are detailed in C.G.S. 10-221a(f).

C.G.S. 10-221a(g) lists other ways students can earn credits to graduate. These include, but are not limited to, successful demonstration of mastery of subject matter content. Moreover, a school district cannot use the withholding of a student's diploma as a form of discipline. If a student has earned the diploma, it may not be withheld, even if the student has engaged in some misconduct justifying discipline. The district, however, is not obligated to issue a diploma to a student who has not fulfilled all of the state and local requirements necessary for graduation, as specified in the board's published policy.

Judicial decisions provide that just because a student is eligible to receive a diploma does not mean he/she has a right to participate in a graduation ceremony. Participating in the graduation ceremony is considered a privilege and does not rise to the level of a constitutionally protected property interest. School districts may set specific requirements for participation in a graduation ceremony and may limit participation to students eligible for graduation. The requirements for participation in the graduation ceremony may be independent from the "graduation requirements" related to the granting of a diploma by the district. The rules regarding student conduct and extracurricular requirements would apply here. School districts have the right to adopt reasonable rules within existing constitutional and statutory parameters. The rules should be clear and applied fairly. Graduates may be kept from participating in commencement ceremonies for a number of reasons, including the disciplinary record, attendance, dress requirements, and outstanding financial obligations.

Exclusion from participation in the graduation ceremony may be used for disciplinary purposes, but not on an ad-hoc basis. With expectations provided in advance, students must be clearly advised of prohibited behaviors and potential disciplinary sanctions that could impact participation in the graduation ceremony.

If exclusion from graduation exercises is a possible sanction, it should be included in the district's discipline policy and/or student discipline code. This issue should also be addressed in reminders delivered to the entire senior class throughout the spring. A sample policy, [#5123.3](#), "Graduation Ceremonies (Participation)," addresses this issue and is available upon request. It is essential that the policy clearly states what is expected of students. Schools should distribute the commencement rules well before graduation day, to ensure students and their parents/guardians know what to expect and at least have the opportunity to rectify any problems that would keep them from attending the graduation ceremony.

Some seniors may refuse to wear the traditional cap and gown to the ceremony. The district may establish rules for conduct at the graduation ceremony, clearly outlined in the student handbook, in other written communications, and on the district's and/or high school's website. A dress code requiring appropriate graduation attire may be enforced. A student who violates the dress code may be prohibited from participating in the graduation ceremony. Involve students in the establishment of the graduation dress code. Keep in mind that transgender and gender non-conforming students have the right to dress in accordance with their gender identity or expression that is consistently asserted in school. Refer to policy [#5145.53](#), "Transgender and Gender Non-Conforming Youth," and its accompanying administrative regulation, available from CABE's Policy Department, for additional guidance on such topics as official student records.

In situations where a student may not have fulfilled all the requirements for receipt of a diploma, the district could still allow the student to participate in the graduation ceremony. This option may ease situations where a student has failed some graduation requirement and is scheduled to make up the requirement during the summer. In short, the student is not guaranteed, nor provided with a diploma, but may participate in the graduation ceremony. The district could issue a blank diploma and allow students to "walk" with their class. By contrast, some districts deny the opportunity to participate unless all graduation requirements are met. A clear school policy is recommended on this issue, with early dissemination to parents and students.

Another timely question pertains to the withholding of a diploma or refusal to permit a student to participate in the graduation ceremony due to an outstanding obligation or fine. The diploma should not be withheld when the student has fulfilled all graduation requirements. Moreover, official transcript requests should not be withheld. However, students could be denied participation in the graduation ceremony if they had been given adequate notification that a condition of participation in the graduation ceremony included no outstanding fines or other obligations owed to the school. The district may adopt policy language pertaining to participation in graduation exercises that simply states that payment of all financial obligations to the district must be made as a prerequisite to the student's participation in the graduation ceremony. However, the student must still be given his/her diploma and have transcript requests fulfilled.

Another issue that comes up regularly is that of the appropriateness of prayers at graduations. Since last year's Supreme Court ruling in *Kennedy v. Bremerton School District*, school officials and legal experts have been attempting to figure out the contours of the law determining the existing balance between church and state. In the often cited case, the U.S. Supreme Court in *Lee v. Weisman*, 112 S. Ct. 2649 (1992) decided that it is unconstitutional for a public school district to include prayer by a member of the clergy in its graduation exercises. School-sponsored graduation prayer, including prayer that was nonsectarian, was ruled a violation of the Establishment Clause. The fact that a prayer is nondenominational or voluntary does not render it constitutional. A public school cannot sponsor a prayer of a particular faith at graduation or one that is non-sectarian.

Further, the prohibition against prayer at the graduation ceremony applies whether the ceremony occurs on or off campus, according to a number of court decisions.

However, whether student-led prayer at graduation is constitutional is not clear. The U.S. Supreme Court, in *Santa Fe Independent School District v. Doe* (2000), addressed the use of student-initiated, student-delivered football pregame prayers, striking down such prayers. The important question is whether the Court's decision in this case means that student-led prayer at graduation is also unconstitutional. Lower federal courts are split on this issue. The Second Circuit, which covers Connecticut, ruled in *A.M. v. Taconic Hills Central Sch. Dist.*, (2013) that school officials were within their rights to ask a middle school student to remove a traditional prayer from her "moving-up" ceremony speech.

The lack of case law in Connecticut and conflicting court decisions around the country, indicates that school boards should act cautiously and upon the advice of counsel, when deciding to have prayer at graduation ceremonies. Give careful attention to those situations when a student, selected on a neutral basis to speak, such as valedictorian, chosen for having the highest grades, decides on his/her own to express religious views, with no pressure from school officials to do so. Consider placing a disclaimer on the graduation program brochure to protect the district. Sample policies [#6115.11](#), "Graduation Exercises-Prayer," and [#6115.111](#), "Graduation Exercises-Student Speeches/Student Participation," provide direction and are available upon request on this issue from the CAFE Policy Service.

The CAFE Policy Service supports the Third Circuit's decision in *American Civil Liberties Union of N.J. v. Black Horse Pike Regional Board of Education* (1996), which affirmed that student-led prayer at a public high school graduation ceremony violated the Establishment Clause. If a board could circumvent the Establishment Clause by delegating decisions to students, why not delegate decisions about daily classroom prayer or mandatory religious instruction to the students as well?

School districts wishing to preserve student speech, which may be religious in content, may want to establish a student choice process that has as its secular purpose the solemnizing of graduation by means of student expression. In addition, such student choice should be accompanied by a provision that any student speech must be nonsectarian and non-proselytizing and, as previously stated, with a disclaimer in the graduation program.

In determining whether to have student-led/initiated prayer as part of a graduation exercise, keep in mind that school officials can have no involvement in selecting someone to offer a prayer. If students wish to engage in a prayer or some other form of religious activity such as a baccalaureate service, they must do so apart from the actual commencement ceremony. Moreover, attendance at such a service must be strictly voluntary. The further removed in time and place from the actual graduation ceremony, the greater the chance it will survive a legal challenge. Court decisions on this issue are firm.

District employees cannot orchestrate or supervise prayers at a baccalaureate ceremony. Baccalaureate services, wholly distinct from official graduation ceremonies, privately sponsored, voluntarily attended and led voluntarily, may constitutionally include prayers and religious sermons. School endorsement of such baccalaureate services should be avoided. A baccalaureate service is a religious service, typically including prayer, speeches, and songs with religious themes. The school must not "lend the aura of school sponsorship" to such programs nor should school officials actively participate.

The school can announce the event but may not sponsor such an event. If the school board insists on some acknowledgment of religion at the graduation exercise, a genuinely neutral moment of silence might be considered. In short, proceed with caution and only upon the advice of legal counsel. Superintendents should consult with board counsel when issues on such matters arise, as the judicial landscape continues to change with each and every test case.

The Anti-Defamation League (ADL) has stated that not including prayers on the occasion of graduation “sends a message promoting sensitivity and fairness to all that is consistent with the fundamental nature of American democracy.”

Source: “Graduation: Navigating a Legal Minefield,” by Elizabeth Kirby and Lisa Swem, appearing in NASSP’s “*A Legal Memorandum*,” spring 2007.

Source: “A Right or a Rite? Student’s Limited Right to Attend Graduation Ceremonies,” by Matt Minnick appearing in *Inquiry & Analysis*, NSBA, June 2012

Source: “*A Practical Guide to Connecticut School Law, Ninth Edition*,” by Thomas B. Mooney, 2018, CABA

Source: “**Graduation Prayer in the Public Schools**,” Anti-Defamation League, 2014.

Source: “Graduation Day: When May Schools Keep Graduates Away from Commencement?” by E.A. Gjelton, *Lawyers.com* 2018.